

# Washington State Register

**AUGUST 4, 1993**

**OLYMPIA, WASHINGTON**

**ISSUE 93-15**



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## 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 August 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.

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# WASHINGTON STATE REGISTER

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# 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 OF RULES

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

## 5. EDITORIAL CORRECTIONS

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

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

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
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
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93-03	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 3	Feb 23
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93-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
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93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994

<sup>1</sup>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.

<sup>2</sup>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.

<sup>3</sup>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;

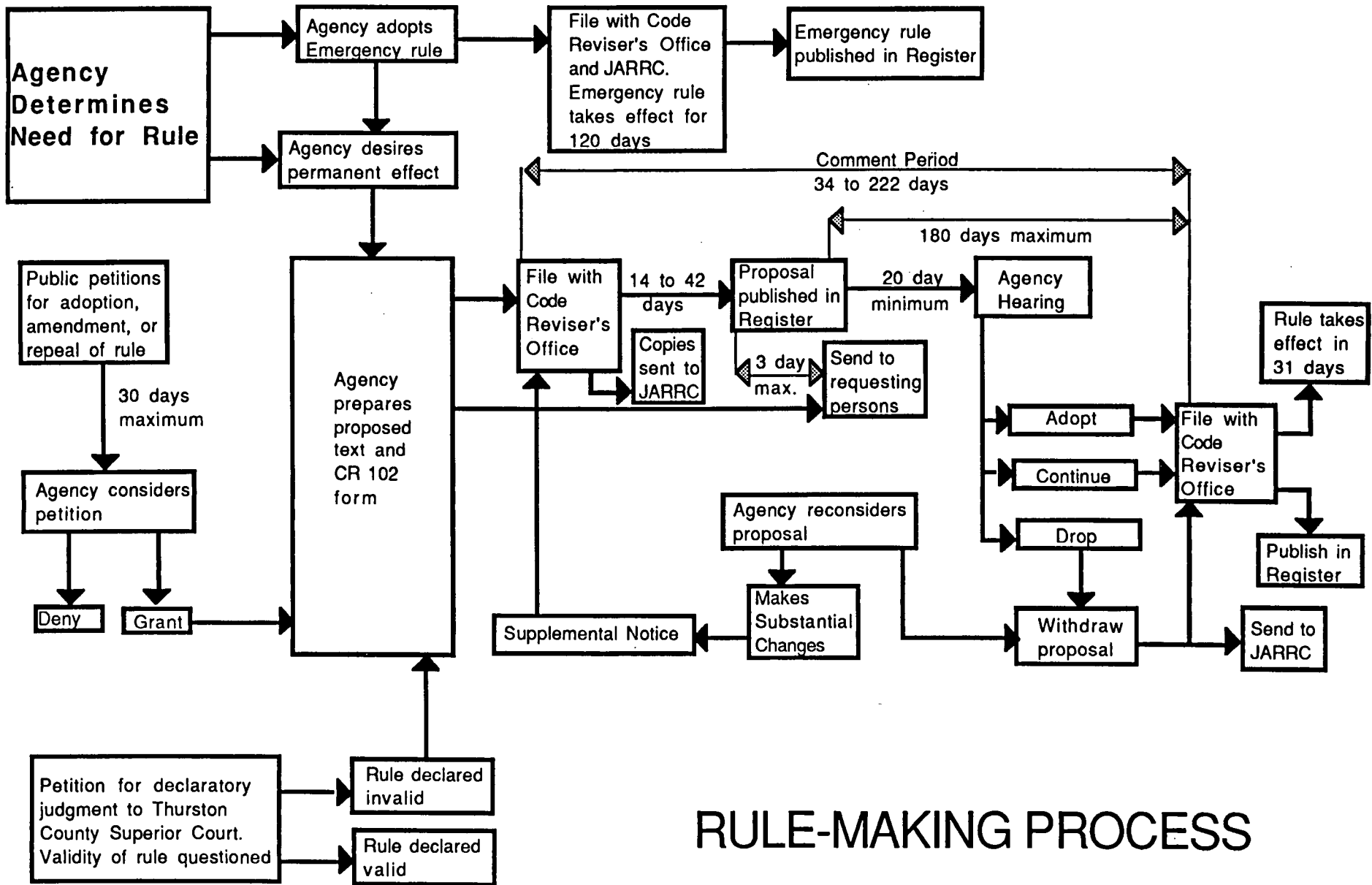
There is no economic impact on business;

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.



# RULE-MAKING PROCESS

**WSR 93-13-077**  
**PROPOSED RULES**  
**OLYMPIC AIR POLLUTION**  
**CONTROL AUTHORITY**  
 [Filed June 17, 1993, 2:58 p.m.]

## Original Notice.

Title of Rule: Regulation 1 Article 1 Policy and Definitions; Article 3 General Provisions; Article 7 Notice of Construction and Application for Approval; Article 10 Wastewood Burners; Article 12 Standards for motor vehicles; Article 13 Recordkeeping and Reporting; Article 14 Asbestos; Article 15 Vapor Recovery.

Purpose: To achieve consistency with Washington Clean Air Act, chapter 70.94 RCW.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Summary: The reason for the amendments is to incorporate new regulations and programs mandated by the Washington Clean Air Act of 1991.

Reasons Supporting Proposal: Amendments to Regulation 1 are required by chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting: Mark Goodin, 909 Sleater Kinney, Lacey, 438-8768 ext. 108; Implementation: Robert Moody, Jim Werner, Greg O'Connor, 438-8768; and Enforcement: Charles Peace, SAME, 438-8768 ext. 100.

Name of Proponent: Olympic Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regulation 1 contains regulations and standards that apply to new and existing sources of air pollution in Thurston, Clallam, Jefferson, Mason, Grays Harbor, and Pacific counties. The purpose of amending Regulation 1 is to incorporate new regulations and programs mandated by the Washington Clean Air Act of 1991 (WCAA) and the federal Clean Air Act Amendments of 1990 (CAA). Amendments to Regulation 1 include the following changes and additions: Minor changes to Articles 1 and 3 to eliminate inconsistencies with WCAA and CAA; changes to Article 7, Notice of Construction and New Source Review regulations pursuant to RCW 70.94.152; changes to Article 9 pertaining to open burning, visual emissions, particulate emissions, wood stoves, and incinerators pursuant to WCAA; changes to Article 14, Asbestos regulations to upgrade and clarify current enforcement standards; addition of a vapor recovery regulation applicable to bulk gasoline distribution facilities.

Proposal Changes the Following Existing Rules: Amendments to Article 9, section 9.01, Open Fires, augments the existing open burning rules and requires a burning permit from an authorized agent to burn. Amendments to Article 14, Asbestos regulations upgrade and clarify current enforcement standards and increase fees associated with approval of asbestos removal.

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

Hearing Location: Olympic Air Pollution Control Authority, 909 Sleater Kinney Road S.E. #1, Lacey, WA 98503, on September 8, 1993, at 10:15 a.m.

Submit Written Comments to: Olympic Air Pollution Control Authority, 909 Sleater Kinney Road S.E. #1, Lacey, WA 98503, by September 8, 1993.

Date of Intended Adoption: September 8, 1993.

June 14, 1993

Mark Goodin

Mechanical Engineer

**ARTICLE 1**  
**POLICY, SHORT TITLE AND DEFINITIONS**

AMENDATORY SECTION

**SECTION 1.07 DEFINITIONS**

When used in regulations of the Olympic Air Pollution Control Authority, the following definitions shall apply, unless they are preempted by definitions in individual Articles:

ACTUAL EMISSIONS (~~((as of a particular date))~~) means the actual (~~((average))~~) rate (~~((in weight per unit time, with air pollution controls applied, at which the affected emission unit emitted the pollutant during the one year period which precedes the particular date, and which is representative of normal operation))~~) of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection. (~~((An adjustment may be made to the average annual emission rate to account for unusual circumstances during the two year period. The Authority may allow or require the use of an alternative time period upon a determination that the alternative time period is more representative of normal operation than is the immediately preceding two years. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. The Authority may presume that source specific allowable emissions, which incorporate limits on hours of operation or production rate are equivalent to the actual emissions of the unit.))~~)

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a one year period which precedes the particular date and which is representative of normal source operation. The Authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The Authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For an emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

ADVERSE IMPACT ON VISIBILITY means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of

visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

AGRICULTURAL BURNING means 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.

AGRICULTURAL OPERATION means the growing of crops, the raising of fowl or animals as gainful occupation.

AIR CONTAMINANT means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant".

AIR POLLUTION means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, property, or which unreasonably interferes with enjoyment of life and property. For the purpose of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

AIR POLLUTION EPISODE means a period when a forecast, alert, warning, or emergency air pollution state is declared, as stated in Chapter 173-435 WAC.

ALLOWABLE EMISSIONS means the emission rate calculated using the maximum rated capacity of the source (unless the stationary source is subject limits enforceable by the Authority which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (a) The applicable standards as set forth in 40 CFR part 60 or 61;
- (b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or
- (c) The emissions rate specified in an approval order, permit condition, or regulatory order issued by the Authority including those with a future compliance date.

ALTERATION means any addition to or enlargement or replacement; or any major modification or change of the design, capacity, process or arrangement; or any increase in the connected loading of equipment or control facility which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

AMBIENT AIR means that portion of the atmosphere external to building to which the general public has access.

AMBIENT AIR QUALITY STANDARD means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

ANCILLARY for the purpose of defining "source", means "related."

AUTHORITY means the Olympic Air Pollution Control Authority.

AUTHORIZED PERMITTING AGENT means either the county, county fire marshal, fire districts, or county conservation district, provided an agreement has been signed

with the local air pollution control authority or department of ecology.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing authority determines that technological or economic limitations on the application of the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of BACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The term "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

BEST AVAILABLE RETROFIT TECHNOLOGY (BART) means any emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing source. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use do such technology. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

BOARD means the Board of Directors of the Olympic Air Pollution Control Authority.

BUBBLE means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

CAPACITY FACTOR means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

CLASS I AREA means any area designated pursuant to § 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

- Alpine Lakes Wilderness;
- Glacier Peak Wilderness;
- Goat Rocks Wilderness;

Mount Adams Wilderness;  
Mount Rainier National Park;  
North Cascades National Park;  
Olympic National Park;  
Pasayten Wilderness;  
Spokane Indian Reservation.

COMBUSTIBLE REFUSE means any burnable waste material containing carbon in a free or combined state other than liquid or gases.

COMBUSTION AND INCINERATION UNITS means units using combustion for waste disposal, steam production, chemical recovery or other process requirement; but excludes open burning.

COMMENCED CONSTRUCTION means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonably time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

CONCEALMENT means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

CONTROL APPARATUS means any device which prevents or controls the emission of any air contaminant.

CONTROL OFFICER means the Air Pollution Control Officer of the Olympic Air Pollution Control Authority.

DAYLIGHT HOURS means the hours between official sunrise and official sunset.

DIRECTOR means director of the Washington state department of ecology or duly authorized representative.

DISPERSION TECHNIQUE means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

ECOLOGY means the Washington State Department of Ecology.

EMISSION means a release of air contaminants into the ~~((outdoor atmosphere of air contaminants))~~ ambient air.

EMISSION LIMITATION means requirement established by the EPA, Ecology, or the Authority which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

EMISSION POINT means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.

EMISSION REDUCTION CREDIT (ERC) means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

EMISSION UNIT means any part of a source or a stationary source ~~((and/or a facility that))~~ which emits or ~~((has))~~ would have the potential to emit any ~~((regulated))~~ pollutant subject to regulation.

EPA means the United States Environmental Protection Agency (USEPA)

EQUIPMENT means any stationary or portable device, or any part thereof capable of causing the emission of any air contaminant into the atmosphere.

EXCESS EMISSION means emissions of an air pollutant in excess of an emission standard or emission limitation.

EXCESS STACK HEIGHT means that portion of a stack which exceeds the greater of sixty five meters or the calculated stack height described in WAC 173-400-200(2).

FACILITY is defined as all emission units in the same industrial grouping located on contiguous or adjacent properties and under common ownership of control.

FEDERAL CLEAN AIR ACT (FCAA) means the Federal Clean Air Act, also known as Public Law 88-206, Stat. 392, December 17, 1963, 42 U.S.C. & 401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

FEDERAL LAND MANAGER means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

~~((FIRE CHIEF means a County Fire Marshal, City Fire Chief, Chief of each County Fire Protection District or his authorized representative, or authorized forestry officials from the Washington State Department of Natural Resources.))~~

FOSSIL FUEL FIRED STEAM GENERATOR means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

FUEL BURNING EQUIPMENT means any equipment, device or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

FUGITIVE DUST means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

FUGITIVE EMISSIONS means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

GARBAGE means refuse, animal or vegetable matter as from a kitchen, restaurant or store.

GENERAL PROCESS UNIT means an emissions unit using a procedure or combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

GENERATING EQUIPMENT means any equipment, device, process or system that creates any air contaminant(s) or toxic air pollutant(s).

GOOD ENGINEERING PRACTICE (GEP) refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

HOG-FUEL means wood slabs, edging, trimmings, etc., which have been put through a "hog" to reduce them to a uniform small size, and also includes shavings from planing mills, sawdust from saw-kerfs, bits of bark, chips and other

small recovered products from the manufacture of wood products or any combination thereof.

IDENTICAL UNITS means units installed and operated in a similar manner on the same premises provided the materials handled, processed, or burned are substantially the same in composition and quantity and their design, mode of operation, connected devices and types and quantities of discharge are substantially the same.

IMPAIRED AIR QUALITY means a condition declared by the department or a local air authority in accordance with the following criteria:

(a) Meteorological conditions are conducive to accumulation of air contamination concurrent with:

(1) Particulate that is ten micron and smaller in diameter (PM-10) at or above an ambient level of seventy-five micrograms per cubic meter measured on a twenty-four-hour average; or

(2) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average.

(b) Air quality that threatens to exceed other limits established by the department or a local air authority.

INCINERATOR means a furnace used primarily for the thermal destruction of waste.

IN OPERATION means engaged in activity related to the primary design function of the source.

INTEGRAL VISTA means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the Class I area.

LIDAR (Light Detection and Ranging) means the EPA alternate method 1 Determination of the opacity of emissions from stationary sources remotely by lidar.

LOWEST ACHIEVABLE EMISSION RATE (LAER) means for any source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

MAJOR MODIFICATION means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation under the act. Any net emissions increase that is considered significant for volatile organic compounds and nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair, and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a source which:

(1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a Prevention of Significant Deterioration permit or Notice of Construction Approval; or

(2) the source is approved to use under any permit issued under regulations approved pursuant to this section;

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 in a Prevention of Significant Deterioration permit or a Notice of Construction Approval.

(g) Any change in ownership at a source.

MAJOR SOURCE means:

(a) Any source which:

(1) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Act;

(2) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen;

(3) Is located in a "serious" carbon monoxide nonattainment area where sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or

(4) Is located in a "serious" particulate matter (PM<sub>10</sub>) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM<sub>10</sub> emissions.

(5) Emits or has the potential to emit 10 tons or more per year of any toxic air pollutant or 25 tons per year of any combination of toxic air pollutants.

(b) Any physical change that would occur at a source not qualifying under (a) of this subsection as a major source, if the change would constitute a major source by itself;

(c) A major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

(d) The fugitive emissions of a source shall not be included in determining for any of the purposes of this section whether it is a major source, unless the source belongs to one of the following categories of sources or the source is a major source solely due to paragraphs (a)(3) or (a)(4) of this subsection:

(1) Coal cleaning plants (with thermal dryers);

(2) Kraft pulp mills;

(3) Portland cements plants;

(4) Primary zinc smelters;

(5) Iron and steel mills;

(6) Primary aluminum ore reduction plants;

(7) Primary copper smelters;

(8) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;

(9) Hydrofluoric, sulfuric, or nitric acid plants;

- (10) Petroleum refineries;  
 (11) Lime plants;  
 (12) Phosphate rock processing plants;  
 (13) Coke oven batteries;  
 (14) Sulfur recovery plants;  
 (15) Carbon black plants (furnace process);  
 (16) Primary lead smelters;  
 (17) Fuel conversion plants;  
 (18) Sintering plants;  
 (19) Secondary metal production plants;  
 (20) Chemical process plants;  
 (21) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;  
 (22) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;  
 (23) Taconite ore processing plants;  
 (24) Glass fiber processing plants;  
 (25) Charcoal production plants;  
 (26) Fossil fuel fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and  
 (27) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.

MANDATORY CLASS I FEDERAL AREA means any area defined in § of the FCAA, Subpart D as amended through the adoption date of this rule. The mandatory Class I federal areas in Washington state are as follows:

- Alpine Lakes Wilderness;  
Glacier Peak Wilderness;  
Goat Rocks Wilderness;  
Mount Adams Wilderness;  
Mount Rainier National Park;  
North Cascades National Park;  
Olympic National Park;  
Pasayten Wilderness.

MASKING means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

MATERIALS HANDLING means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

MODIFICATION means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such sources or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(MULTIPLE CHAMBER INCINERATOR means any article, machine, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of a material to be burned.)

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAAP) means the federal regulations set forth in 40 CFR Part 61.

NATURAL CONDITIONS means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

NET EMISSIONS INCREASE means;

(a) The amount by which the sum of the following exceeds zero:

(1) Any increase in actual emissions from a particular change or change in method of operation at a source; and

(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(1) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring over the life of the ERC shall be counted against the ERC.

(2) Ecology or the Authority has not relied on it in issuing an order of approval for the source under regulations approved pursuant to CFR Part 51, Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21 which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(2) It is federally enforceable at and after the time that actual construction on the particular change begins;

(3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(4) Ecology or the Authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 Subpart I or Ecology or the Authority has not relied on it in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shutdown becomes operational only after a reasonable shutdown period, not to exceed one hundred eighty days.

NEW SOURCE means ((a source constructed, installed or established after the effective date of this regulation.))

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

NEW SOURCE PERFORMANCE STANDARDS (NSPS) means the federal regulations set forth in 40 CFR Part 60.

NONATTAINMENT AREA means a clearly delineated geographic area which has been designated by EPA and promulgated as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants, which includes carbon monoxide, fine particulate matter (PM-10) sulfur dioxide, ozone, and nitrogen dioxide.

NOTICE OF CONSTRUCTION APPLICATION means a written application to permit construction of a new source, modification of an existing source or replacement or substantial alteration of control technology at an existing source. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or parts replacement.

NUISANCE means an emission that unreasonably interferes with the use and enjoyment of property.

OPACITY means the degree to which an ~~((emission reduces the transmission of light and obscures the view of an))~~ object ~~((in the background))~~ seen through a plume is obscured, stated as a percentage.

OPEN BURNING, ~~((Continuous Type))~~ means ~~((an open burning disposal process which is being repeated under permit at the same location))~~ the combustion of material in an open fire or in an open container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

OPEN FIRE means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or kiln.

ORDER OF APPROVAL OR APPROVAL ORDER means a regulatory order issued by ecology or the Authority to approve the notice of construction application for a proposed new source or modification or the replacement or substantial alteration of control technology at an existing stationary source, after review of all information received including public comment as required under Article 5 and Article 7.

OWNER means and includes the person who owns, leases, supervises or operates the equipment or control apparatus.

PARTICULATE MATTER OR PARTICULATES means any liquid, other than water, or any solid which is so finely divided as to be capable of becoming windblown or being suspended in air or other gas or vapor.

PARTICULATE MATTER EMISSIONS means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by a preapproved method by the Authority.

PARTS PER MILLION (ppm) means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

PERMIT means a written warrant or license granted by the Board, Control Officer, or duly authorized Representative or Agent.

PERSON means an ~~((includes any))~~ individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government ~~((at))~~ agency.

PM 10 means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM 10 EMISSIONS means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan.

POTENTIAL CONTROLLED EMISSIONS means the emissions from a facility determined as if the facility was operated at maximum capacity, 8,760 hours per year with control equipment operating. Operating control equipment can be considered only if the affect such controls have on emissions is federally enforceable.

POTENTIAL TO EMIT means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emission do not count in determining the potential to emit of a source.

POTENTIAL UNCONTROLLED EMISSIONS means the emissions from a facility determined as if the facility was operated at maximum capacity, 8,760 hours per year with control equipment NOT operating.

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) means the program set forth in WAC 173-400-141. Ecology has adopted the federal PSD program contained in 40 CFR 52.21 with some changes, which are described in WAC 173-400-141.

PROCESS means any equipment, device apparatus, chemical, natural element, procedure, effort, or any combination thereof which performs a service, function, use, or method, leading to an end of a particular performance, or manufacturing production.

PROJECTED WIDTH means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

REASONABLE ALTERNATIVES means disposal alternatives to open burning that cost less than eight dollars fifty cents per cubic yard. After July 1993, this amount shall be adjusted periodically by department policy.

REASONABLY ATTRIBUTABLE means attributable by visual observation or any other technique the Authority deems appropriate.

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact



of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by quality, and the capital and operating costs of the additional controls. RACT requirements for any source category shall be adopted only after notice and opportunity for comment are afforded.

RECREATIONAL FIRE means barbecues and campfires, using charcoal, natural gas, propane, or natural wood which occur in designated areas, or on private property. Fires used for debris disposal purposes are not considered recreational fires.

REFUSE means waste as defined in Section 1.07 of this Regulation.

~~((REFUSE BURNING EQUIPMENT means equipment designed to burn refuse, rubbish or waste material.))~~

REGULATION 1 means any regulation, or any subsequently adopted additions or amendments thereto, of the Olympic Air Pollution Control Authority.

REGULATORY ORDER means an order issued by ecology or the Authority to an air contaminant source which approves a notice of construction application, limits emissions and/or establishes other air pollution control requirements.

REPRESENTATIVE or AGENT means any person authorized by the Control Officer of the Authority to represent him in an official and specific manner.

RESIDENTIAL means a two or single family unit.

RUBBISH means waste as defined in Section 1.07 of the Regulation.

SALVAGE OPERATION means any operation conducted in whole or in part for the salvaging or reclaiming of any product.

SIGNIFICANT means a rate of emissions equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM <sub>10</sub> )	15
Volatile organic compounds (VOC)	40
Lead	0.6
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H <sub>2</sub> S)	10
Total reduced sulfur (including H <sub>2</sub> S)	10
Reduced Sulfur compounds (including H <sub>2</sub> S)	10
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO <sub>2</sub> and hydrogen chloride)	40

SIGNIFICANT VISIBILITY IMPAIRMENT means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate

with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

SILVICULTURAL BURNING means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.660, 70.94.690, and pursuant to chapter 76.04 RCW.

SOURCE means ((a process, operation, or method which emits or may emit any contaminants to the ambient air)) all of the emissions unit(s) and all of the pollutant emitting activities which belong to the same industrial grouping, including quantifiable fugitive emissions, that are located on one or more contiguous properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

SOURCE CATEGORY means all sources of the same type or classification.

STACK means ((duct, chimney, flue, or conduit arranged for the emission into the outdoor atmosphere of air contaminants)) any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

STACK HEIGHT means the height of an emission point measured from the ground level elevation at the base of the stack.

STANDARD ((AMBIENT)) CONDITIONS means a ((gas)) temperature of 20°C (68°F) ((at 60 degrees Fahrenheit)) and a ((gas)) pressure of 760 mm ((at)) (29.92 inches) of mercury.

STANDARD CUBIC FOOT OF GAS means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at ((a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees Fahrenheit.)) standard conditions.

STATE ACT means the Washington Clean Air Act, Chapter 70.94 RCW, as amended.

STATIONARY SOURCE means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Federal Clean Air Act or the State Clean Air Act or OAPCA REGULATION + source as defined in this section which is fixed in location temporarily or permanently. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the FCAA.

SULFURIC ACID PLANT means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

TEMPORARY means a period of time not to exceed one (1) year.

TOTAL REDUCED SULFUR (TRS) means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

TOTAL SUSPENDED PARTICULATE means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

TOXIC AIR POLLUTANT(S) (TAP) means any class A or Class B toxic air pollutant listed in WAC 173-460-150 and/or WAC 173-460-160.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) shall be referred to as EPA.

URBAN GROWTH AREA means an area defined by RCW 36.70A.030.

VENT means any opening through which gaseous emissions are exhausted into the ambient air.

VISIBILITY IMPAIRMENT means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

VISIBILITY IMPAIRMENT OF CLASS I AREAS means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

VOLATILE ORGANIC COMPOUND (VOC) means:

(a) Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound other than the following, which have negligible photochemical activity: Methane; ethane, methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro 2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

(1) Cyclic, branched, or linear completely fluorinated alkanes;

(2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and

(3) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Authority.

(c) As a precondition to excluding these negligibly reactive compounds as VOC or at any time thereafter, ecology or the Authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the Authority, the amount of negligibly reactive compounds in the source's emissions.

WASTE means unproductive, worthless, useless or rejected material.

WASTE-WOOD BURNER means equipment or facility used solely for the combustion-disposal of waste wood without heat recovery. Such burners shall include, but not

be limited to, a wigwam burner, a silo-type burner, or an air-curtain burner.

WIGWAM or TEPEE BURNER - see Waste-wood Burner.

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

**Reviser's note:** 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.

## ARTICLE 3 GENERAL PROVISIONS

### AMENDATORY SECTION

#### SECTION 3.01 CONTROL OFFICER - POWERS AND DUTIES

(a) The Control Officer shall observe and enforce the provisions of state law and all orders, ordinances, resolutions or rules and regulations of the Authority pertaining to control and prevention of air pollution in accordance with the policies of the Board of Directors.

(b) At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, ((W)) whenever the Control Officer has reason to believe that any provision of state law or any regulation relating to the control or prevention of air pollution has been violated, ((he)) the Control Officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of state law or the regulation alleged to be violated and the facts alleged to constitute a violation thereof and may include an order that necessary corrective action be taken within a specified time. In lieu of an order, the Control Officer may require that the alleged violator or violators appear before the Board for a hearing, at a time and place specified in the notice, given at least twenty (20) days prior to such hearing, and answer the charges.

(c) The Control Officer and/or ~~((his))~~ a qualified designated agent((s)) may make any investigation or study which is necessary for the purpose of enforcing this Regulation or any amendment thereto of controlling or reducing the amount or kind of air contaminant.

(d) The Control Officer may obtain from any person subject to the jurisdiction of the Authority such information or analysis as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source and type or nature of control equipment in use.

(e) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or ~~((his))~~ a duly authorized representative shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer, or ~~((his))~~ a duly authorized representative, who request entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct,

hamper or interfere with any such inspection by the Control Officer, or ~~((his))~~ a duly authorized representative.

(f) If during the course of an inspection, the Control Officer or ~~((his))~~ a duly authorized representative desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, ~~((he))~~ the Control Officer or a designated agent shall notify the owner or ~~((lessee))~~ operator of the time and place of obtaining a sample so the owner or ~~((lessee))~~ operator has the opportunity to take a similar sample at the same time and place; and the Control Officer or ~~((his))~~ a duly authorized representative shall give a receipt to the owner or ~~((lessee))~~ operator for the sample obtained.

(g) The Control Officer may engage, at the Authority's expense and with Board approval, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source.

(h) The Control Officer is empowered to sign official complaints or issue citations or initiate court suits or use other means to enforce the provisions of the regulation.

(i) In order to demonstrate compliance with emission standards, the Control officer shall have the Authority to require a source to be tested, either by the Authority personnel or by the owner, using source test procedures approved by the Authority. The owner shall be given reasonable advance notice of the requirement of the test.

(j) In order for Authority personnel to perform a source test, the Control Officer shall have the authority to require the owner of the source to provide an appropriate platform and sampling ports. The owner shall have the opportunity to observe the sampling and, if there is adequate space to conduct the tests safely and efficiently, to obtain sample at the same time.

#### AMENDATORY SECTION

#### **SECTION 3.15 APPOINTMENT OF HEARING OFFICER**

(a) In all instances where the Board is permitted or required to hold hearings under the provisions of Chapter 70.94 RCW, such hearings shall be held before the Board; or the Board may appoint a hearing officer, who shall be an attorney admitted to practice in the state.

(b) A duly appointed hearing officer shall have all the powers, rights and duties of the Board relating to the conduct of hearings.

(c) At the conclusion of a hearing at which ~~((he))~~ the hearing officer has presided, the hearing officer shall prepare written findings of fact and conclusions of law and a recommended decision. Parties to the proceeding shall be notified of the proposed decision as provided in RCW 34.04.110 through 34.04.120, as now or hereafter amended.

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

#### AMENDATORY SECTION

#### **SECTION 3.17 APPEALS FROM BOARD ORDERS**

Any order issued or fee assessed by the Board or the Control Officer, ~~((with or without a hearing,))~~ shall become final, provided ~~((unless)),~~ that no later than thirty (30) days after the order or decision of the Pollution Control Authority or Control Officer was communicated to the ~~((appealing))~~ party, an appeal is taken to the Pollution Control Hearings Board of the State of Washington, pursuant to RCW 43.21B, 70.94.211 and WAC 371.08, as now or hereafter amended. The sole basis for appeal of a fee assessed by the Control Officer or Board shall be that the assessment contains an arithmetic or clerical error.

**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

#### **SECTION 3.21 SERVICE OF NOTICE**

(a) Service of any written notice required by this Regulation shall be made on the owner or ~~((lessee))~~ operator of equipment, or ~~((his))~~ their agent, as follows:

(1) Either by mailing the notice in a prepaid envelope directed to the owner or ~~((lessee))~~ operator of the equipment, or ~~((his))~~ their agent, at the address listed on ~~((his))~~ their application or order, or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

(2) By leaving the notice with the owner or ~~((lessee))~~ operator of the equipment, or ~~((his))~~ their agent, or if the owner or ~~((lessee))~~ operator is not an individual, with a member of the partnership or other group concerned, or with an officer or managing agent of the corporation.

(b) Service of any written notice required by this Regulation shall be made on the Authority, as follows:

(1) Either by mailing the notice in a prepaid envelope direct to the Authority at its office by United States Certified Mail, return receipt requested; or

(2) By leaving the notice at the Authority office with an employee of the Authority.

#### AMENDATORY SECTION

#### **SECTION 3.23 VARIANCES**

Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the Control Officer or the Board for a variance to exceed a specific maximum emission standard of this Regulation for a limited period of time, provided that a variance to state or federal standards is also approved by the Department of Ecology. The application shall be accompanied by such information and data as the Control Officer or Board may require. The Board may grant such variance but only after approval by the Department of Ecology and public hearing or due notice and in accordance with the provisions set forth in RCW 70.94.181, as now or hereafter amended.

Any hearing held pursuant to this section shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100, as now or hereafter amended. The Authority shall not commence processing a variance request, until it has received a filing fee as determined by Table 4, Plan Examination and Inspection Fee, Section 7.04(c).

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

**SECTION 3.26 Violations - Notice**

At least 30 days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, the Board or Control Officer shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provisions of Chapter 70.94 RCW or the orders, rules, or regulations adopted pursuant thereto, alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the Board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

(a) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.

(b) In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

AMENDATORY SECTION

**SECTION 3.27 ((PENALTY)) REGULATORY ACTIONS and PENALTIES**

The Control Officer may take any of the following regulatory actions to enforce the provisions of Chapter 70.94 RCW or any of the rules of regulations in force pursuant thereto, which is incorporated by reference.

~~(a) In addition to, or as an alternate to, any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations of the Department of Ecology or the Board, including but not limited to Regulation 1 of the Olympic Air Pollution Control Authority, shall incur a penalty in the form of a fine in the amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. For the purposes of this paragraph, the maximum daily fine imposed by the Board for violations of standards by specific emissions unit is ten thousand dollars.~~

(a) Civil Penalties

(1) Any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations in

force pursuant thereto, may incur a civil penalty in an amount not to exceed \$10,000.00 per day for each violation.

(2) Any person who fails to take action as specified by an Order issued pursuant to Chapter 70.94 RCW or Regulation I of the Olympic Air Pollution Control Authority (OAPCA) shall be liable for a civil penalty of not more than \$10,000.00 for each day of continued noncompliance.

(3) Within 30 days after receipt of Notice of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(i) The name, mailing address, and telephone number of the appealing party;

(ii) A copy of the Notice of Civil Penalty appealed from;

(iii) A short and plain statement showing the grounds upon which the appealing party considers such Order to be unjust or unlawful;

(iv) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;

(v) The relief sought, including the specific nature and extent; and

(vi) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(4) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Authority within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition of the application for relief from penalty.

(5) A civil penalty shall become due and payable on the later of:

(i) 30 days after receipt of the notice imposing the penalty;

(ii) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(iii) 30 days after the receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(6) If the amount of the civil penalty is not paid to the Authority within 30 days after it becomes due and payable, the Authority may use any available methods, including Superior Court, to recover the penalty. ((f)) In all actions brought in the Superior Court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in ordinary civil action.

((e)) (7) To secure the penalty incurred under this section, this Authority shall have a lien on any vessel used or operated in violation of Regulation I which shall be enforced as provided in RCW 60.36.050.

((b) Repealed April 8, 1992))

(b) Criminal Penalties

(1) Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any rules or regulations

in force pursuant thereto, shall be guilty of a crime and upon conviction thereof, shall be punished by fine of not more than \$10,000.00, or by imprisonment in the county jail for not more than 1 year, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 1 year, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with terms of an applicable permit or emission limit, and who knows at the time that they have thereby placed another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$50,000, or by imprisonment for not more than 5 years, or both.

~~((e) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty, the penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority, or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the hearings board as provided for in Chapter 43.21(b) RCW and Section 3.17 of this Regulation 1. When a request is made for a hearing, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid to the Board within thirty (30) days after it becomes due and payable, and a request for a hearing has not been made, the Attorney for the Authority, upon request of the Board or Control Officer, shall bring action to recover such penalty in the Superior Court of the county in which the violation occurred. Of all penalties recovered by the Authority, one hundred (100%) percent shall be paid into the treasury of the Authority and credited to its funds.))~~

(c) Additional Enforcement

(1) Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of Chapter 70.94 RCW, or any order, rule or regulation issued by the Board or Control Officer or a duly authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(2) As an additional means of enforcement, the Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of Chapter 70.94 RCW or of any order, rule, or regulation adopted pursuant thereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall

specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the orders, rules, or regulations issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from superior court in the county wherein the violation is alleged to be occurring or to have occurred.

~~((d) REPEALED April 8, 1992))~~

~~((g) At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431 written notice will be served upon the alleged violator or violators. The notice shall specify the provision of RCW 70.94 or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the board or the control officer may require that the alleged violator or violators appear before the board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the local air authority prior to the commencement of enforcement action.))~~

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

AMENDATORY SECTION

SECTION 3.29 COMPLIANCE SCHEDULES

(a) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of Regulation 1 or RCW 70.94 or WAC 173 or any applicable federal regulation the Authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule.

(b) The source, including ~~((A))~~any person who owns or is in control of any plant, building, structure, establishment, process or equipment, which ~~((exceeds maximum))~~ is in violation of an emission standard ~~((of this regulation))~~ or ~~((violates any))~~ other provision of ~~((this))~~ Regulation 1 or RCW 70.94 or WAC 173, may submit a proposed Compliance Schedule to the Board for approval ~~((a proposed Compliance Schedule))~~. The proposed Compliance Schedule must meet the requirements of this section, and shall be accompanied by such information and data as the Control Officer or the Board may require. ~~((The Board may accept such Compliance Schedule, but only after public hearing or due notice and in accordance with RCW 70.94 as now or hereafter amended.))~~

(c) Public Noticing. Compliance Schedules must meet the requirements for public involvement in accordance with RCW 70.94 as now or hereafter amended. Any hearing held pursuant to this section shall be conducted in accordance with the Rules of Evidence as set forth in RCW 34.04.100, as now or hereafter amended.

(d) Federal Action. A source shall be considered to be in compliance with this section if all the provisions of its

individual compliance schedule, including those stated by regulatory order, are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(e) Penalties for delayed compliance. Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act. In addition, failure at any phase to make progress towards compliance pursuant to any Compliance Schedule accepted by the Board shall be deemed an unreasonable delay and in violation of the terms of said Compliance Schedule and the Board or Control Officer may require that the responsible person appear before the Board to explain the delay and show cause why abatement action should not be started, enforcement action taken, and/or the Compliance Schedule revoked.

(f) Fee for Compliance Schedule. The Authority shall not commence processing a compliance schedule request, until it has received a filing fee as determined by Section 7.04(c).

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

REPEALER

**SECTION 3.31 VARIANCE FILING FEE**

**ARTICLE 7**

**NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL**

AMENDATORY SECTION

**SECTION 7.01 NOTICE OF CONSTRUCTION**

(a) No person shall construct, install, ~~((or))~~ establish, or modify ~~((a new))~~ an air contaminant source, except those sources listed in Article 5, section 5.02(b) ~~((Exhibit A of Article 5))~~ of the Regulation without first filing with the Authority a "Notice of Construction and Application for Approval", on forms prepared and provided by the Authority, and without having received approval by ~~((of))~~ the AUTHORITY. For the purposes of this Article, addition to enlargement or replacement of an air contaminant source, or any alteration thereto, shall be construed as construction, installation or establishment of a new air contaminant source.

New air contaminant sources shall include, but not be limited to, the following:

- (1) Agricultural drying and dehydrating operations.
- (2) Asphalt plants.
- (3) Cattle feedlots with facilities for 1,000 or more cattle.
- (4) Chemical plants.
- (5) Ferrous foundries.
- (6) Fertilizer plants.
- (7) Grain handling, seed processing, pea and lentil processing facilities.
- (8) Mineralogical processing plants.

- (9) Nonferrous foundries.
- (10) Oil refineries.
- (11) Other metallurgical processing plants.
- (12) Power boilers using coal, hog fuel or oil.
- (13) Rendering plants.
- (14) Scrap metal operations.
- (15) Veneer dryers.
- (16) Wood waste incinerators including wigwam burners.
- (17) Other incinerators designed for a capacity of 100 pounds per hour or more.
- (18) Stationary internal combustion engines rated at 500 horse power or more.
- (19) Any category of stationary sources to which a federal standard of performance applies.
- (20) Any source which emits a contaminant subject to a national emission standard for hazardous air pollutants.
- (21) Sawmills, including processing for lumber, plywood, shake, shingle, pulp wood insulating board, or any combination thereof.

Provided, however;

For sources such as asphalt batch plants, which locate temporarily at particular sites, the owner or operator shall be permitted to operate at a temporary location without filing a Notice of Construction, providing that the owner or operator notifies the Olympic Air Pollution Control Authority of intent to operate at the new location at least 30 days prior to starting the operation, and supplies sufficient information to enable the Olympic Air Pollution Control Authority to determine that the operation will comply with the emission standards for a new source and the applicable ambient air standards. The permission to operate shall be for a limited period of time and the Olympic Air Pollution Control Authority may set specific conditions for operation during said period which shall include a requirement to comply with all applicable emission standards.

(b) A Notice of Construction and Application for Approval shall not be required to begin an alteration of equipment or control apparatus if delaying the alteration may endanger life or the supplying of essential services. The Authority shall be notified in writing of the alteration on the first working day after the alteration is commenced, and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

(c) A separate Notice and Application shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the same premises: PROVIDED, that the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

(d) Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

(e) Notice shall be given to the public for public comment concerning the "Notice of Construction and Application for Approval" filed by the applicant. Such notice shall be given by publication in a newspaper of general circulation in the county in which the proposed contaminant source is to be constructed, installed, or estab-

lished. The public shall have thirty (30) days from the date of publication within which to submit comments in writing to the Authority concerning the application. The scope of such comment shall be limited to the emission control system and impact on the ambient-air standard.

## NEW SECTION

### ARTICLE 8 SOLID FUEL BURNING DEVICES

#### SECTION 8.01 APPLICABILITY

The provisions of this article apply to solid fuel burning devices in all areas within the jurisdiction of Olympic Air Pollution Control Authority (OAPCA).

#### SECTION 8.03 DEFINITIONS

**ADEQUATE SOURCE OF HEAT** means the ability to maintain seventy degrees Fahrenheit (70° F) at a point three (3) feet above the floor in all normally inhabited areas of a dwelling—garages are specifically excluded.

**CERTIFIED** means that a woodstove meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by:

- a) EPA in 40 CFR Part 60 Subpart AAA-Standards of Performance for Residential Wood Heaters as amended through July 1, 1990; or
- b) Oregon Department of Environmental Quality Phase 2 emission standards contained in Subsections (2) and (3) of Section 340-21-115, and Oregon Administrative Rules, Chapter 340, Division 21—Woodstove Certification dated November 1984.

**COMMERCIAL** means a location that is licensed by the State of Washington to conduct business within the State of Washington.

**COOK STOVE** mean an appliance designed with the primary function of cooking food and containing an integral built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ash pan and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cook stove.

**IMPAIRED AIR QUALITY STAGE ONE** means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 75 micrograms per cubic meter measured on a 24 hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight hour average.

**IMPAIRED AIR QUALITY STAGE TWO** means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 105 micrograms per cubic meter measured on a 24 hour average.

**NONAFFECTED PELLET STOVE** means that a pellet stove has an air-to-fuel ratio equal to or greater than 35.0 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in 40 CFR Part 60 Appendix A, Reference Method 28A-Measurement

of Air to Fuel Ratio and Minimum achievable burn rates for Wood fired Appliances as amended through July 1, 1990.

**SALT LADEN WOOD** means any species of wood that has been soaked in salt water.

**SEASONED WOOD** means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

**SOLID FUEL BURNING DEVICE** means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel except those prohibited by Section 8.07. This also includes devices used for aesthetic or spaceheating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour. A cook stove is specifically excluded from this definition.

**TREATED WOOD** means wood of any species that has been chemically impregnated, painted, or similarly modified to improve structural qualities or resistance to weathering or deterioration.

**WOODSTOVE** means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating. Any combination of parts, typically consisting of, but not limited to: Doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

#### SECTION 8.05 OPACITY STANDARDS

(a) No person shall cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty (20) percent opacity for six consecutive minutes in any one hour period.

(b) 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 provision of this requirement shall not apply during the starting of a new fire for a period not to exceed twenty minutes in any four hour period.

#### SECTION 8.07 FUEL TYPES

(a) A solid fuel burning device shall only burn clean, dry, untreated, seasoned wood. Paper is allowed only for starting the fire.

(b) A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

- (1) garbage;
- (2) treated wood;
- (3) plastic products;
- (4) rubber products;
- (5) animals;
- (6) asphalt products;
- (7) petroleum products;
- (8) paints;
- (9) salt laden wood; or



(10) any substance which normally emits dense smoke or obnoxious odors.

### SECTION 8.09 CURTAILMENT

(a) Whenever the Authority has declared an impaired air quality stage one for a geographic area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device, unless the solid fuel burning device is one of the following:

- (1) The solid fuel burning device is certified; or
- (2) A nonaffected pellet stove.

(b) Whenever the Authority has declared an impaired air quality stage two for a geographic area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device.

(c) The affected geographic area of a declared Impaired Air Quality shall be determined by the Control Officer.

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

- (1) Fireplaces as defined in RCW 70.94.453(3);
- (2) certified woodstoves;
- (3) nonaffected pellet stoves.

(e) The nonattainment area is to consist of all areas within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston county lying within or between the municipal boundaries.

(f) Low income exemption;

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

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

(g) Impaired Air Quality;

(1) On or after July 1, 1995, if the Authority has limited the use of solid fuel burning devices in the nonattainment area, a single stage of impaired air quality shall apply in this geographical area and is reached when particulates 10 micron and smaller in diameter are at an ambient level of 90 micrograms per cubic meter of air as measured by a federal reference method specified in Title 40 Part 50, Appendix J of the code of Federal Regulations or a more timely ambient

measurement method accepted and approved by ecology in accordance with WAC 173-433-140 (4)(a)(ii).

(2) When a single stage of impaired air is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device.

(h) A person responsible for an applicable solid fuel burning device already in operation at the time impaired air quality is declared shall withhold new solid fuel for the duration of the impaired air quality. Smoke visible from a chimney, flue or exhaust duct after three hours has elapsed from the declaration of the impaired air quality 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 a solid fuel burning device.

### SECTION 8.11 EXEMPTIONS

Written exemptions granted by the Authority shall be valid for one (1) year from date of issue. Exemptions may be canceled at any time if the original request is found to be incorrect, inaccurate or fraudulent. Exemptions shall apply only to the use of a solid fuel burning device during an Impaired Air Quality and not to the other sections of this article or other applicable regulations.

(a) Emergency exemption. In an emergency situation the Authority may issue a written solid fuel burning device emergency exemption. An emergency situation shall include, but is not limited to, a situation where a person demonstrates that his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions or a situation where the heating system has been involuntarily disconnected by a utility company or other fuel supplier. An emergency exemption shall not exceed one year.

(b) Inadequate heat source. Written exemptions may be issued by the Authority if a person can demonstrate that:

- (1) The structure was originally designed with a solid fuel burning device as the source of heat; or
- (2) The existing heat source, fueled with other than solid fuel, will not provide adequate heat.

### SECTION 8.13 PENALTIES

A person in violation of this Article may be subject to the provisions of Section 3.27.

### SECTION 8.15 INSTALLATION OF UNCERTIFIED WOODSTOVES

It shall be unlawful to install an uncertified solid fuel burning device, except cook stoves, in new or existing buildings or structures. Uncertified solid burning devices installed after January 1, 1992, shall be in violation of this section and shall be promptly removed from the structure.

### SECTION 8.17 SALE AND DISPOSAL OF UNCERTIFIED WOODSTOVES

At such time as a solid fuel burning device is to be permanently removed from its location it shall be rendered



inoperable as a solid fuel burning device. A removed solid fuel burning device shall not be sold, bartered, traded, or given away for a purpose other than recycling of the materials to form something other than an uncertified solid fuel burning device.

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

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

## ARTICLE 9 EMISSION PROHIBITED

### AMENDATORY SECTION

#### SECTION 9.01 OPEN FIRES

It is the policy of the Olympic Air Pollution Control Authority (OAPCA) to achieve and maintain high levels of air quality and to this end minimize to the greatest extent reasonably possible the burning of open fires. Consistent with this policy, the Board does hereby declare that such fires should be allowed only on a limited basis under strict regulation and close control, such program to be implemented by a one permit system. It is the further policy of the Board to encourage the fostering and development of an alternate technology or method of disposing of wastes which is reasonably economical and less harmful to the environment.

(a) ~~(No)~~ It shall be unlawful for any person ~~(shall)~~ to cause or allow any open fire ~~(within the jurisdiction of the Authority except as follows):~~

~~((g) No person shall cause or allow any open fire:))~~

(1) Containing prohibited materials which include, but is not limited to, garbage, dead animals, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, processed wood, construction debris, metal or any substance which when burned releases toxic emissions, ~~(normally emits)~~ dense smoke or obnoxious odors, ~~(except as provided for in Section 9.01(f))~~

(2) During an air pollution episode or period of impaired air quality ~~(forecast, alert, warning or emergency condition)~~ as defined in RCW 70.94~~(715 State Episode Avoidance Plan)~~.

(3) In a no burn/nonattainment area or ~~i((f))n~~ any area which has been designated by the Board or Control Officer as an area exceeding or threatening to exceed State or Federal ambient air quality standards, ~~(or, after July 1, 1976, State ambient air quality goals for suspended particulate described in Chapter 18-40 WAC, which is by this reference incorporated herein:)~~

(i) It shall be unlawful for any person to cause or allow any open fire described in Section 9.01 (b)(2) and (7) in any area where the Board has prohibited burning.

(ii) Fires described in Section 9.01 are prohibited in the following areas:

All areas within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston county lying within or between the municipal boundaries.

(4) In any area in which the applicable fire district, fire protection agency, city, town, county, or conservation district has determined not to issue burning permits or has determined that selected types of open burning fires are prohibited under a valid burning permit program established pursuant to RCW 70.94.745, RCW 70.94.750, RCW 70.94.775, and/or RCW 70.94.780.

(5) Within fifty (50) feet of a structure or within five hundred (500) feet of forest slash debris.

(6) In any area within the jurisdiction of this authority all burning requires a permit as covered in WAC 173-425-070.

(7) Urban growth areas and cities with a population of ten thousand or more will ban open burning when alternatives are available, no later than the end of the year 2000.

(8) If open burning creates a nuisance the fire must be extinguished immediately.

(b) Other than the following types:

(1) Recreational fires no larger than four feet in diameter and three feet in height for ~~(recreational purposes, cooking of food, Indian)~~ campfires~~(, or the sending of smoke signals for a religious ritual)~~ at designated federal, state, county or city parks and recreation areas, provided a written permit has been issued by a fire protection agency, county, or conservation district.

(2) Residential fires set for the disposal of yard and garden refuse (except cut grass) ~~(waste upon premises of private)~~ originating on lands immediately adjacent and in close proximity to a human dwelling~~(s housing four families or less)~~, subject however, to the following restrictions:

(i) There shall be one (1) fire only and it shall not exceed four (4) feet in diameter and three (3) feet in height.

(ii) The material may be burned only if it is of a location, nature and condition to burn without emitting dense smoke ~~(greater than 60% opacity)~~ or offensive odors or creating a nuisance.

(iii) The fire is to consist only of dry leaves and prunings (except grass cuttings which produce dense smoke), and be burned on such lands by the property owner or their designee under strict conditions such as hours, dates, smoke management, etc., provided a written permit has been issued by a fire protection agency, county, or conservation district (thirty (30) days are the maximum allowed).

~~((iii))~~ (iv) There shall be compliance with all laws and regulations of other governmental agencies regarding such fires.

(v) The fire is not contrary to Section 9.01(a).

~~((3) Fires from flares, torches and waste gas burners:))~~

~~((4))~~ (3) Where open burning is ~~(Any fire)~~ allowed ~~(under this section is subject to the following:))~~ a minimum permit (general rule burn) is allowed provided that all restrictions (i through viii) are met.

(i) ~~(No salvage operation by opening burning will be conducted)~~ The fire must be attended at all times by someone with the means and capability of extinguishing the fire.

(ii) ~~(No garbage will be burned)~~ Maximum pile size is four (4) feet by four (4) feet by three (3) feet in height.

(iii) ~~(No dead animals will be disposed of by burning.)~~ Only one pile shall be burned at a time, and each pile must be extinguished before igniting another.

(iv) No material containing garbage, asphalt, dead animals, petroleum products, paints, rubber products, plastic, paper (other than what is necessary to start a fire), cardboard, treated wood, processed wood, construction debris, metal or any substance which when burned releases toxic emissions, ~~((normally emits))~~ dense smoke or obnoxious odors, ~~((, except as provided for in Section 9.01(f).))~~

(v) The designated permitting authority must be called to confirm burning conditions for each day or current information on burning conditions must be obtained from another designated source.

(vi) If the fire creates a nuisance, it must be extinguished.

(vii) Permission from a landowner, or owner's designated representative, must be obtained before starting an open fire.

(viii) General rule burn permits under this section may be used for the following number of days per year:

<u>1992-1994</u>	<u>21 days</u>
<u>1995-1998</u>	<u>14 days</u>
<u>1998-1999</u>	<u>7 days</u>
<u>after 2000</u>	<u>7 days</u>

The exact dates to implemented will be determined by the control officer.

(4) Fire associated with **agricultural operations** for controlling diseases, insects, weed abatement or development of physiological conditions conducive to increased crop yield, provided written confirmation has been furnished by a designated county extension agent or agricultural specialist designated by the Cooperative Extension Service that burning is the best management practice, a one time application fee of twenty dollars is collected, and prior written approval has been issued by the Control Officer.

(5) Fires for **abating a forest fire hazard**, to prevent a hazard, for instruction of public officials in methods of forest fire fighting, any silvicultural operation to improve forest lands, and silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation area, parks, and other wildlife areas, provided prior written approval has been issued by the Washington Department of Natural Resources.

(6) **Land clearing fires** consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects, (natural vegetation can not be transported from this site to be burned at another location) under strict conditions, such as hours, dates, smoke management, etc., and provided a written permit has been issued by a fire protection agency, county, or conservation district (thirty (30) days are the maximum allowed for permit).

(7) **Cooking fires** consisting solely of charcoal, propane, natural gas or wood (provided that wood is not used in a no burn/nonattainment area) and used solely for the preparation of food.

(8) Fires for **Native American ceremonies** or for the sending of smoke signals if part of a religious ritual, (provided that proof of tribal affiliation is certified and a

permit has been issued by the Control Officer in a no burn area).

~~((b) Open burning other than the above exceptions may be conducted only by permit from the Control Officer or his duly designated agent. Such permits shall be issued when the Control Officer, or his duly designated agent, is satisfied that:))~~

~~((1) No practical alternate method is available for the disposal of the material to be burned. Due consideration shall be given to economic factors and the location at which the material is to be burned.))~~

~~((2) No salvage operation by open burning will be conducted.))~~

~~((3) No garbage will be burned.))~~

~~((4) No dead animals will be disposed of by burning.))~~

~~((5) No material containing asphalt, petroleum products, paints, rubber products, plastic or any substance which normally emits dense smoke or obnoxious odors will be burned.))~~

(c) Any permit issued may be limited by the imposition of conditions to prevent air pollution as defined in Article 1 of this Regulation. If it becomes apparent at any time to the ~~((Control Officer))~~ authorized permitting agent that limitations need to be imposed, the ~~((Control Officer, or his duly designated agent))~~ authorized permitting agent shall notify the permittee; and any limitations so imposed shall be treated as conditions under which the permit is issued.

(d) Fires started in violation of this Regulation shall be extinguished by the persons responsible for the same upon notice of the ~~((Control Officer or ((his)) a duly designated agent.))~~ authorized permitting agent. ~~((When the Control Officer has knowledge of adverse conditions for the dispersement of the by products of combustion, an air pollution alert may be declared voiding all permits for open fires.))~~

(e) It shall be prima facie evidence that the person who owns or controls property on which an open fire ~~((, prohibited by this Regulation.))~~ occurs, has caused or allowed said open fire.

(f) Firemen Training: The Control Officer, or ~~((his))~~ a duly authorized agent may allow, by permit, an open fire necessary for firemen training (other than forest fire training) by a legally authorized fire control agency and may authorize the burning of petroleum products by such permit. Conditions of this permit will agree with guidelines established by the Washington Department of Ecology.

(g) Nothing contained in Article 9 shall be construed to allow open fires in those areas in which open burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.

(h) Nothing contained in Article 9 shall relieve the applicant from obtaining permits required by any state or local fire protection agency or from compliance with Section 11.101 of the Uniform Fire Code.

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 SECTIONSECTION 9.03 GENERAL STANDARDS FOR MAXIMUM VISUAL EMISSIONS (see WAC 173-400-040)

All facilities, sources and emissions units are required to meet the visual emission standards of this section except when a visual emission standard is listed in another section of Regulation 1, or where a Notice of Construction lists a more stringent visual emission standard, or where an applicable State of Washington or Federal Regulation lists a visual emission standard that is more stringent, such standards will take precedent over a general emission standard listed in this section.

(a) In equipment or facilities, including boilers using hogged fuel, regardless of their date of installation, no person shall cause or allow the emission to the outdoor atmosphere, for more than three (3) minutes in any one hour, of a gas stream containing air contaminants which are greater than 20% opacity.

~~((e) No person shall cause or allow the discharge or emission of particulate matter which becomes deposited upon the real or personal property of others. This restriction shall not apply if discharge or emissions are in compliance with Section 9.05 of this regulation; provided, however, that causing or allowing the discharge or emission of particulate matter upon the real or personal property of others shall be prima facie evidence that section 9.05 is not being complied with and the burden of proof shall be upon the source to establish compliance.))~~

~~((d))~~(b) Observations shall be made by trained and certified observers or by LIDAR instrumentation.

~~((e))~~(c) The ~~(only)~~ exceptions to Section 9.03 of this Regulation are as follows:

(1) ~~((When the gas stream is an e))~~Emission occurring due to soot blowing or grate cleaning and when the operator can demonstrate that the emissions will not exceed 20% opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and OAPCA shall be advised of the schedule. ~~((from a boiler using hog fuel, and an emission occurs which is due to unplanned and unintentional combustion conditions, the emission may be greater than 40% opacity but, must be less than 60% opacity; for a period of not more than six (6) minutes in any one hour. PROVIDED, that the operator shall take immediate action to correct the situation.))~~

~~((2) For purposes of necessary soot blowing, the emission may be darker than the above limits for a period of not more than fifteen (15) minutes or three (3) minutes per boiler, whichever is less, in any eight (8) hour period.))~~

(3) ~~((Where))~~ When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the ~~((failure of an emission to meet the limitations of this section, those limits shall not apply. The burden of proof in this case shall be upon the person seeking to operate within the provisions of this section))~~ opacity to exceed 20%.

~~((4) The limits of this section shall not apply during the time for compliance with this Regulation fixed by the Control Officer or the Board.))~~

AMENDATORY SECTIONSECTION 9.05 GENERAL STANDARDS FOR MAXIMUM PARTICULATE MATTER (see WAC 173-400-040, -050, -060, 070)

All sources and emissions units are required to meet the emission standards of this section, except when a standard is listed in another section of Regulation 1, or where a Notice of Construction Approval Order lists a more stringent standard, or where an applicable State of Washington or Federal Regulation lists a standard that is more stringent, such standards will take precedent over a general emission standard listed in this section. Further, all existing emission units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of OAPCA Regulation 1. When current controls are determined to be less than RACT, OAPCA shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or source category for installation of RACT. Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensible particulate matter, for determining compliance with particulate matter standards.

~~((a) No person shall cause or allow the emission to the outdoor atmosphere of particulate matter in violation of Section 9.03.))~~

(a) In equipment or facilities except boilers using hog fuel, no person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.10 grains per standard cubic foot of gas (calculated at ~~((12% carbon dioxide))~~ 7% oxygen). ~~((if emission is from a combustion source, and in the case of incineration, corrected for the use of auxiliary fuel.))~~ Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensible particulate matter, for determining compliance with particulate matter standards.

(b) Hogged Fuel Boilers: ~~((In equipment or facilities installed subsequently to the effective date of this Regulation.))~~ ~~((n))~~ No person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.20 grains per standard cubic foot of gas (calculated at ~~((12% carbon dioxide))~~ 7% oxygen). ~~((if emission is from a combustion process.))~~ Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensible particulate matter, for determining compliance with particulate matter standards.

(c) Fugitive particulate material. Reasonable and/or appropriate precautions shall be taken to prevent fugitive particulate material from becoming airborne;

(1) When handling, loading, unloading, transporting, or storing particulate material, or

(2) When constructing, altering, repairing or demolishing a building; or its appurtenance; or a road; or

(3) From an untreated open area.

For the purpose of this subsection, fugitive particulate means particulate material which is generated incidental to an operation, process or procedure and is emitted into the open air from points other than an opening designed for emissions such as stack or vent.

(d) No person shall cause or allow any construction, alteration, repair, maintenance or demolition work without taking precautions to prevent air pollution.

(e) ~~Fallout.~~ No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source which interferes unreasonably with the use and enjoyment of the property upon which the material is deposited.

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

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

REPEALER

**SECTION 9.06 WOODSTOVES**

AMENDATORY SECTION

**SECTION 9.07 INCINERATION OPERATION**

(a) No person shall cause or allow any incineration operation within the Authority's jurisdiction except in an ~~((multiple chamber))~~ incinerator ~~((and))~~ provided with emission control apparatus ~~((or in equipment))~~ found by the Control Officer, or ~~((his))~~ a duly designated agent, in advance of such use, to be ~~((equally))~~ effective for the purpose of air pollution control.

~~((SECTION 9.09 — INCINERATION HOURS))~~

~~((a))~~(b) Incinerator Hours - No person shall cause or allow an incineration operation at any time other than daylight hours of the same day, except with approval of the Control Officer.

~~((b) Approval of the Control Officer for an incineration operation may be granted upon the submission of a written request stating:))~~

~~((1) The name and address of the applicant.))~~

~~((2) The location of the incinerator.))~~

~~((3) A description of the incinerator and its control apparatus.))~~

~~((4) Valid reason for issuance of such approval.))~~

~~((5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment.))~~

~~((6) The length of time for which the exception is sought.))~~

AMENDATORY SECTION

**SECTION 9.11 ODOR CONTROL MEASURES**

(a) ~~((Effective control apparatus, measures, or process))~~ Reasonably available control technology (RACT) shall be installed and operated to ~~((reduce))~~ mitigate odor-bearing gases ~~((or particulate matter))~~ emitted into the atmosphere to a minimum, or, so as not to create air pollution.

(b) The Board may establish requirements that the building or equipment be enclosed and ventilated in such a way that all the air, gases and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the outdoor atmosphere.

(c) No person shall cause or allow the emission or generation of any odor from any source which unreasonably interferes with another person's use and enjoyment of ~~((his))~~ their property.

AMENDATORY SECTION

**SECTION 9.1((3))2 EMISSION OF AIR CONTAMINANT - CONCEALMENT AND MASKING (WAC 173-400-040)**

a) No person shall cause or allow the installation or use of any device or use of any means which, ~~((without resulting in a reduction in the total amount of air contaminant emitted,))~~ conceals or masks an emission of air contaminant which would otherwise violate ~~((Section 9.03 through 9.11 and Section 9.19 of this Regulation))~~ any provisions of OAPCA's Regulation 1 or WAC 173-400.

b) No person shall cause or allow the installation or use of any device or use of any means designed to conceal or mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person, or cause damage to property or business.

AMENDATORY SECTION

**SECTION 9.1((2))3 EMISSION OF ((FORMALDEHYDE)) TOXIC AIR POLLUTANTS**

(a) Sources installed after June 18, 1991, shall meet the requirements of WAC 173-460, New Sources of Toxic Air Pollutants. For sources installed after June 18, 1991, "Toxic air pollutant (TAP)" means any Class A or Class B toxic air pollutant listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(b) No person shall cause or allow the emission of formaldehyde into the ambient air beyond such person's property line which will result in a concentration exceeding .05 ppm (parts per million) 1 hour average or 61 micrograms per cubic meter 1 hour average ~~((of the air, corrected to 25 degrees centigrade and 760 mm Hg)).~~

AMENDATORY SECTIONSECTION 9.15 REPORTING OF ((~~BREAKDOWN-OR, OTHER CAUSE OF FAILURE OF COMPLIANCE WITH THE REGULATION~~)) EXCESS EMISSIONS

~~((a) The following shall be reported to the Authority within twenty four (24) hours after occurrence:))~~

(a) Excess emissions shall be reported to the Authority as soon as possible and within 24 hours unless the Authority has established alternative reporting timeliness requirements for the source. Upon request by the Control Officer, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventative measures to be taken to minimize or eliminate the chance of recurrence.

(b) The owner or operator of a source shall have the burden of proving to the Authority that excess emissions were unavoidable.

~~((1) Unavoidable, unforeseeable upset conditions and/or break-down of equipment of control apparatus, any of which relate to the control of emission sources:))~~

~~((2) Any occurrence of an open fire of waste materials without an Olympic Air Pollution Control Authority permit.))~~

~~((b) The person responsible shall take immediate action to correct the problem and shall, upon the request of the Control Officer, make a complete report outlining the causes and the preventive measures to be taken to minimize or prevent recurrence:))~~

(c) The following scenarios of excess emissions shall be considered unavoidable:

(1) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (a) of this section and adequately demonstrates to the Control Officer that the excess emissions could no have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

(2) Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (a) of this section and could not have been avoided through better design, scheduling for maintenance or through better operation and maintenance practices.

(3) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (c) of this section and demonstrates to the satisfaction of the Authority that:

(i) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(ii) The event was not of a recurring pattern indicative of inadequate design, operation or maintenance; and

(iii) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during and after the event, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

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 SECTIONSECTION 9.16 CONTROL EQUIPMENT - MAINTENANCE AND REPAIR

All ~~((registered))~~ air contaminant sources are required to keep any process and/or air pollution control equipment in good operating condition and repair.

NEW SECTIONSECTION 9.17 BURNING USED OIL IN LAND BASED FACILITIES (RCW 70.94.610)

(a) Except as provided in subsection (b) of this section, a person may not burn used oil as fuel in a land-based facility or in state waters unless the used oil meets the following standards:

(i) Cadmium: 2 ppm maximum

(ii) Chromium: 10 ppm maximum

(iii) Lead: 100 ppm maximum

(iv) Arsenic: 5 ppm maximum

(v) Total halogens: 1000 ppm maximum

(vi) Polychlorinated biphenyls: 2 ppm maximum

(vii) Ash: .1 percent maximum

(viii) Sulfur: 1.0 percent maximum

(ix) Flash point: 100 degrees Fahrenheit minimum.

(b) This section shall not apply to:

(i) Used oil burned in space heaters if the space heater has a maximum heat output of not greater than 0.5 million btu's per hour or used oil burned in facilities permitted by the Authority; or

(ii) ocean going vessels.

(c) This section shall not apply to persons in the business of collecting used oil from residences when under authorization by a city, county, or the utilities and transportation commission.

Test procedures for determining compliance for the above specifications shall be approved by the Authority.

REPEALERSECTION 9.19 EMISSION OF SULFUR COMPOUNDSARTICLE 10  
WASTE-WOOD BURNERSAMENDATORY SECTIONSECTION 10.01 EMISSION AND OPERATING STANDARDS

All waste-wood burners within the jurisdiction of this Authority are required to meet the following:

(a) Definitions:

(1) Wigwam Burner - A simple structure consisting of nothing more than a sheet metal shell supported by structural steel members in a conical shape. Usually the base diame-

ter is approximately equal to its height and the outlet diameter is approximately one-third of its base diameter. They have limited control of primary air. The metal shell is cooled by peripheral air which flows upward and over the inside surface.

(2) Silo Burner - Burner consists of cylindrical chamber constructed of high duty refractory material. Air is supplied by mechanically powered underfire and overfire air.

(b) Visible Emissions:

(1) Wigwam Burner - No person shall cause or allow the emission to the outdoor atmosphere for more than fifteen (15) minutes in any consecutive eight (8) hours of any contaminant greater than 20% opacity.

(2) Other Burners (Including silo burners) - No person shall cause or permit the emission for more than three (3) minutes, in any one hour, of an air contaminant which exceeds 20% opacity.

(c) Particulate:

(1) No person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.10 grains per standard cubic foot of gas (calculated to ~~((12% carbon dioxide))~~ 7% oxygen), as when by a source test approved by the Authority.

(2) No person shall cause or permit the emission of particulate matter from a waste-wood burner which then becomes deposited beyond the property directly controlled by the owner or operator of the waste-wood burner in sufficient quantity to interfere unreasonably with using and enjoying the property where the material was deposited.

(d) Construction and Operation Standards:

(1) All new sources or major modifications of existing sources shall use Best Available Control Technology (BACT). After notice from the Authority, one or more of the following items of equipment shall be installed and corrective measures shall be taken until compliance with Regulation 1 is attained:

(i) Refractory lining with the top of the chamber a smaller diameter than the base.

(ii) Mechanically-powered overfire and underfire combustion air system.

(iii) Elimination of all unnecessary openings.

(iv) A controlled and metered solids-feeding system.

(v) Other modification determined necessary by the Authority.

AMENDATORY SECTION

**SECTION 10.03 EXCEPTIONS:**

~~((a))~~ Abnormal Conditions and Equipment Malfunction:

Emissions in excess of established regulation limits as a direct result of equipment malfunction or breakdown, or to abnormal conditions beyond the control of the person or firm owning or operating such equipment shall not be deemed in violation of such regulations, if the Authority is advised of the circumstances of such malfunction within 24 hours and a corrective program is outlined which is acceptable to the Authority.

AMENDATORY SECTION

**SECTION 10.05 PROHIBITED MATERIALS**

Asphaltic materials, plastics, rubber products, dead animals, petroleum products, paints, paper (other than what is necessary to start a fire), cardboard, treated wood, processed wood, construction debris, metal, sanitary garbage, or materials which cause dense smoke or obnoxious odors shall not be burned or disposed of in waste-wood burners.

**SECTION 10.07 OTHER SECTIONS NOT APPLICABLE**

(a) This Section is a specific process emission restriction, and if any portion herein conflicts with any other Section or portion thereof, or other regulation of this Authority, the provisions herein shall apply.

(b) The effective date of this Regulation shall be on the date of the passage of this Resolution.

REPEALER

**ARTICLE 12  
STANDARDS FOR MOTOR VEHICLES**

**ARTICLE 13  
RECORD KEEPING AND REPORTING**

**SECTION 13.01 PURPOSE**

(a) The purpose of this regulation is to:

(1) Require owners or operators of stationary sources of air contaminants to maintain records of, and periodically report to the Olympic Air Pollution Control Authority information on the nature and amounts of emissions and other information as may be necessary to determine whether such sources are in compliance with applicable emission limitations and other control measures.

(2) Provide for public availability of emission data reported to the Olympic Air Pollution Control Authority by stationary source owners or operators or otherwise obtained by the Authority, as correlated with applicable emission limitations.

AMENDATORY SECTION

**SECTION 13.02 RECORD KEEPING AND REPORTING**

(a) The owner or operator of any stationary source in the geographical area of the Authority shall, upon notification by the Control Officer of the Olympic Air Pollution Control Authority, maintain records of the nature and amounts of emissions from such source and/or provide other information deemed necessary by the Control Officer to determine whether such source is in compliance with the applicable emission limitations and other control measures.

(b) The information pursuant to subsection (a) hereof shall be reported to the Control Officer on forms supplied by the Olympic Air Pollution Control Authority. Such reports shall be filed ~~((semi-annually during January and July of~~

each year, or) at such ((other)) times as the Control Officer shall direct.

REPEALER

**SECTION 13.05 PUBLIC INFORMATION**

**ARTICLE 14  
ASBESTOS**

AMENDATORY SECTION

**SECTION 14.01 REMOVAL AND ENCAPSULATION OF ASBESTOS MATERIAL PURPOSE**

The Board of Directors of the Olympic Air Pollution Control Authority (~~recognize that asbestos is a serious health hazard. Any asbestos fibers released into the air can be inhaled and cause lung cancer, pleural mesothelioma, peritoneal mesothelioma, or asbestosis~~) has found that the use, production, and emission of air contaminants into the atmosphere in the OAPCA region poses a threat to the public health, safety, and welfare of the citizens of the region and causes degradation of the environment. ((The)) Therefore the Board ((has)), ((therefore, determined that any asbestos emitted to the ambient air is air pollution)) in order to control the emission of toxic air pollutants and to provide for uniform enforcement of air pollution control in its jurisdiction and to carry out the mandates and purposes of the Washington Clean Air Act, the Federal Clean Air Act, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61), declares the necessity of the adoption of this section pertaining to air contaminants. ((Because of the seriousness of the health hazard, the Board has adopted this regulation to control asbestos emissions from asbestos removal and encapsulation projects in order to protect the public health. In addition, the Board has adopted these regulations to coordinate with the EPA asbestos NESHAP, the OSHA asbestos regulation, the Washington Department of Labor and Industries asbestos regulations, the Washington Department of Ecology Dangerous Waste regulation, and the solid waste regulations of Pacific, Clallam, Jefferson, Mason, Grays Harbor, and Thurston counties.))

AMENDATORY SECTION

**SECTION 14.03 DEFINITIONS**

When used in this Article the following definitions shall apply:

**ADEQUATELY WET** ~~((TED))~~ means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent visible emissions.

**ASBESTOS** means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

**ASBESTOS CONTAINING ((WASTE)) MATERIAL(S)** means any ~~((waste))~~ material ~~((that))~~ contain~~((s))~~ing at least one percent (1%) asbestos as determined by polar-

ized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart F in 40 CFR Part 763. ((This term includes asbestos waste from control devices, contaminated clothing, asbestos waste material, material used to enclose the work area during an asbestos project, and bags or containers that previously contained asbestos.)) This term does not include asbestos-containing roofing material, regardless of asbestos content, when the following conditions are met:

(1) The asbestos-containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(2) The binder is petroleum based, the asbestos fibers are suspended in that base, and the individual fibers are still encapsulated; and

(3) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(4) The building, vessel, or structure containing the asbestos-containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

**ASBESTOS-CONTAINING WASTE MATERIAL** means any waste ~~((material))~~ that contain~~((ing))~~s ~~((at least one percent (1%)))~~ asbestos-containing material, ~~((by weight, unless it can be demonstrated that the material does not release asbestos fibers when crumble, pulverized or otherwise disturbed))~~. This term includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material(s) collected for disposal, or asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. This term does not include samples of asbestos-containing material taken for testing or enforcement actions.

**ASBESTOS ENCAPSULATION** means the application of an encapsulant to the asbestos materials to control the release of asbestos fibers into the air. ~~((For the purpose of this regulation, encapsulation includes enclosure))~~

**ASBESTOS PROJECT** means the construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos-containing material. This term includes the removal and disposal of asbestos-containing waste material from manufacturing operations that combine asbestos-containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, re-wettable glass cloth, canvas, cement, paint, or other nonasbestos materials to seal or fill exposed areas where asbestos fibers may be released.

~~((ASBESTOS REMOVAL means to take out asbestos materials from any facility and includes the stripping of any asbestos materials from the surface of or components of a facility.))~~

**ASBESTOS SURVEY** means an inspection using the procedures contained in 40 CFR 763.86, or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, removed, or demolished, contain asbestos.



In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

CERTIFIED ASBESTOS WORKER/SUPERVISOR means a person who is certified as required by the Washington State Department of Labor and Industries under WAC 296-65-010, 012, and 030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

COLLECTED FOR DISPOSAL means sealed in a leak-tight, labeled container while adequately wet.

COMPONENT means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos-containing material.

CONTROLLED AREA means an area to which only certified asbestos workers, or other persons authorized by the Washington Industrial Safety and Health Act, have access. ~~((In the case of a nonmultiple unit private dwelling housing two families or less, the controlled area is the interior of the dwelling)).~~ For residential dwellings, the controlled area is the interior of the dwelling, garage, or fenced area that is secured, and warning signs posted accordingly.

DEMOLITION means the wrecking, dismantling, removal of any load-supporting structural member on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load-bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering as permanently uninhabitable, that portion of the building being demolished.

EMERGENCY ((REMOVAL)) RENOVATION OPERATION means ~~((an asbestos removal operation that was not planned but results from a sudden, unexpected event. This term includes removal operations necessitated by failures of equipment, identification of additional asbestos material during the course of a removal or removal necessary to abate an imminent health hazard.))~~ a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

~~((ENCAPSULANT is a compound which creates a membrane over a surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).))~~

FACILITY means any institutional, commercial, public, industrial, or residential structure, installation, ~~((vessel or))~~ building, (including any building containing condominiums or individual dwelling units operated as a residential cooperative) any vessel; ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling, is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use of function.

~~((FACILITY COMPONENT means any equipment at or in a facility or any structural member of a facility.))~~

FUGITIVE SOURCE means any sources of emissions not controlled by an air pollution control device.

HEPA FILTER means a high efficiency particulate air filter found in respirators and vacuum systems capable of filtering 0.3 micro(~~(#)~~)meter mean aerodynamic diameter particles with 99.97% ~~((percent))~~ efficiency.

LEAK TIGHT CONTAINER means a dust-tight container, at least 6-mil thick, that encloses the asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

LOCAL EXHAUST VENTILATION AND COLLECTION SYSTEM means a system ~~((which meets the regulation of))~~ as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos-Containing Materials in Buildings).

OWNER OR OPERATOR means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

~~((REPAIR means the restoration of asbestos material that has been damaged. Repair consists of the application of duct tape, re-wettable glass cloth, canvas, cement or other suitable material to seal exposed areas where asbestos fibers may be released. It may also involve filling damaged areas with nonasbestos substitutes and re-encapsulating or painting previously encapsulated materials. Repair of asbestos materials is not covered by this regulation.))~~

RESIDENTIAL DWELLING means any nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is owned, used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include structures that are demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit, or any building that is leased or used as a rental.

~~((STRUCTURAL MEMBER means any load-supporting member of a facility, such as beams and load-supporting walls; or any nonload-supporting member, such as ceiling and nonload-supporting walls.))~~

VISIBLE ASBESTOS EMISSIONS means any ~~((emission))~~ asbestos containing materials that ~~((#))~~ are visually detectable without the aid of instruments. This term does not include condensed uncombined water vapor.

WASTE GENERATOR means any owner or operator of a source whose act or process produces asbestos-containing waste material.

WASTE SHIPMENT RECORD means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos containing waste material.

WORKING DAY means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

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

**SECTION 14.05 NOTIFICATION REQUIREMENT AND FEES**

(a) Application Requirements - Applicability

It shall be unlawful for any person to cause or allow work on an ~~((the removal or encapsulation of))~~ asbestos project or demolition ~~((materials))~~ unless the owner or ~~((person))~~ operator ~~((conducting an asbestos removal or encapsulation operation))~~ has ~~((filed with))~~ obtained written approval from the Control Officer ~~((written notice of intention to remove or encapsulate asbestos.))~~ as follows:

(1) A written "Application to Perform an Asbestos Project" or an "Application to Perform a Demolition" shall be submitted on Agency-provided forms by the owner or operator for approval by the Control Officer before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written application shall be accompanied by the appropriate application fee and a certification that an asbestos survey has been conducted.

(3) The written application for a demolition shall also include a certification that there is no known asbestos-containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall not exceed one (1) year beyond the original starting date and shall have a starting and completion date that is commensurate with the amount of work involved.

(5) A copy of the approved application and asbestos survey shall be available for inspection at the asbestos project or demolition site.

(6) Upon completion of an asbestos project or a demolition, a written "Notice of Completion" shall be filed with the Control Officer.

(7) Submission of an "Application to Perform an Asbestos Project" shall be prima facie evidence that the asbestos project involves asbestos-containing material.

(8) Application for multiple asbestos projects may be filed on one form, if the following criteria are met:

(A) The work will be performed continuously by the same contractor; and

(B) The structures are in a contiguous group and all have the same original post office box or mailing address; and

(C) The asbestos project specifications regarding location and dates are provided in detail; and

(D) All asbestos projects are bid as a group under the same contract.

~~((b) If the amount of asbestos material to be removed from a facility is at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet), on other facility components the notice required by section 14.07 shall be received by the Control Officer at least 10 days before removal begins, accompanied by a \$250 notification fee.))~~

(b) Application Requirements - Advance Notification Period and Fee.

Any application required by Section 14.05(a) shall be considered incomplete until all the information required by Section 14.05(a) is received by the Control Officer and

accompanied by the appropriate, nonrefundable fee. The advance notification period and appropriate fee shall be determined by the following table:

		Advanced Notification Period	Application Fee	Forms Required
Demolition	All	10 Working days	\$ 25.00	1)Application to perform a demolition 2)Certification that no known asbestos is present
Asbestos Project	Residential	Prior Notification Required	\$ 25.00	Application to perform an asbestos project - owner living in home
Asbestos Project	<10 linear ft. <11 square ft	Prior Notification Required	\$ 25.00	Application to perform an asbestos project
Asbestos Project	10-259 linear ft 11-159 square ft	10 working days	\$ 100.00	Application to perform an asbestos project
Asbestos Project	260-999 linear ft 160-4,999 square ft	10 working days	\$ 250.00	Application to perform an asbestos project
Asbestos Project	1,000-9,999 linear ft 5,000-49,999 sq ft	10 working days	\$ 500.00	Application to perform an asbestos project
Asbestos Project	10,000+ linear ft 50,000+ square ft	10 working days	\$1,000.00	Application to perform an asbestos project
Annual Asbestos Project		Prior notification required	\$ 500.00	Application to perform annually
Amendments	All projects	Prior Notification Required	\$ 25.00 (3rd amendment & after)	Amended copy of approved application
Emergency	All projects that normally require a 10 working day notification period	Prior Notification Required	\$ 50.00 Plus Normal Notification fee	Emergency Waiver Request Letter submitted by property owner

~~((e) If the amount of asbestos material to be removed from a facility is less than 80 linear meters (260 linear feet) on pipes or 15 square meters (160 square feet) on other facility components, the notice required by section 14.07 shall be received by the Control Officer at least 10 days prior to the removal or encapsulation accompanied by a \$100 notification fee.))~~

(c) Annual Applications.

In addition to the application requirements of Sections 14.05(a) and 14.05(b), the owner or operator of a facility may file for approval by the Control Officer an annual written application to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Sections 14.05(a)(1) through 14.05(a)(4), 14.05(a)(6), and 14.05(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual Application- Restrictions.

(A) The annual written application shall be filed for approval by the Control Officer before commencing work on any asbestos project to be specified in an annual application.

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section shall be limited to less than 260 linear feet on pipes and 160 square feet on other components.

(C) The application requirements of Sections 14.05(a) and 14.05(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.

(D) A copy of the written annual application shall be available for inspection at the property owner's or operator's office until the end of the calendar year.

(E) Asbestos-containing waste material generated from asbestos projects filed under an annual application may be stored for disposal at the facility if all of the following conditions are met:

(i) All asbestos-containing waste material shall be treated in accordance with Sections 14.11 (a)(1), 14.11 (a)(2), 14.11 (a)(3);

(ii) Accumulated asbestos-containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(iii) All stored asbestos-containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos-containing waste material is handled as dangerous waste in accordance with WAC 173-303. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction.

(2) Annual Application - Reporting Requirements and Fees.

Annual written applications required by Section 14.05 (c)(1) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, accompanied by an annual fee of \$500.00.

(3) Annual Application - Quarterly Reporting Requirements.

In addition to the written annual application requirements of Section 14.05 (c)(2), the facility owner or operator shall submit quarterly written reports to the Control Officer within fifteen (15) days after the end of each calendar quarter.

~~((d) If the amount of asbestos material to be removed is less than 3 linear meters (10 linear feet) on pipes or one square meter (11 square feet), on other facility components or if the project is an asbestos encapsulation, the notice required by section 14.07 shall be received prior to the removal or encapsulation, accompanied by a \$25 fee.))~~

(d) Application Requirements - Amendments.

It shall be unlawful for any person to cause or allow any deviation from information contained in a written application unless an amended application has been received and approved by the Control Officer. Amended application required by this section shall be filed by the original applicant, received by the Control Officer no later than the last filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos-containing material. In this case, the fee shall be increased accordingly and the fee shall be equal to, but not exceed, the fee amount provided for each size category specified in Section 14.05(b);

(2) The asbestos project or demolition starting or completion date, provided that the total duration of the work does not exceed one (1) calendar year beyond the original starting date. The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Section 14.05(d) and approved by the

Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Section 14.05(b) and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction.

(5) Method of removal or compliance procedures, provided the revised plan meets the asbestos emission control and disposal requirements of Section 14.09 and 14.11;

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and

(7) Any other information requested by the Control Officer.

~~((e) The requirements of section 14.05 (b), (c), and (d) shall not apply to asbestos projects undertaken by a source registered under Article 5 of this Regulation or a school district in its own facility if all the following conditions are met:))~~

~~((1) A written notice of intention to remove or encapsulate asbestos as required under Section 14.07 may be submitted for a calendar year. Notification shall be received by the Control Officer at least 20 days before the beginning of the calendar year.))~~

~~((2) Written notice shall be accompanied by a \$500 fee.))~~

~~((3) Any change in the information required by section 14.07 shall require a new notification. An additional fee is not required.))~~

~~((4) A quarterly report shall be received by the Control Officer within 20 days after the end of each calendar year quarter. The report shall include:))~~

~~((i) The status of all asbestos projects undertaken during the previous quarter, including the following information for each report:))~~

~~((A) Location of the project.))~~

~~((B) Starting and completion dates of the project.))~~

~~((C) Quantity of asbestos material removed (in linear or square feet.))~~

~~((D) Names of asbestos contractor or names of source or school district employees conducting the project (including asbestos certificate number.))~~

~~((ii) The asbestos projects anticipated to be undertaken during the next quarter.))~~

~~((5) The sum total of all asbestos removals from each structure, installation, vessel, or building in a calendar year is less than 80 linear meters (260 linear feet) on pipes or 15 square meters (160 square feet) on other components.))~~

(e) Advance Notification Period - Exemptions (Emergency)

The Control Officer may waive the required ten (10) working day advance notification period in Section 14.05(b) for an asbestos project or demolition if the facility owner demonstrates to the Control Officer that there is an emergency as follows:

(1) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer and be accompanied by the required application and appropriate fee as required by Sections 14.05(a) and 14.05(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the facility owner or operator, including the city, zip code, and county;

(B) The complete street address or location of the asbestos project site, including the city, zip code, and county;

(C) A description of the sudden and unexpected event including the date and hour that the emergency occurred; and

(D) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) Government Ordered Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer and be accompanied by the required applications and appropriate fee as required by Sections 14.05(a) and 14.05(b). Any request for approval of an emergency demolition shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos project, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has ordered the demolition;

(D) The reason why the demolition was ordered; and

(E) The dates on which the order was received and the demolition was ordered to begin.

((f) If the asbestos material is to be removed from or encapsulated in a non multiple unit private dwelling housing two families or less, the notice required by section 14.07 shall be received by the Control Officer prior to project commencement. A \$25 fee is required.))

## REPEALER

## SECTION 14.07 WRITTEN NOTIFICATION

### AMENDATORY SECTION

## SECTION 14.09 PROCEDURES FOR ASBESTOS EMISSION CONTROL

### (a) Asbestos Project - Requirements.

It shall be unlawful for any person to cause or allow ((any wrecking or dismantling that may break up asbestos material before removing all asbestos materials from a facility.)) work on an asbestos project unless an asbestos survey has been conducted and the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, on-site supervision of a certified asbestos supervisor. This requirement shall not apply to certain limited asbestos projects conducted in accordance with Section 14.09(b) for residential dwellings.

(2) All asbestos-containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(3) No visible emissions shall result from an asbestos project.

(4) All asbestos-containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(A) Kept adequately wet until collected for disposal; and

(B) Collected for disposal at the end of each working day; and

(C) Contained in a controlled area at all times until transported to a waste disposal site; and

(D) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(E) Transported to the ground via dust-tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) Mechanical assemblies or components covered, coated, or manufactured from asbestos-containing material, removed as a unit or in sections, shall be contained in a leak-tight wrapping after wetting and labeled in accordance with Section 14.11 (a)(1)(C).

(A) For large components such as boilers, steam generators, and large tanks, the asbestos-containing material is not required to be removed or stripped if the component can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(B) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos-containing material may avoid wetting and leak-tight wrapping if:

(i) All access to the asbestos-containing material is welded shut; or

(ii) The component has mechanical seals in place that separate the asbestos-containing material from the environment and these seals cannot be removed by hand; and

(iii) The components are labeled in accordance with Section 14.11 (a)(1)(C).

(6) Local exhaust ventilation and collection systems used on an asbestos project shall:

(A) Be maintained to ensure the integrity of the system; and

(B) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

(7) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

(b) Asbestos Project - Exemptions for Residential Dwellings.

The requirements of 14.09 (a)(1) shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 14.09 (a)(1) shall apply to furnace interiors and direct-applied mudded asbestos insulation on hotwater heating systems, which may not be removed by the resident owner.

(c) Demolition - Requirements.

It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos-containing materials have been removed from the area to be demolished. It shall be unlawful for an person to cause or allow any demolition that would disturb asbestos-containing material or prevent access to the asbestos-containing material for removal and disposal.

(d) Demolition - Asbestos Removal Exemptions.

~~((However,))~~ Asbestos-containing material need not be removed before ~~((wrecking or dismantling))~~ the demolition of any building, vessel, structure, or portion thereof if:

(1) ~~The((y are))~~ asbestos-containing material is on a ~~((facility))~~ component that is encased in concrete or other material ~~((found equal))~~ determined by the Control Officer~~((; and))~~ to be equally effective in controlling asbestos emissions. In this case, the application requirements of Section 14.05 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Section 14.11 (a)(2); or

~~((2) These materials are adequately wetted whenever exposed during wrecking or dismantling; or))~~

(2) The asbestos-containing material could not be removed prior to demolition because it was not accessible until after demolition began. In this case, the application requirements of Section 14.05 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 14.11 (a)(2); or

~~((3) The asbestos material will not be disturbed by the wrecking or dismantling and they remain accessible for subsequent removal.))~~

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer to waive the requirements of Section 14.09(c). In this case, the application requirements of Section 14.05 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 14.11 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, shall accompany the written request in addition to the application and appropriate fee as required by Section 14.05. The request for exemption from Section 14.09(c) shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has determined the hazardous condition;

(D) A description of the hazardous condition that prevents the removal of asbestos-containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(E) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(e) Alternative Control Measures.

The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions for conditional approval by the Control Officer. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city, zip code, and county;

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involve, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

~~((b) It shall be unlawful for any person to cause or allow the removal or encapsulation of asbestos material unless:~~

~~(1) The removal or encapsulation is conducted by a certified asbestos worker or is in compliance with WAC 296-65-030.~~

~~(2) Work practices shall comply with WAC 296-155-17532.~~

~~(e) Section 14.09 (b)(1) shall not apply to the removal or encapsulation of asbestos materials performed in non-multiple unit private dwellings housing two families or less, by the owner of the dwelling.))~~

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

SECTION 14.11 ((HANDLING AND)) DISPOSAL OF ASBESTOS CONTAINING WASTE MATERIAL

~~(a) ((It shall be unlawful for any person to cause or allow the disposal of asbestos materials unless the procedures in Section 14.11 (b) and (e) are followed.)) Disposal Requirements.~~

It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed during the collection, processing, packaging,

transporting, or deposition of any asbestos containing material:

(1) Treat all asbestos containing waste material as follows:

(i) Adequately wet all asbestos containing waste material and mix asbestos waste from control devices, vacuum systems, or local exhaust ventilation and collection systems with water to form a slurry;

(ii) After wetting, seal all asbestos containing waste material in leak tight containers or wrapping to ensure that they remain adequately wet when deposited at a waste disposal site;

(iii) Permanently label wrapped materials and each container with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the Occupational Safety and Health Administration. Permanently mark the label with the date the material was collected for disposal, the name of the waste generator, the name and affiliation of the certified asbestos supervisor, and the location at which the waste was generated;

(iv) Ensure that the exterior of each container is free of all asbestos residue; and

(v) Exhibit no visible emissions during any of the operations required by this section.

(2) All asbestos containing waste material shall be deposited within ten (10) calendar days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction. This requirement is modified by section 14.05(c) for asbestos containing waste material from asbestos projects conducted under annual applications.

(3) All asbestos containing waste material, handled as dangerous waste in accordance with WAC 173-303, shall be excluded from the requirements of Sections 14.11 (a)(1)(C) and 14.11 (a)(2).

(b) Alternative Storage Method - Asbestos Storage Facility. ~~((The following methods shall be used during the collection, processing, packaging, transporting or deposition of any asbestos containing waste material:))~~ The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Control Officer to establish a facility for the purpose of collecting and temporarily storing asbestos containing waste material.

(1) ~~((Mix asbestos waste from control devices with water to form a slurry; adequately wet other asbestos containing waste material; and))~~ It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Control Officer.

(2) ~~((When a vacuum system is employed, it shall exhibit no visible emissions and shall be equipped with a HEPA filter; and))~~ The owner or operator must submit a complete application for an asbestos storage facility. When approved, an Asbestos Storage Facility Authorization will be returned to be posted at the entrance to the facility.

(3) ~~((After wetting, seal all asbestos containing waste material in leak tight containers while wet.))~~ An asbestos storage facility shall meet the following general conditions:

(i) Asbestos containing waste material must be stored in a container with a single piece liner at least 6 mil in thickness; and

(ii) Said container must be in a secured building or in a secured exterior enclosure; and

(iii) The container and enclosure must be locked except during transfer of asbestos containing waste material and have asbestos warning signs posted on the container; and

(iv) Storage, transportation, disposal, and return of the waste shipment record to the waste generator will not exceed the 45 day requirement of 40 CFR Part 61.150.

~~((4) Label the containers as specified by the Department of Labor and Industries.))~~

~~((5) An alternative storage, handling, or disposal method that has received prior approval by the Control Officer.))~~

(c) Alternative Disposal Method - Asbestos Cement Water Pipe. ~~((Unless the asbestos containing waste material is handled as dangerous waste in accordance with WAC 173-303, it shall be deposited within five days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.156 and approved by the health department with jurisdiction.))~~

Asbestos cement water pipe used on public right of ways or public easements shall be excluded from the disposal requirements of Section 14.11 (a)(2) if the following conditions are met:

(1) Any asbestos cement water pipe greater than one (1) linear foot in size may be buried on public right of ways or public easements of covered with at least three (3) feet or more of nonasbestos fill material and the state, county or city authorities be notified in writing of buried asbestos cement pipe; and

(2) All asbestos containing waste material, including asbestos cement water pipe fragments that are one (1) linear foot or less, protective clothing, HEPA filters, or other asbestos contaminated material, debris, or containers, shall be subject to the requirements of this Regulation 1, Article 14.

## NEW SECTION

### **SECTION 14.12 CONTROLLED AND REGULATED SUBSTANCES**

(a) No person shall cause or allow visual asbestos emissions, including emissions from asbestos waste materials.

(1) On public or private lands, on developed or undeveloped properties and on any open uncontrolled and nondesignated disposal sites

(2) No visual emissions to the outside air during the collection, processing, handling, packaging, transporting, storage and disposal of any asbestos containing waste material; or

(3) From any fugitive source.

(b) Vinyl asbestos tile (VAT), shall be subject to the requirements of this Regulation 1, Article 14.

## NEW SECTION

### **ARTICLE 15 GASOLINE VAPOR RECOVERY**

#### **SECTION 15.01 APPLICABILITY**

This regulation shall apply to all facilities that distribute gasoline, including automotive, aviation, and marine uses.

### SECTION 15.03 DEFINITIONS

Unless a different meaning is clearly required by context, the following words and phrases, as used in this article, shall have the following meanings:

**BOTTOM LOADING** means the filling of a tank through a line entering the bottom of the tank.

**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.

**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 Celsius, 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 Celsius shall be considered "gasoline" for purpose of this regulation.

**GASOLINE DISPENSING FACILITY** means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

**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.

**MOTOR VEHICLE** means any mode of travel utilizing gasoline as energy to provide locomotion.

**NEW GASOLINE DISPENSING FACILITY** means the construction of a gasoline dispensing facility on a site that has not had an active gasoline dispensing facility within the past five years.

**STAGE I** means gasoline vapor recovery during all gasoline marketing transfer operations except motor vehicle refueling.

**STAGE II** means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.

**SUBMERGED FILL LINE** means any discharge pipe or nozzle which meet either of the following conditions:

(a) 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;

(b) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank.

**THROUGHPUT** means the amount of material passing through a facility.

**TRANSPORT TANK** means a container used for shipping gasoline over roadways.

**TRUE VAPOR PRESSURE** means the equilibrium partial pressure of petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, 1980.

**UPGRADE** means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overflow protection that involved removal of ground or ground cover above a portion of the product piping.

**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.

**VAPOR CONTROL SYSTEM** means a system designed and operated to reduce or limit the emission of gasoline vapors into the ambient air which is designed according to WAC 173-491.

### SECTION 15.05 GENERAL REQUIREMENTS

All gasoline storage tanks with a capacity greater than 2,000 gallons shall be equipped with submerged fill lines when upgraded, but no later than December 31, 1998.

### SECTION 15.07 VAPOR RECOVERY STAGE I

Stage I vapor recovery is required for all gasoline dispensing facilities as follows:

(a) The facilities that have an annual throughput greater than 360,000 gallons of gasoline shall have stage I vapor recovery by December 31, 1993 or when upgraded, whichever is sooner.

(b) The facilities that have an annual throughput greater than 100,000, but less than or equal to 360,000 gallons of gasoline shall have stage I vapor recovery by December 31, 1998 or when upgraded, whichever is sooner.

(c) Terminals and bulk plants that deliver gasoline to any facility equipped with Stage I vapor recovery shall be equipped with a vapor control system prior to December 31, 1998.

(d) Terminals and bulk plants with an annual throughput greater than 7,200,000 gallons per year shall be equipped with a vapor control system prior to December 31, 1993.

### SECTION 15.09 VAPOR RECOVERY STAGE II

Stage II vapor recovery is required at all gasoline dispensing facilities as follows:

(a) Those facilities that have an annual throughput greater than 1,200,000 gallons of gasoline shall have stage II vapor recovery by May 1, 1994 or at the time of upgrade, whichever is sooner.

(b) Those facilities that have an annual throughput greater than 840,000, but less than or equal to 1,200,000 gallons of gasoline shall have stage II vapor recovery by December 31, 1998, or at the time of upgrade, whichever is sooner.

(c) All gasoline dispensing facilities located in an ozone nonattainment area with an annual gasoline throughput greater than 600,000 gallons shall have Stage II vapor recovery prior to December 31, 1998 or at the time of upgrade, whichever is sooner.

**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.

### SECTION 15.11 NEW GASOLINE DISPENSING FACILITIES

Those facilities that have more than 10,000 gallons total gasoline storage must install stage I and stage II vapor recovery at the time of construction.

**WSR 93-13-128  
PROPOSED RULES  
BENTON FRANKLIN WALLA WALLA  
COUNTIES AIR POLLUTION  
CONTROL AUTHORITY**

[Filed June 22, 1993, 4:48 p.m.]

**Original Notice.**

Title of Rule: Regulation 1 of the Benton Franklin Walla Walla Air Pollution Control Authority.

Purpose: Establish general and specific regulations governing the control of air contaminant emissions in Benton, Franklin, and Walla Walla counties. Bring local regulation up-to-date and make consistent with current state law, chapter 70.94 RCW.

Statutory Authority for Adoption: Chapter 70.94 RCW.  
Statute Being Implemented: Chapter 70.94 RCW.

Summary: The proposed regulation establishes agency policy, powers and duties, administrative procedures, and penalty provisions. It describes variance procedures, conditions open and agricultural burning, prohibits transfer of uncertified wood stoves, regulates residential asbestos removal, establishes an air emissions source registration program and establishes general office charges. The regulation also sets specific fees including: Source registration fees, notice of construction fees, temporary source fees, asbestos removal fees, interim operating permit fees and special open burning permit fees. It also sets operating permit fee determination procedures. Regulation 1 will replace the existing, out-of-date, local air pollution regulation—General Regulation 80-7 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority.

Reasons Supporting Proposal: To bring the local regulation up-to-date and make it consistent with state law chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David A. Lauer, Benton Franklin Walla Walla Counties Air Pollution Control Authority, 650 George Washington Way, Richland, WA 99352, (509) 545-2354.

Name of Proponent: Benton Franklin Walla Walla Counties Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regulation 1 establishes general and specific requirements for the control of air pollution within Benton, Franklin, and Walla Walla counties. The proposed regulation establishes agency policy, powers, duties, administrative procedures and penalty provisions. It describes variance procedures, conditions open as well as agricultural burning, prohibits the transfer of uncertified wood stoves, regulates residential asbestos removal activity and establishes an air contaminant emissions source registration program. It establishes general office charges and specific fees (including: source registration fees, notice of construction fees, temporary source fees, asbestos removal fees, interim

operating permit fees and special open burning permit fees.) The regulation also sets operating permit program fee determination procedures. Regulation 1 is intended to replace the existing, out-of-date, local air pollution regulation: General Regulation 80-7 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority. The regulation will be consistent with current state law, chapter 70.94 RCW.

Proposal does not change existing rules.

The proposal, if adopted, is intended to replace an existing, out-of-date regulation: General Regulation 80-7 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority.

No small business economic impact statement required by chapter 19.85 RCW.

Hearing Location: Columbia Basin College, Student Union Building, Dining/Conference Room, 2600 North 20th, Pasco, WA, on September 2, 1993, at 8:00 p.m.

Submit Written Comments to: David A. Lauer, Benton Franklin Walla Walla Counties Air Pollution Control Authority, 650 George Washington Way, Richland, WA 993529 [99352], by September 10, 1993.

Date of Intended Adoption: October 7, 1993.

June 21, 1993  
David A. Lauer  
Control Officer

October 1993  
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**SECTION 10.09 SPECIAL OPEN BURNING PERMITS**

**ARTICLE 1 POLICY, SHORT TITLE, AND DEFINITIONS**

**ADOPTED:**

**EFFECTIVE:**

**Section 1.01 Policy**

The Benton Franklin Walla Walla Counties Air Pollution Control Authority, co-extensive with the boundaries of Benton, Franklin, and Walla Walla Counties, has been activated by the Washington Clean Air Act, Chapter 70.94 RCW as amended. The Benton Franklin Walla Walla Counties Air Pollution Control Authority, declared to be and directed to function as a multi-county authority, adopts this Regulation as well as Chapter 70.94 RCW as amended to control the emissions of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the Benton Franklin Walla Walla Counties Air Pollution Control Authority to secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal clean air act, to prevent injury to plant and animal life and to property, to foster the comfort and convenience of its inhabitants, to promote the economic and social development of the Counties and to facilitate the enjoyment of the natural attractions of the Counties.

It is further the intent of this Regulation to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.

This Regulation adopts the Revised Code of Washington (RCW) and Washington Administrative Codes (WAC) to the extent applicable to this Authority. This Authority has included additional requirements to the adopted codes where the Authority deems it necessary.

**Section 1.02 Name of Authority**

The name of the Counties' Air Pollution Control Authority, co-extensive with the boundaries of Benton, Franklin, and Walla Walla Counties, shall be known as the "BENTON FRANKLIN WALLA WALLA COUNTIES AIR POLLUTION CONTROL AUTHORITY".

**Section 1.03 Short Title**

This regulation shall be known and cited as "Regulation 1 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority."

**ARTICLE 2 GENERAL PROVISIONS**

**ADOPTED:**

**EFFECTIVE:**



**Section 2.01 Powers and Duties of the Board**

Pursuant to the provisions of the "Washington Clean Air Act" RCW 70.94, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with the State Act and other applicable laws. The Board may take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source. The Board shall appoint a Control Officer competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of this Regulation and all ordinances, orders, resolutions, or rules and regulations of this Authority pertinent to the control and prevention of air pollution in the Counties.

The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of this Regulation and in connection therewith issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, rules, or orders and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, or orders and regulations shall be made after due consideration at a public hearing held in accordance with Chapter 42.30 RCW, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, or orders and regulations as soon as adopted by the Board. (See RCW 70.94.141)

**Section 2.02 Control Officer's Duties and Powers**

- A. The Control Officer and/or his authorized agents shall observe and enforce the provisions of the State Law and all orders, ordinances, resolutions, or rules and regulations of the Authority pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.
- B. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned to him and to incur necessary expenses within the limitations of the budget.
- C. The Control Officer shall maintain appropriate records and submit reports as required by the Board, the State Agency, and the appropriate Federal Agencies.
- D. The Control Officer may engage, at the Authority's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source within the Authority's jurisdiction.
- E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the

power to enter, at reasonable times, upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer or his duly authorized representatives who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. (RCW 70.94.200)

- F. If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

**Section 2.03 Confidential Information**

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Authority, pursuant to Chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or is likely to adversely affect the competitive position of such owner or operator if released to the public or to a competitor and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Department of Ecology or the Authority. (RCW 70.94.205)

**Section 2.04 Violations**

- A. At least thirty days prior to the commencement of any formal enforcement action under Chapter 70.94.430 RCW or Chapter 70.94.431 RCW the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the State Law or of this Regulation alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

**Section 2.05 Orders and Hearings**

- A. Any order issued by the Board or by the Control Officer, which is not preceded by a hearing, shall become final unless such order is appealed to the Hearings Board no later than thirty (30) days after

the date the notice and order are served. All petitions of appeal from the notice and order are to be filed with the offices of the Pollution Control Hearings Board of Washington. (Chapter 43.21B RCW)

**Section 2.06 Appeals From the Board, Judicial Review**

- A. Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order, a notice of appeal is filed with the Hearings Board as provided in RCW 43.21(B).
- B. Any order issued by the Board after the hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of Chapter 34.04 RCW and now or hereafter amended. When such a petition is filed, the Superior Court shall initiate a hearing pursuant to RCW 34.04.130 within ninety days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate courts as soon as possible. Such appeals shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.

**Section 2.07 Status of Orders and Appeals**

- A. Any order of the Board or the Control Officer shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.
- B. Nothing in this Regulation shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

**Section 2.08 Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, Or Mutilation Prohibited**

- A. No person shall willfully make a false or misleading statement to the Board or their authorized representatives as to any matter within the jurisdiction of the Board.
- B. No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate or other paper issued by the Agency if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.
- C. Any order or registration certificate required to be obtained by this Regulation shall be available on the premises designated on the order or certificate.
- D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall

mutilate, obstruct or remove any notice unless authorized to do so by the Board.

**Section 2.09 Service of Notice**

- A. Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent as follows:
  - 1. Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order of registration certificate or at the address where the equipment is located, by United States Postal Service Certified Mail, return receipt requested, or,
  - 2. By leaving the notice with owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, then a member of the partnership or other concerned or with an officer or managing agent of the corporation.
- B. Service of any written notice required by this Regulation shall be made to the Authority as follows:
  - 1. Either by mailing the notice in a prepaid envelope directed to the Authority at its office, by United States Postal Service Certified Mail, return receipt requested, or
  - 2. By leaving the notice at the Authority office with an employee of the Authority.

**Section 2.10 Severability**

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted the Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid. (RCW 70.94.911)

**Section 2.11 Penalties**

A. Criminal Penalties

- 1. Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment in the county jail or by both fine and imprisonment as provided by Chapter 70.94 RCW for each separate violation.
- 2. Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a crime and upon

conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.

3. Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.
4. Any person who knowingly fails to disclose a potential conflict of interest under Chapter 70.94.100 RCW is guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by Chapter 70.94 RCW.

#### B. Other Penalties

1. a. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules and regulations of the Department of Ecology or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by Chapter 70.94 RCW for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.
- b. Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by Chapter 70.94 RCW for each day of continued noncompliance.
2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by 19.52.020 RCW on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.
3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.
4. The penalty is due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation.

with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in Chapter 43.21B RCW. When a request is made for a hearing, the penalty is due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid within thirty days after it becomes due and payable, and a request for a hearing has not been made, the Board or Control Officer, shall bring an action to recover such penalty. The penalties provided by Chapter 70.94 RCW and this section are imposed pursuant to Chapter 43.21B.300 RCW.

5. All penalties recovered under this section by the Authority are payable to the treasury of the Authority and credited to its funds.
6. To secure the penalty incurred under this section, the State or the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in Chapter 60.36.050 RCW.
7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee owed.

#### **Section 2.12 Restraining Order - Injunction - Other Court Order**

Notwithstanding the existence or use of any other remedy whenever any person has engaged in, or is about to engage in, acts or practices which constitute or will constitute a violation of any provision of this regulation or any rule, regulation or order issued by the Board or Control Officer or his authorized agent, the Board, or their designee, after notice to such person and an opportunity to comply, may petition the County Superior Court for a restraining order or a temporary or permanent injunction or another appropriate order. (RCW 70.94.425)

### **ARTICLE 3 VARIANCES, WHEN PERMITTED**

#### **Adopted:**

#### **Revised:**

#### **Section 3.01 Variances**

- A. Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration,

or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:

1. The emissions occurring or proposed to occur do not endanger public health or safety; and
  2. Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.
- B. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.
- C. Any variance or renewal thereof shall be granted within the requirements of Subsection A and for a time period and under conditions consistent with the reasons therefore, and within the following limitations:
1. If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.
  2. If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.
  3. If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2, it shall be for not more than one (1) year.
- D. Any variance granted pursuant to this section may be renewed on terms and conditions and for period which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an

application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

- E. A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial of the terms and conditions of the granting of an application for a variance or renewal of the variance by the Board, may obtain judicial review thereof only under the provisions of Chapter 43.21B RCW.
- F. Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)

**ARTICLE 4  
Air Operating Permits**

**ADOPTED:**

**EFFECTIVE:**

**Section 4.01 Intent to Implement**

This article is a statement of intent to implement the Air Operating Permits program of Washington State pursuant to RCW 70.94 as amended and all regulations promulgated from RCW 70.94. Currently the latter is proposed WAC 173-401, with language as published in the Washington State Register, April 7, 1993. Implementation of this program will be contingent on delegation of authority from the U.S. Environmental Protection Agency and the Washington State Department of Ecology.

**Section 4.02 Applicability**

- I. Operating permits shall apply to all sources where:
  - A. It is required by the Federal Clean Air Act, and;
  - B. For any source that may cause or contribute to air pollution in such quantity as to create a threat to public health and welfare. This subsection shall not apply to small businesses except when both of the following limitations are satisfied:
    1. That source is in an area exceeding or threatening to exceed federal or state air quality standards.
    2. The Authority provides reasonable justification that requiring a source to have a permit is necessary in order to meet federal or state air quality standards.

**Section 4.03 Program Delegation**

The delegation order authorizing the Benton Franklin Walla Walla Counties Air Pollution Control Authority to administer an air operating permit program shall become effective ninety days after approval by the United States Environmental Protection Agency.

**Section 4.04 Permit Application**

- A. Within one hundred eighty days after EPA approval of the Authority's permitting program, any source required

to have a permit shall submit to the Authority a compliance plan and a permit application, signed by a responsible official, certifying the accuracy of the information submitted. Until permits are issued, existing sources shall be allowed to operate under presently applicable standards and conditions provided such sources submit complete and timely permit applications.

- B. New Sources which commence operation after EPA approval of the Authority's permitting program and which are required to have a permit shall file a complete permit application within twelve months after commencing operation.
- C. Unless the Authority determines that an application is not complete within sixty days of receipt of the application, such application shall be deemed to be complete.

#### Section 4.05 Permit Content

- A. Each air operating permit shall state the origin of the specific legal authority for each requirement included therein. Every requirement in an operating permit shall be based upon the most stringent of the following requirements:
  1. The Federal Clean Air Act and rules implementing that act, including provisions of the approved state implementation plan, and;
  2. RCW 70.94 and the rules adopted thereunder, and;
  3. The requirements of any order or regulation adopted by the Authority, and;
  4. Chapter 70.98 RCW and rules adopted thereunder, and;
  5. Chapter 80.50 RCW and rules adopted thereunder.
- B. The Authority shall issue permits for a fixed term of five years.

#### Section 4.06 Permit Issuance, Renewal, Reopenings, and Revisions

- A. A proposed permit must be reviewed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Benton Franklin Walla Walla Counties Air Pollution Control Authority or the Department of Ecology.
- B. The Authority shall take final action on each permit application within eighteen months of receiving a complete application except during a transition period (not to exceed three years) that will begin the effective date of the permit program. During the transition period the Authority shall take final action on at least one-third of all operating permit applications annually.
- C. A source shall submit an application for permit renewal no later than six months prior to the expiration date of the permit.
- D. A permit may be modified or amended during its term at the request of the permittee, or for any reason allowed by the Federal Clean Air Act.

#### Section 4.07 Public Involvement

All proposed permits shall be subject to public notice and comment. The Authority shall respond to comments received from interested parties prior to the time that the proposed permit is submitted to the EPA for review pursuant to Section 505(a) of the Federal Clean Air Act. In the event that the EPA objects to a proposed permit pursuant to Section 505(a) of the Federal Clean Air Act, the Authority shall not issue the permit, unless the permittee consents to the changes required by the EPA.

#### Section 4.08 Fee Assessment

All eligible sources under this chapter shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.

### ARTICLE 5 Open Burning

#### ADOPTED:

#### EFFECTIVE:

#### Section 5.01 WAC Adoption by Reference.

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: **WAC 173.425, "Open Burning."**

#### Section 5.02 Additional Requirements of this Authority

- A. For areas within the jurisdiction where burning is allowed, the Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.
- B. A person burning under this section must follow these requirements and restrictions:
  1. Unless otherwise specified, on "burn days" open burning may be conducted in areas where open burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
  2. The fire must not include the following materials: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or odors.
  3. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
  4. No fires are to be within fifty feet of structures.
  5. The pile must not be larger than four feet by four feet by three feet.
  6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

- 7. No outdoor fire is permitted in or within 500 feet of forest slash.
  - 8. If the fire creates a nuisance, it must be extinguished.
  - 9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.
- C. No open burning shall be allowed on construction or demolition sites.
- D. Special burning permits
- 1. No building, structure, or vessel may be demolished by intentional burning, either for demolition or for fire training, without a written approval, in the form of a special burning permit, from the Authority. The special permit will contain restrictions regarding prohibited materials, fire safety, asbestos removal or demolition, and other restrictions as deemed necessary. Special burn permits shall be subject to a fee as described in Section 10.09.
  - 2. No burning of large quantities of unprocessed or processed natural vegetation accumulated from land clearing or other activities or events is allowed except by written special permit from the Authority. Special burning permits will specify restrictions and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in 173-430-020 on commercially viable agricultural enterprises is exempted.
  - 3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a Request for Special Burning Permit (RSBP) at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in Article 10, Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The RSBP must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

**ARTICLE 6**  
**Agricultural Burning**

**ADOPTED:**

**EFFECTIVE:**

**Section 6.01 WAC Adoption by Reference.**

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of

Regulation 1 of this Authority: **WAC 173.430, "Agricultural Burning."**

**Section 6.02 Additional Requirements of this Authority**

- A. Agricultural burning will be allowed only on designated "burn days." The Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.
- B. A person burning under this section must follow these requirements and restrictions:
  - 1. Unless otherwise specified, on "burn days" agricultural burning may be conducted in areas where burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
  - 2. It is the responsibility of those conducting agricultural burning to be informed of any additional fire safety rules as determined by their local fire district or county.

**ARTICLE 7**  
**Solid Fuel Burning Device Standards**

**ADOPTED:**

**EFFECTIVE:**

**Section 7.01 WAC Adoption by Reference.**

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: **WAC 173.433, "Solid Fuel Burning Device Standards."**

**Section 7.02 Additional Requirements of this Authority**

- A. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a used uncertified woodstove within the Authority's jurisdiction.

**ARTICLE 8**  
**Asbestos**

**ADOPTED:**

**EFFECTIVE:**

**Section 8.01 CFR Adoption by Reference.**

This article adopts all provisions of the following Code of Federal Regulations by reference and makes it a part of Regulation 1 of this Authority: **40 CFR Part 61, Subpart M, "National Emission Standard for Asbestos."**

**Section 8.02 Additional Requirements of this Authority**

- A. All asbestos removal projects falling under Section 8.01 are subject to the fee schedule described in Section 10.07.
- B. Residential units are defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile

homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room." This term does not include any mixed-use building, structure, or installation that contains a residential unit.

Owners or operators of residential asbestos projects are exempt from Section 8.01, but are subject to the following restrictions:

1. A written notification on forms provided by the Authority shall be submitted to the Authority prior to the asbestos removal.
2. A filing fee as described in Section 10.07 of this regulation shall accompany the written notice.
3. The owner or operator of the residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program will include, but may not be limited to:
  - a. Watching an informational video,
  - b. Agreement to read and understand informational pamphlets, provided by the Authority, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the Authority.
4. If after reviewing the notification form, interviewing the applicant about methods of removal and disposal, and inspecting the site as deemed necessary, the Authority may grant permission for owner or operator, or require a certified asbestos contractor to perform removal.

**ARTICLE 9**  
**Source Registration**

**ADOPTED:**

**EFFECTIVE:**

**Section 9.01 Registration Required**

The classes of air contaminant sources listed in Exhibit "A" below shall be registered with the Authority.

**Section 9.02 General Requirements for Registration**

- A. Registration of an installation or facility shall be made by the owner or lessee of the source, or agent, on forms furnished by the Authority. The owner of the source and lessee are responsible for registration and for the accuracy of the information submitted.
- B. A separate registration shall be required for each source. The owner or operator shall register each facility with a detailed inventory of emission points, type, and quantity of emissions.
- C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee, and

returned with the appropriate fee. Penalties can be assessed for non-compliance in accordance with Article 2, Section 2.11 (B)(7).

**EXHIBIT "A"**

1. Abrasive blasting operations.
2. Agricultural chemicals, facilities for packing and mixing (fertilizer concentrates, pesticides, etc.).
3. Agricultural drying and dehydrating operations.
4. Any category of stationary sources to which a federal standard of performance (NSPS) applies.
5. Any source category subject to limitations on emissions of hazardous air pollutants by the federal clean air act.
6. Any source in operation on or before the effective date of this regulation with small quantity emission rates exceeding the limits defined in WAC 173-460-080 (2)(e).
7. Any source or emissions unit with a significant emission as defined by 173-400-030 (24), (37), and (61) WAC.
8. Any source required to obtain an approved Notice of Construction.
9. Asphalt and asphalt products production facilities.
10. Boilers using coal, hog fuel, oil or other solid or liquid fuel.
11. Brick and clay products manufacturing plants (tiles, etc).
12. Bulk gasoline terminals, bulk gasoline plants, gasoline loading terminals and gasoline dispensing facilities subject to 173-491-040 WAC.
13. Casting facilities and foundries, ferrous and nonferrous.
14. Cattle feedlots with facilities for one thousand or more cattle.
15. Chemical manufacturing plants.
16. Composting operations, commercial, and municipal.
17. Concrete product manufacturers and ready mix plants.
18. Degreasers; vapor, cold, open top and conveyORIZED.
19. Dry cleaners and dry cleaning plants.
20. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 1,000,000 BTU per hour.
21. Grain handling; seed, pea and lentil processing facilities.

22. Graphic art systems.
23. Hazardous waste treatments, storage, and disposal facilities.
24. Hospitals, specialty and general medical surgical.
25. Active landfills including gas collection systems and flares.
26. Incinerators designed for a capacity of one hundred pounds per hour or more.
27. Insulation manufacturers.
28. Fine particulate materials handling and transfer facilities.
29. Meat packing plants.
30. Metal plating and anodizing operations.
31. Metallic mineral processing facilities.
32. Metallurgical processing facilities.
33. Mills; lumber, plywood, shake and shingle.
34. Mills; seed, feed and flouring.
35. Mills; wood products (cabinet works, casket works, furniture and wood by-products).
36. Mineralogical processing facilities.
37. Natural gas transmission and distribution (SIC 4923).
38. Ovens, burn-out and heat-treat.
39. Paper manufacturers.
40. Plastics and fiberglass fabrication facilities.
41. Refuse systems (SIC 4953).
42. Rendering plants.
43. Rock crushing plants.
44. Salvage operations (scrap metal, junk).
45. Sand and gravel and pre-mix plants.
46. Sewerage systems (SIC 4952).
47. Soil and groundwater remediation projects.
48. Stationary internal combustion engines and turbines rated at five hundred horsepower or more.
49. Storage tanks for organic liquids within commercial or industrial facilities with capacities greater than 40,000 gallons.
50. Surface coatings manufacturers.
51. Surface coating operations including; automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass.
52. Synthetic fiber production facilities.
53. Synthetic organic chemical manufacturing industries.
54. Tire recapping facilities.

55. Utilities, combination electric and gas, and other utility services (SIC 493).
56. Vapor collection systems within commercial or industrial facilities.
57. Waste oil burners.
58. Corpus crematoriums.

**Section 9.03 Construction Activity - Fugitive Dust Registration**

**A. Definitions**

1. "Fugitive dust" means a particulate emission made airborne by forces of wind, man's activity, or both.
2. "Construction Activity" means construction activity including demolition or renovation which disturbs the soil and requires a building permit.

**B. Parties engaged in construction activity shall register with the Authority, on a form provided by the Authority, within 5 days of receiving a building permit.**

**C. Parties which fail to register with the Authority may incur a civil penalty as described in Section 2.11(B) of this regulation.**

**ARTICLE 10  
Fees and Charges**

**ADOPTED:**

**EFFECTIVE:**

**Section 10.01 Fees and Charges Required**

A fee or service charge shall be paid to the Authority for issuance of permits and for providing services as hereinafter provided.

**Section 10.02 Fees Otherwise Provided**

All fees and charges provided for in this Article are in addition to fees otherwise provided for or required to be paid by Regulation 1, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if such fee is duplicative of a fee charged or required to be paid by another Article of this regulation.

**Section 10.03 Fee Waiver, Indigency**

The Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver, Indigency Form supplied by the Authority.

**Section 10.04 General Administrative Fees**

- A. A fee of \$.25 per page shall be charged for photocopies.
- B. A fee of \$20.00 per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopied for requests covering more than ten pages.
- C. The actual cost of postage or shipping shall be charged for all material requested to be mailed.



- D. For other administrative services requested and performed by Authority staff which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.

#### Section 10.05 Registration Fees for Air Contaminant Sources

- A. The Authority shall charge an annual registration fee pursuant to RCW 70.94.151. The Authority shall levy annual registration fees for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.
- B. All air contaminant sources required by Article 9, EXHIBIT "A" to be registered shall be divided into the following three categories and are subject to the applicable fee:
1. Class 1 sources are defined as all sources emitting pollutants, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 sources shall pay an annual registration fee of \$100 at the time of registration.
  2. Class 2 sources are those sources emitting more than 1 ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-150 & 160, or all other sources emitting a base amount of more than 20% of the amount of the regulated pollutants listed in the definition of "significant" emissions in WAC 173-400-030, except as otherwise registered under Article 4. Class 2 sources shall pay an annual registration fee at the time of registration. The Class 2 fee for sources emitting toxic substances shall be an amount equal to the average BFWWC APCA "per ton" fee for air operating permittees times the actual tons of toxic pollutants over the above defined base amount times a factor of seven (7). For all other sources, the Class 2 fee shall be an amount equal to the average BFWWC APCA "per ton" fee for air operating permittees times the actual tons of pollutants emitted each year in excess of the above defined base amount. In no case shall the fee so calculated be less than \$350.00 per year.
  3. Class 3 sources are those sources which meet the requirements for permitting under the air operating program as described in Article 4. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.
- C. All gasoline facilities required by Article 9, Exhibit "A" to be registered shall register annually in accordance with WAC 173.491.030 and pay the following annual fees:

1. Gasoline Loading Terminals five hundred dollars (\$500.00),
2. Bulk Gasoline Plants two hundred dollars (\$200.00), and
3. Gasoline Dispensing Facilities one hundred dollars (\$100.00).

#### Section 10.06 Application and Permit Fees for Notice of Construction and Application for Approval and for Notice of Intent to Install and Operate a Temporary Source

- A. All construction under RCW 70.94.152-153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of \$50.00 shall be paid at the time of filing the NOC. If the registration fee required in Section 10.05 also applies to the construction, the filing fee shall be waived.
- B. For portable air contaminant sources which locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate and Application for Approval must be filed with the Authority. A fee of \$100.00 shall be paid at the time of filing the Notice of Intent to operate.
- C. In addition to the filing fees provided in "A" and "B" above, when an inspection is deemed necessary by the Authority, a plan review and inspection fee shall be paid at a rate equal to the hourly rate of the Authority's Air Operating Permit Engineer for a period not to exceed 10 hours.
- D. State Environmental Policy Act (SEPA) Fees under WAC 197-11. For every environmental checklist the Authority reviews when it is Lead Agency, the applicant shall first pay the Threshold Determination fee of \$50.00 prior to undertaking the Threshold Determination by the responsible official of the Authority. If the Authority decides it must prepare a statement in order to comply with the State Environmental Policy Act before taking any action on a Notice of Construction, the cost of preparing, publishing, and distributing such a statement at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.
- E. The cost of publishing a public notice (as defined in WAC 403-110) shall be borne by the applicant or other initiator of the action.
- F. When an operation for which a Notice of Intent to Operate is required commences prior to making application and receiving approval, the Control Officer or his authorized agent may conduct an investigation as part of the Notice of Intent review. In such a case, an investigation fee of \$300.00 shall be paid in addition to all other required fees in Section 10.06. Payment of the fees does not

relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

**Section 10.07 Asbestos**

- A. Any owner or operator of a demolition or renovation activity required by federal regulation or Article 8 of this Regulation to notify the Authority prior to removal, or required by Federal Regulation to be approved or inspected by the Authority, shall give the required advance notice and pay a processing fee to the Authority determined by the following:
  - 1. All single asbestos projects under Section 8.01, require a ten (10) working day advance notification, a written "Notice of Intent to Remove Asbestos," and a fee based on the following:
    - a. Projects greater than or equal to 260 linear feet and less than 1000 linear feet, or projects greater than or equal to 160 square feet and less than 500 square feet shall pay a fee of \$50.00.
    - b. Projects greater than or equal to 1000 linear feet, or projects greater than or equal to 500 square feet shall pay a fee \$75.00.
  - 2. Annual notices under Section 8.01 require ten (10) working day advance notification, an annual written application for approval, and a fee of \$300.00.
  - 3. An amendment under Section 8.01 to an approved asbestos project requires prior notification, an amended application, and a \$25.00 fee for the 2nd amendment and any thereafter.
  - 4. An emergency under Section 8.01 requires prior notification, an Emergency Waiver Request Letter submitted by the property owner, a Notice of Intent to Remove Asbestos, and a \$50.00 emergency fee as well as the normal application fee described in this Section.
  - 5. A residential asbestos removal project under Section 8.02 requires prior notification, and a Residential Asbestos Removal Form accompanied by a filing fee of \$50.00.

**Section 10.08 Operating Permit Fees**

- A. Interim Fee
  - 1. Pursuant to RCW 70.94.161(14), the Authority shall collect interim fees from sources emitting one hundred or more tons per year of a regulated pollutant during fiscal year 1994 (July 1, 1993 to June 30, 1994), or until this Authority receives delegation to issue permits from the Environmental Protection Agency.
  - 2. Pursuant to RCW 70.94.161, the Authority shall determine, assess, and collect annual fees sufficient to cover the direct and indirect costs

of implementing the operating permit program. Ecology, too, will conduct a workload analysis determining its fiscal year 1994 costs and must allocate these costs among all sources in the state emitting one hundred tons or more of a regulated pollutant. The resulting fee is to be collected on behalf of Ecology by the local authority having jurisdiction over the particular source. Therefore, along with the local program fees, the Authority will also collect Ecology's development and oversight fees, and pass them on to Ecology.

- 3. The fee schedules developed shall fully cover and not exceed the permit administration costs and the program development and oversight costs. Both Ecology's and this Authority's fees are based on a 3 tier scale using fiscal year 1994 costs, and calendar year 1992 emissions data. The three tier formula used to assess fees for a given source includes:
  - a. The number of sources in the permit program;
  - b. The complexity of the source;
  - c. The amount of emissions of regulated pollutants from the source (not to exceed 500 tons per source in the interim period).

Each category shall comprise one third (1/3) of the total fees collected by the Authority.

- B. Permanent annual fee determination and certification
  - 1. Fee Determination
    - a. Fee Determination. The Benton Franklin Walla Walla Counties Air Pollution Control Authority (BFWWC APCA) shall develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover all permit administration costs. The BFWWC APCA shall also collect its jurisdiction's share of the Washington State Department of Ecology's (Ecology) development and oversight costs. The fee schedule shall differentiate as separate line items the BFWWC APCA and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in 10.08 (B)(3)(a)
    - b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.

- i. Permit Administration. Permit administration costs are those incurred by BFWWC APCA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Permit administration costs are as follows:
- A. Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;
  - B. Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;
  - C. Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;
  - D. Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;
  - E. Modeling necessary to establish permit limits or to determine compliance with permit limits;
  - F. Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;
  - G. Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;
  - H. Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;
  - I. The share attributable to permitted sources of the development and maintenance of emissions inventories;
  - J. The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;
  - K. Training for permit administration and enforcement;
  - L. Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;
  - M. Required fiscal audits, periodic performance audits, and reporting activities;
  - N. Tracking of time, revenues and expenditures, and accounting activities;
  - O. Administering the permit program including the costs of clerical support, supervision, and management;
  - P. Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the federal clean air act; and
  - Q. Other activities required by operating permit regulations issued by the United States environmental protection agency under the federal clean air act.
- ii. Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in oversee-

ing the administration of the program by the delegated local authorities. Development and oversight costs are those enumerated in [Chapter 252, Laws of 1993 Section 6 (2)(b)].

c. Workload Analysis.

- i. The BFWWC APCA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities enumerated in Section 10.08 (B)(1)(b)(i).
- ii. Ecology will for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08 (B)(1)(b)(ii).

d. Budget Development. The BFWWC APCA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The BFWWC APCA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08 (B)(3)(a). The BFWWC APCA shall publish a final budget for the following calendar year on or before June 30.

e. Allocation Methodology.

- i. Permit Administration Costs. The BFWWC APCA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered model based upon:

- (A) the number of sources under its jurisdiction;

- (B) the complexity of the sources under its jurisdiction; and
- (C) the size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted.

The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.

- ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the BFWWC APCA, based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule. The BFWWC APCA shall issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with 10.08 (B)(4).

2. Fee Collection—Ecology and BFWWC APCA

a. Collection from Sources. The BFWWC APCA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.

- i. Permit Administration Costs. The BFWWC APCA shall collect from permit program sources under its jurisdiction fees

- sufficient in the aggregate to cover its permit administration costs.
- ii. Ecology Development and Oversight Costs. The BFWWC APCA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.
- b. Dedicated Account.
    - i. All receipts from fees collected by the BFWWC APCA, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1), 70.94.161, [section 6 of Chapter 252, Laws of 1993], and [section 8 of Chapter 252, Laws of 1993] shall be deposited in the dedicated accounts of its treasury. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.152(1), 70.94.161, [section 6 of Chapter 252, Laws of 1993], and [section 8 of Chapter 252, Laws of 1993].
    - ii. All receipts from fees collected by BFWWC APCA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), 70.94.161, [section 6 of Chapter 252, Laws of 1993], and [section 8 of Chapter 252, Laws of 1993] shall be deposited in the air operating permit account created under RCW 70.94.015. Expenditures from the air operating permit account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, [section 6 of Chapter 252, Laws of 1993], and [section 8 of Chapter 252, Laws of 1993].
3. Accountability
    - a. Public Participation During Fee Determination Process. The BFWWC APCA shall provide for public participation in the fee determination process described under 10.08 (B)(1), which provision shall include but not be limited to the following:
      - i. The BFWWC APCA shall provide opportunity for public review of and comment on:
        - (A) each annual workload analysis;
        - (B) each annual budget; and
        - (C) each annual fee schedule
      - ii. The BFWWC APCA shall submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.
      - iii. The BFWWC APCA shall make available for public inspection and to those requesting opportunity for review copies of its draft:
        - (A) annual workload analysis on or before March 31.
        - (B) annual budget on or before May 31.
        - (C) annual fee schedule on or before December 31.
      - iv. The BFWWC APCA shall provide a minimum of 30 days for public comment on the draft annual workload analysis and draft annual budget. Such 30-day period for comment shall run from the date of publication of notice in the Permit Register as provided in 10.08 (B)(3)(a)(ii).
    - b. Tracking of Revenues, Time and Expenditures.
      - i. Revenues. The BFWWC APCA shall track revenues on a source-specific basis.
      - ii. Time and Expenditures. The BFWWC APCA shall track time and expenditures on the basis of functional categories as follows:
        - (A) application review and permit issuance;
        - (B) permit modification;
        - (C) permit maintenance;
        - (D) compliance and enforcement;
        - (E) business assistance;
        - (F) regulation and guidance development;
        - (G) management and training;
        - (H) technical support
      - iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.

- (A) The BFWWC APCA shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under 10.08 (B)(1)(d)
  - (B) The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.
  - c. **Periodic Fiscal Audits, Reports and Performance Audits.** A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evaluate Ecology's and each delegated local authority's operating permit program administration, as follows:
    - i. **Fiscal Audits.** The BFWWC APCA shall contract with the State Auditor to have the Auditor perform a standard fiscal audit of its operating permit program every other year.
    - ii. **Annual Routine Performance Audits.** The BFWWC APCA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to 10.08 (B)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the local authority audits.
    - iii. **Annual Random Individual Permit Review.** One permit issued by the BFWWC APCA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the local authority review.
  - iv. **Periodic Extensive Performance Audits.** The BFWWC APCA shall be subject to extensive performance audits every five years. In addition, this authority may be subject to an extensive performance audit more frequently under the conditions of 10.08 (B)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this authority.
  - v. **Finding of Inadequate Administration or Need for Further Evaluation.** If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the BFWWC APCA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in 10.08 (B)(3)(c)(iv).
  - vi. **Annual Reports.** The BFWWC APCA shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The BFWWC APCA shall submit its report to its Board of Directors and to Ecology.
4. **Administrative Dispute Resolution**
- a. **Preliminary Statement of Source Data.** The BFWWC APCA shall provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the authority intends to base its allocation determination under 10.08 (B)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall indicate

- the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under 10.08 (B)(4)(b) regarding the accuracy of the data contained therein.
- b. **Petition for Review of Statement.** A permit program source or other individual under the jurisdiction of the BFWWC APCA, as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under 10.08 (B)(4)(a). Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom the BFWWC APCA may direct inquiries regarding the request. Upon receipt of such a petition, the BFWWC APCA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the authority's response.
- c. **Final Source Data Statement.** The BFWWC APCA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the local authority will base its allocation determination under 10.08 (B)(1) along with an invoice reflecting the fee billed to that source on or before December 31 of each year.
5. **Fee Payment and Penalties**
- a. **Fee Payment.** Each permit program source shall pay a fee in the amount reflected in the invoice issued under 10.08 (B)(4)(c). Such fee shall be due on or before February 28 of each year.
- b. **Late Payment of Fees.** BFWWC APCA shall charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:
- i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
  - ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
  - iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.
- c. **Failure to Pay Fees.** The BFWWC APCA shall charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.
- d. **Other Penalties.** The penalties authorized in 10.08 (B)(5)(b) and (c), are additional to and in no way prejudice the BFWWC APCA's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
- e. **Facility Closure.** Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the

relevant calendar year, had it not ceased operations.

- f. Transfer in Ownership. Transfer in ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.
6. Development and Oversight Remittance by Local Authorities to Ecology
- a. Ecology will provide to each delegated local authority a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.
  - b. Each delegated local authority shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

**Section 10.09 Special Open Burning Permits**

- A. Anyone who submits to the Authority a Request for Special Burning Permit (RSBP) shall pay an application fee of \$50.00.
- B. Upon approval of the RSBP the Authority will charge an additional fee at a rate determined by the volume of the material to be burned, and inspection and oversight costs. Special Open Burning Permits shall be valid for a period not to exceed one year, at which time the applicant may re-apply with another \$50.00 fee.

**Reviser's note:** The typographical errors in the above material 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 brackets and enclosed material in the text above occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 93-15-002**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Filed July 7, 1993, 3:52 p.m.]

Original Notice.

Title of Rule: New WAC 390-16-044 Statewide ballot issue signature gathering expenses; reporting.

**Purpose:** Requires signature gatherers to report their expenses in a certain way.

**Statutory Authority for Adoption:** RCW 42.17.370.

**Summary:** Explains procedure for reporting by a political committee for the purpose of securing signatures on a statewide ballot issue.

**Reasons Supporting Proposal:** To implement statute that went into effect May 7.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Graham E. Johnson, Olympia, Public Disclosure Commission, 753-1111; and **Enforcement:** David R. Clark, Olympia, Public Disclosure Commission, 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:** Political committees that make expenditures for the purpose of gathering signatures to place an initiative or referendum on the ballot need to report total expenses on a Schedule A to form C-4. It must include the name, address and amount paid to each person and the date of each payment.

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, 711 Capitol Way, Evergreen Plaza Building, Olympia, WA, on August 24, 1993, at 9 a.m.

**Submit Written Comments to:** Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by August 10, 1993.

**Date of Intended Adoption:** August 24, 1993.

July 6, 1993  
 Graham E. Johnson  
 Executive Director

**NEW SECTION**

**WAC 390-16-044 Statewide ballot issue signature gathering expense; reporting.** (1) A political committee making expenditures for the purpose of soliciting or procuring signatures on petitions to place an initiative or referendum on a statewide ballot shall report the total expenditures for the reporting period on Schedule A to form C-4. An attachment to the Schedule A shall include, per RCW 42.17.090 (1)(g), the name, address, and amount paid to each person for the services, and the date of each payment.

(2) When the expenditure in (1) is to a person who employs others to secure signatures, the information on the attachment to Schedule A shall be supplemented with such additional attachments as may be necessary to detail the name and address of each and every other person paid, the amount paid to each, and the date of each payment.



**WSR 93-15-009**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
[Filed July 8, 1993, 10:33 a.m.]

Continuance of WSR 93-10-095.

Title of Rule: Personal use fishing rules.

Purpose: Continue rule for adoption at a later date.

This continuance is for WAC 220-56-240, 220-56-255, 220-56-350, and 220-57-370.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Change sturgeon size limits, halibut season, clam beaches, Puyallup River.

Name of Agency Personnel Responsible for Drafting: E. Jacoby, P.O. Box 43147, Olympia, WA 98504, 902-2930; Implementation: G. DiDonato, P.O. Box 43149, Olympia, WA 98504, 902-2625; and Enforcement: D. Matthews, P.O. Box 43147, Olympia, WA 98504, 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: Changes minimum and maximum size limits for sport caught sturgeon and reduces yearly bag limit. This will conserve sturgeon; change halibut season opening date; limit clamming at Camano Island State Park; and delay opening of Puyallup River.

Proposal Changes the Following Existing Rules: Size limits and annual bag limit for sport caught sturgeon; change halibut season opening date; limit clamming at Camano Island State Park; and delay opening of Puyallup River.

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

This rule does not affect ten percent of the businesses in any one three-digit industrial classification nor twenty percent of all small businesses.

Date of Intended Adoption: July 7, 1993.

July 8, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**WSR 93-15-010**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
[Filed July 8, 1993, 10:34 a.m.]

Continuance of WSR 93-10-095.

Title of Rule: Personal use fishing rules.

Purpose: Continue rule for adoption at a later date.

This continuance is for WAC 220-56-240 only. The other proposed changes are being adopted as proposed.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Change sturgeon size limits.

Reasons Supporting Proposal: Conformity with Oregon and standardization.

Name of Agency Personnel Responsible for Drafting: E. Jacoby, P.O. Box 43147, Olympia, WA 98504, 902-2930; Implementation: G. DiDonato, P.O. Box 43149, Olympia, WA 98504, 902-2625; and Enforcement: D. Matthews, P.O. Box 43147, Olympia, WA 98504, 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: Changes minimum and maximum size limits for sport caught sturgeon and reduces yearly bag limit. This will conserve sturgeon.

Proposal Changes the Following Existing Rules: Size limits and annual bag limit for sport caught sturgeon.

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

This rule does not affect ten percent of the businesses in any one three-digit industrial classification nor twenty percent of all small businesses.

Date of Intended Adoption: August 31, 1993.

July 8, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**WSR 93-15-031**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed July 12, 1993, 3:08 p.m.]

Continuance of WSR 93-10-101.

Title of Rule: Chapter 296-24 WAC, General safety and health standards; chapter 296-56 WAC, Safety standards for longshore, stevedore, and related waterfront operations; chapter 296-62 WAC, General occupational health standards; chapter 296-155 WAC, Safety standards for construction work; and chapter 296-304 WAC, Safety standards for ship repairing, shipbuilding and shipbreaking.

Purpose: A continuance is filed to further review and consider all public comments and recommendations received from the June 9, 1993, public hearing.

Date of Intended Adoption: August 2, 1993.

July 12, 1993  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 93-15-034**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed July 13, 1993, 10:48 a.m.]

Original Notice.

Title of Rule: WAC 392-202-110 Awards for teachers, principals, administrators and classified staff.

Purpose: To include classified staff in the full awards participation and eligibility.

Statutory Authority for Adoption: RCW 28A.03.532.

Statute Being Implemented: RCW 28A.03.532.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation: Larry M. Strickland, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6747; and Enforcement: John A. Pearson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-1545.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To be consistent with state statute amendments in RCW 28A.03.532 in 1992, to include classified staff in the full awards eligibility and participation.

Proposal Changes the Following Existing Rules: Classified staff will be eligible for participation in full award options in the excellence in education award program.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504-47200 [98504-7200], on September 3, 1993, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-47200 [98504-7200], by August 24, 1993.

Date of Intended Adoption: September 15, 1993.

July 13, 1993

Judith A. Billings  
Superintendent of  
Public Instruction

**AMENDATORY SECTION** (Amending Order 93-02, filed 3/24/93, effective 4/24/93)

**WAC 392-202-110 Awards for teachers, principals, ~~(and)~~ administrators, and classified staff.** The award for educational excellence for teachers, principals, and administrators shall include:

(1) A certificate presented by the governor and superintendent of public instruction in public ceremony(ies); and

(2) The recipients' choice of one of the following:

(a) An academic cash grant worth up to forty-five quarter or thirty semester credits, reimbursable at a rate not to exceed the part-time, resident, graduate cost per credit at the University of Washington. The grant may be used at eligible private schools in Washington provided the school matches the state grant dollar-for-dollar with actual cash or a tuition waiver;

(b) A grant not to exceed one thousand dollars, which shall be used for educational purposes; or

(c) A recognition stipend not to exceed one thousand dollars.

**WSR 93-15-039**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed July 13, 1993, 1:53 p.m.]

Continuance of WSR 93-13-025.

Title of Rule: Chapter 388-160 WAC, Minimum licensing requirements for overnight youth shelters.

Purpose: Provides minimum licensing standards for a new category of child care named overnight youth shelters designed to provide shelter for street kids. Current licensing standards for other types of facilities are not appropriate or are excessive for shelters providing overnight care. New chapter 388-160 WAC.

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

Date of Intended Adoption: July 21, 1993.

July 13, 1993

Rosemary Carr

Acting Director

Administrative Services

**WSR 93-15-042**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed July 14, 1993, 9:10 a.m.]

Original Notice.

Title of Rule: WAC 230-04-135 Commercial amusement games—License required; 230-04-138 Commercial amusement games—Authorized locations; 230-08-060 Commercial amusement game records; 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organizations—Exemptions; and 230-20-670 Commercial amusement game—Operating requirements.

Purpose: WAC 230-04-135, Class A charitable/nonprofit or commercial amusement game licensees would allow Class B and above licensees to operate amusement games at their business premises. Added subsections (k), grocery stores, (l) bona fide charitable nonprofit organizations, and (vi) grocery stores, to subsection (3)(b); WAC 230-04-138, adds subsection (l), bona fide charitable nonprofit organizations, to subsections (1) and (5). Adds subsection (k) grocery stores, to subsection (5). Deletes contractual requirements from subsection (5); WAC 230-08-060, includes that records shall be maintained for a period of not less than three years. A provision was added to subsection (1) that a summary of the operation of the activity, which includes at least coin-in meter readings and gross gambling receipts shall be provided to charitable nonprofit organizations each time a game is serviced and/or moneys removed; WAC 230-12-020, subsection (d) was added to subsection (1) that requires funds received from commercial amusement game operators that relate to the operation of amusement games on their premises be deposited in the licensee's gambling receipts account no later than the second

banking day following receipt; and WAC 230-20-670, change the title to "Commercial amusement games—Operating restrictions." Class B or above commercial amusement game licensees locating and operating amusement games at premises not owned, leased, or otherwise controlled by them, as authorized by WAC 230-04-138(5) was added to the first paragraph. Subsection (2) was amended to add charitable nonprofit organization licensed to operate amusement games and the contractual requirements for the operation of amusement games. Subsection (3) was amended to add the rent or consideration paid to a Class A commercial amusement game location may be based on a percentage of revenue generated by the activity. Subsection (4) was added for the rent or consideration paid to charitable nonprofit organization shall not be based on a percentage of revenue generated by the activity unless the amount returned to the organization is equal to or exceeds 22% of the gross gambling receipts.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: WAC 230-04-135, Class A charitable/nonprofit or commercial amusement game licensees would allow Class B and above licensees to operate amusement games at their business premises. Added subsections (k), (l) and (vi) to subsection (3)(b); WAC 230-04-138, adds subsection (l) to subsections (1) and (5). Adds subsection (k) to subsection (5). Deletes contractual requirements from subsection (5); WAC 230-08-060, includes that records shall be maintained for a period of not less than three years. A provision was added to subsection (1) that a summary of the operation of the activity shall be provided to charitable nonprofit organizations each time a game is serviced and/or moneys removed; WAC 230-12-020, subsection (d) was added to subsection (1) requiring funds received from commercial amusement game operators be deposited in the licensee's gambling receipts account no later than the second banking day following receipt; and WAC 230-20-670, change the title to "Commercial amusement games—Operating restrictions." Class B or above commercial amusement game licensees locating and operating amusement games at premises not owned, leased, or otherwise controlled by them, as authorized by WAC 230-04-138(5) was added to the first paragraph. Subsection (2) was amended to add charitable nonprofit organizations licensed to operate amusement games and the contractual requirements for the operation of amusement games. Subsection (3) was amended to add the rent or consideration paid to a Class A commercial amusement game location may be based on a percentage of revenue generated by the activity. Subsection (4) was added for the rent or consideration paid to charitable nonprofit organization shall not be based on a percentage of revenue generated by the activity unless the amount returned to the organization is equal to or exceeds 22% of the gross gambling receipts.

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: Sugarloaf Creations, Inc., 4870 Sterling Drive, Boulder, CO 80301, by petition, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency staff have worked with the petitioner on proposed amendment.

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

Explanation of Rule, its Purpose, and Anticipated Effects: [No information supplied by agency.]

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.

The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts 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: Heritage Inn/Best Western, 151 East McLeod Road, Bellingham, WA 98982, on September 10, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon M. Tolton, Rules Coordinator, Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, by September 8, 1993.

Date of Intended Adoption: September 10, 1993.

July 14, 1993

Sharon M. Tolton  
Rules Coordinator

AMENDATORY SECTION (Amending Order 228, filed 10/15/91, effective 11/15/91)

**WAC 230-04-135 Commercial amusement games—License required.** ~~((+))~~ Prior to operating, renting, leasing, or otherwise sharing in the proceeds of amusement games operated at any location, commercial amusement game operators shall first obtain a license from the commission. The following requirements apply to commercial amusement game operators:

~~((+))~~ (1) Class A commercial amusement game licensees may ~~((operate amusement games at a single permanent location or))~~ allow a Class B and above licensee to operate amusement games at their business premises.

~~((b))~~ (2) Class B and above commercial amusement game licensees may locate and operate amusement game at any location authorized by WAC 230-04-138 or rent, lease, or sell amusement devices or amusement game equipment on a time basis to any licensed amusement game operator.

~~((2))~~ (3) In addition to the requirements for certification as set out in WAC 230-04-020 and all other sections of this title, applicants must provide the following additional information for each operating locations:

(a) All locations:

(i) A list of all locations and time and dates at which the activity will be operated;

(ii) When operated at a location not owned, rented, or leased by the applicant, written permission from the person, organization, county, city or town, or an authorized agent thereof, to locate and operate amusement games at that location;

(iii) A personal information form for all "adult supervisors," as required by WAC 230-20-680(2); ~~((and))~~

(iv) A copy of any rental/lease agreement which allows operation of commercial amusement games at any location not owned or otherwise controlled by a licensee. The document must disclose full details of the rental/lease agreement, including any revenue sharing provisions, all costs to be shared, and any restrictions regarding the number of amusement games to be operated~~((-)); and~~

(v) Copies of any contract related to rental, lease, or purchase agreement of amusement game equipment.

(b) Permanent locations. In addition to the information required by ~~((subsection (2)))(a) ((above))~~ of this subsection, all applicants requesting to operate amusement games at locations authorized by WAC 230-04-138 (1)(f), (g), (h), (i), ~~((or))~~ (j), (k), or (l) must provide details necessary to determine qualification of the location for operation of the activity and include the following minimum details:

(i) Amusement parks, as authorized by WAC 230-04-138 (1)(f): The number of mechanical or aquatic rides, theatrical productions, motion pictures, and slide show presentations available for the public;

(ii) Regional shopping center, as authorized by WAC 230-04-138 (1)(g): The size of the shopping center, in gross square feet not including parking areas~~((-));~~

(iii) Taverns and restaurant with cocktail lounges, as authorized by WAC 230-04-138 (1)(h): Washington state liquor control board license number and expiration date, and a statement of whether minors are prohibited from all portions of the premises;

(iv) Movie theaters, bowling alleys, miniature golf course facilities, skating facilities, and amusement centers, as authorized by WAC 230-04-138 (1)(i): A complete description of the business activities conducted; and if an amusement center, the number of amusement devices and income derived from such devices and all other business activities conducted by the licensee during the last ~~((+2))~~ twelve months; ~~((and))~~

(v) Family entertainment restaurants, as authorized by WAC 230-04-138 (1)(j): The number of amusement devices, theatrical productions, mechanical rides, motion pictures, and slide show presentation available for customers on a daily basis; and the amount of gross income generated from the entire business and that portion of gross income generated from food service for on-premises consumption; and

(vi) Grocery stores as authorized by WAC 230-04-138 (1)(k): The type of retail products sold and size of the store premises, in gross square feet not including parking areas.

(c) Limited duration locations. In addition to the information required by ~~((subsection (2)))(a) ((above))~~ of this subsection, all applicants requesting to operate commercial amusement games must receive written permission from the sponsor of any activity authorized by WAC 230-04-138 ~~((sub-section))~~ (1)(a), (d), or (e) and submit an itinerary that includes planned operating dates for all locations at which the applicant plans operations during the year. This itinerary must be updated any time the dates of operation change.

AMENDATORY SECTION (Amending WSR 93-01-013, filed 12/4/92, effective 1/4/93)

**WAC 230-04-138 Commercial amusement games—**  
**Authorized locations.** (1) Amusement games may only be conducted by commercial amusement game licensees when operated as a part of, and/or upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city or town; or

(c) A world's fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operating for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than ~~((+7))~~ seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides, theatrical productions, motion picture and/or slide show presentation with food and drink service. The amusement park must include at least five different mechanical or aquatic rides, three additional activities and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on leases of premises based on a percentage of gambling receipts set forth in RCW 9.46.120; or

(h) Any location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, skating facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ~~((+0))~~ ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption and who offers family entertainment which includes at least three of the following activities: Amusement devices; theatrical productions; mechanical rides; motion pictures; and slide show presentations; or

(k) Within a grocery store. A grocery store is any retail store selling a line of dry grocery, canned goods, or nonfood items plus some perishable items consisting of more than

twelve thousand gross square feet not including the parking areas; or

(1) Any premise controlled and operated by a bona fide charitable/nonprofit organization that it currently licensed to operate punchboards and pull tabs and/or bingo if the rent or other consideration paid to the charitable/nonprofit organization is equal to or greater than twenty-two percent of the gross gambling receipts of the activity.

(2) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations.

(3) No amusement games may be conducted in any location(s) without first having obtained written permission to do so from the person or organization owning the premises or property where the activity will be operated. If the games are conducted as a part of or in conjunction with any of the activities set out in subsection((s)) (1)(a), (b), (c), (d), or (e) of this section, written permission must be obtained from the person or organization sponsoring the activity.

(4) All rental agreements relating to use of a premises or site to conduct amusement games must be submitted to the commission as a part of the application.

(5) Any operator licensed to conduct Class B or above amusement games may enter into a contract with the business owner of any of the locations set out in subsection((s)) (1)(f), (g), (h), (i), ~~((or))~~ (j) ~~((above))~~, (k), or with charitable/nonprofit organizations set out in subsection (l) of this section to locate and operate amusement games upon their premises if ~~((the business is))~~ they are licensed to conduct amusement games. All such contracts must be written and specific in terms, setting out the time of the contract, amount of rent or consideration, rent due dates, and all expenses to be borne by each party. ~~((All contracts regarding the operation of amusement games must be on file with the commission prior to location and operation of the activity. Violations of terms of the contract by an amusement game operator may be grounds for suspension or revocation of their license.))~~

AMENDATORY SECTION (Amending Order 227, filed 9/18/91, effective 10/19/91)

**WAC 230-08-060 Commercial amusement game records.** Licensees for the operation of commercial amusement games shall be required to prepare a detailed record for each game or concession operated. ~~((This))~~ These records shall be maintained for a period of not less than three years. These records shall be recorded using a prescribed format provided by the commission and shall include the following:

(1) The gross gambling receipts collected from each separate amusement game supported by proper receipting records. The minimum records shall contain an entry for each withdrawal of receipts from a game. For amusement games with coin-in meters the minimum entry will be the coin-in meter reading at the time of each withdrawal of receipts of a game: Provided, That a summary of the operation of the activity, which includes at least coin-in meter readings and gross gambling receipts, shall be provided to charitable/nonprofit organizations each time a game is serviced and/or moneys received;

(2) The number and actual cost of merchandise prizes awarded. The minimum records shall contain an entry of the number and actual cost of prizes each time prizes are added to the inventory of a game or concession and when disbursements are made for prizes;

(3) For amusement games that issue tickets for the redemption of prizes the minimum entry shall be a log of the beginning/ending ticket numbers at the end of the month for each game; and

(4) Full details on all expenses including:

(a) All cash disbursements;

(b) The number and actual cost of all prizes purchased;

(c) All other expenses directly related to the conduct of amusement games; and

(d) All disbursements of receipts to locations authorized by WAC 230-04-138.

~~((These records shall be maintained for a period of not less than three years.))~~

AMENDATORY SECTION (Amending Order 223, filed 6/17/91, effective 7/18/91)

**WAC 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organizations—Exemptions.** (1) Every licensed bona fide charitable or nonprofit organization shall keep a separate gambling receipts' account in a recognized Washington state depository authorized to receive funds, which shall be kept separate and apart and actually segregated from the licensee's general funds: Provided, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in a British Columbia branch of a Canadian bank. Licensees are not limited to a single gambling receipts account as long as a minimum of one separate account is maintained. The following conditions of deposit will be met:

(a) No expenditures other than for prizes shall be made from the receipts of any licensed gambling activity until such receipts have first been deposited in the gambling receipts account: Provided, That bingo receipts may be withheld from deposits for jar, pig, or other similar special game prizes if:

(i) The total of all such prize funds does not accumulate to exceed ~~((200.00))~~ two hundred dollars;

(ii) The amount withheld each session is entered in the bingo daily record; and

(iii) A reconciliation of the special game fund is made of the bingo daily record;

(b) All net gambling receipts from the operation of bingo which are being held pending disbursement shall be deposited in the licensee's gambling receipts account not later than the second banking day following receipt thereof;

(c) All net gambling receipts from the operation of card rooms, raffles (Class E and above), and amusement games (Class D and above) shall be deposited in the licensee's gambling receipts account at least once each week;

(d) Funds received from commercial amusement game operators that relate to the operation of amusement games on their premises shall be deposited in the licensee's gambling receipts account no later than the second banking day following receipt;

(e) Net gambling receipts from the operation of each punchboard and pull tab series, including cost recovery for merchandise prizes awarded, shall be deposited in the licensee's gambling receipts account no later than two banking days after a board or series is removed from play. The Washington state identification number assigned to the punchboard or pull tab series and the amount of net gambling receipts shall be recorded on the deposit slip/receipt each time a deposit is made: *Provided*, That licensees may record the Washington state identification stamp numbers and the net gambling receipts on a separate record if the record is identified with the bank validation number and maintained with the deposit slip/receipt; and

~~((e))~~ (f) All deposits of net gambling receipts from each activity shall be made separately from all other deposits, and the validated deposit receipt shall be kept as a part of the records required by Title 230 WAC. Deposit receipts are a part of the applicable daily or monthly records and shall be available for inspection by commission representatives.

(2) Bona fide charitable or nonprofit organizations that conduct only one or more of the following activities and do not possess any other licenses issued by the gambling commission are exempt from this rule:

- (a) Raffles under the provisions of RCW 9.46.0315;
- (b) Bingo, raffles, or amusement games under the provisions of RCW 9.46.0321;
- (c) Class A, B, or C bingo game;
- (d) Class A, B, C, or D raffle; or
- (e) Class A, B or C amusement game.

(3) Bona fide charitable or nonprofit organizations who conduct only fund raising events or membership raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but must meet the following conditions of deposit:

- (a) No expenditures other than for prizes shall be made until such receipts have first been deposited in the licensee's bank account;
- (b) All net gambling receipts shall be deposited within two banking days following receipt thereof; and
- (c) The validated deposit receipt shall be kept with the licensee's gambling records.

**AMENDATORY SECTION** (Amending 93-12-082, filed 5/28/93, effective 7/1/93)

**WAC 230-20-670 Commercial amusement games—Operating ~~((requirements))~~ restrictions.** Class B or above commercial amusement game licensees locating and operating amusement games at premises not owned, leased, or otherwise controlled by them, as authorized by WAC 230-04-138(5) shall comply with the following restrictions:

- (1) Each location where commercial amusement games are operated shall be required to obtain ~~((a-commercial))~~ an amusement game license~~(-)~~;
- (2) A charitable/nonprofit organization licensed to operate amusement games or any person licensed for Class A (premise only) commercial amusement games may enter into a contract with a Class B or above commercial amusement game licensee to operate amusement games on their premises. ~~((The))~~ All contracts regarding the operation of

amusement games shall be submitted to the commission and become part of the license file. Violations of the terms of the contract by a commercial amusement game operator may be grounds for suspension or revocation of their license. All contracts must be written and specific in terms, setting out the time of the contract, ~~((revenue sharing plan))~~ amount of rent or consideration to be paid, rent due dates, and all expenses to be borne by each party~~((:—Provided, That the revenue sharing plan))~~;

~~(3) The rent or consideration paid to a Class A commercial amusement game location may be based on a percentage of revenue generated by the activity if the method of distribution is specific~~((—All contracts regarding the operation of amusement games shall be submitted to the commission and become part of the licensee file.~~~~

~~(3))~~;

(4) The rent or consideration paid to charitable/nonprofit organizations shall not be based on a percentage of revenue generated by the activity unless the amount returned to the organization is equal to or exceeds twenty-two percent of the gross gambling receipts. Shall be paid to the organization at least once a month;

(5) No Class B or above commercial amusement game operator shall allow operation of a game at a premise which has not been previously licensed by the commission.

**WSR 93-15-043  
PROPOSED RULES  
HIGHER EDUCATION  
COORDINATING BOARD**  
[Filed July 14, 1993, 9:59 a.m.]

Continuance of WSR 93-11-093.  
Title of Rule: State work study WAC 250-40-030 through 250-40-070.

Hearing Location: Tacoma Room, WestCoast Sea-Tac Hotel, 18228 Pacific Highway South, Seattle, WA 98188, on August 19, 1993, at 9:00 a.m.

Submit Written Comments to: Betty Gebhardt, Higher Education Coordinating Board, P.O. Box 43430, Olympia, WA 98504-3430, by August 19, 1993.

Date of Intended Adoption: September 16, 1993.  
July 13, 1993  
Elson S. Floyd  
Executive Director

**WSR 93-15-046  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed July 14, 1993, 2:36 p.m.]

Original Notice.  
Title of Rule: WAC 388-83-017 Social Security number and 388-83-020 Age.

Purpose: Removes the requirement that the mother remain eligible for medical assistance for a child under one year of age. Clarifies the purpose of establishing the age of

a medical client. Clarification of technical language to enhance understanding of field staff.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Removes the requirement that a mother remain eligible for medical assistance for a child under one year of age to remain eligible. Clarifies the purpose of establishing the age of a client.

Reasons Supporting Proposal: Clarification of technical language.

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 August 24, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Issuances by August 10, 1993. TDD #753-0699.

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 August 17, 1993.

Date of Intended Adoption: August 25, 1993.

July 14, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2194, filed 1/17/85)

**WAC 388-83-017 Social Security number.** (1) As a condition of eligibility, each ~~((applicant for or recipient of))~~ medical ((assistance)) program client shall ~~((be required to))~~:

(a) Furnish a Social Security number ~~((s for all persons for whom assistance is being requested))~~; or ~~(( ))~~

(b) Apply for a Social Security number ~~((s))~~ if ~~((they are))~~ the number is unknown or ((have)) has not been issued.

~~((e In the case of))~~ (2) The department shall provide Medicaid for a period of one year for a child born to a woman eligible for and receiving medical assistance((s)) on the date of the child's birth, ((medical assistance may be provided for the child)) before the department shall require an application for a Social Security number ((for a period of one year)), if:

~~((t))~~ (a) The child remains a member of the mother's household((s)); and

~~((t))~~ (b) The mother ((remains eligible for medical assistance)) continues to live in Washington state.

~~((2))~~ (3) The ((applicant/recipient has the responsibility to)) client shall report ((promptly and accurately any)) a new

Social Security number to the department within twenty days of its receipt.

~~((3) Assistance will))~~ (4) The department shall not ((be denied, delayed)) deny, delay, or ((terminated)) terminate medical care to a client pending issuance of a Social Security number((s-if)) when the ((applicant/recipient provides verification that he/she has met)) client meets the requirement in subsection (1)(b) of this section.

~~((4) If))~~ (5) When the ((applicant or recipient)) client fails or refuses to comply with the requirement in subsection (1) of this section, for each person included in the assistance unit, the department shall not determine eligibility for such person ((s cannot be determined and they shall be excluded)). The department shall exclude such person from the assistance unit and ((denied)) deny medical ((assistance)) care for that person. See WAC 388-83-033 for a child not eligible for a Medicaid program because the child does not have a Social Security number.

~~((5))~~ (6) The department shall assist ((the applicant)) a client in obtaining a Social Security number by:

(a) Referring ((him or her)) the client to the nearest Social Security office; and ((by))

(b) Furnishing to the client from department records any verification requested by the Social Security administration.

~~((6) These rules shall be effective April 1, 1985.))~~

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

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

AMENDATORY SECTION (Amending Order 1685, filed 7/29/81)

**WAC 388-83-020 Age.** ~~((No age requirement is imposed as a condition of eligibility in regard to medical assistance.))~~ The department shall consider the age of ((the applicant is established)) a client to determine ((whether)) the ((individual may be related to a federal aid category, or may be eligible for the under age twenty one category)) appropriate category of medical program or services.

WSR 93-15-047

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed July 14, 1993, 2:38 p.m.]

Original Notice.

Title of Rule: WAC 388-29-100 Standards of assistance—Basic requirements.

Purpose: Need standards are reviewed and updated annually. This amendment will enable field staff to use correct need standards in making eligibility determinations for clients effective September 1, 1993.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Increase need standards for AFDC clients.  
 Reasons Supporting Proposal: The need standards are reviewed and updated annually.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dave Monfort, Division of Income Assistance, 438-8258.

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 August 24, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Issuances by August 10, 1993. TDD #753-0699.

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 August 17, 1993.

Date of Intended Adoption: August 25, 1993.

July 14, 1993  
 Rosemary Carr  
 Acting Director  
 Administrative Services

AMENDATORY SECTION (Amending Order 3506, filed 1/27/93, effective 2/27/93)

**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))~~ 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 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	\$ <del>((718))</del> <u>739</u>
2	<del>((909))</del> <u>935</u>
3	<del>((1,125))</del> <u>1,158</u>
4	<del>((1,323))</del> <u>1,361</u>
5	<del>((1,524))</del> <u>1,569</u>

6	<del>((1,730))</del> <u>1,781</u>
7	<del>((1,998))</del> <u>2,056</u>
8	<del>((2,211))</del> <u>2,276</u>
9	<del>((2,428))</del> <u>2,500</u>
10 or more	<del>((2,639))</del> <u>2,716</u>

(b) A household with shelter provided at no cost effective September 1, ~~((1992))~~ 1993, 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	\$ <del>((437))</del> <u>449</u>
2	<del>((554))</del> <u>569</u>
3	<del>((686))</del> <u>705</u>
4	<del>((807))</del> <u>828</u>
5	<del>((929))</del> <u>955</u>
6	<del>((1,055))</del> <u>1,084</u>
7	<del>((1,218))</del> <u>1,251</u>
8	<del>((1,348))</del> <u>1,385</u>
9	<del>((1,481))</del> <u>1,522</u>
10 or more	<del>((1,609))</del> <u>1,653</u>

(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))~~ 1993.

Recipients in Household	185% of Need Standard
1	\$ <del>((1,328))</del> <u>1,367</u>
2	<del>((1,681))</del> <u>1,730</u>
3	<del>((2,081))</del> <u>2,142</u>
4	<del>((2,447))</del> <u>2,518</u>
5	<del>((2,819))</del> <u>2,903</u>
6	<del>((3,200))</del> <u>3,295</u>
7	<del>((3,696))</del> <u>3,804</u>
8	<del>((4,090))</del> <u>4,211</u>
9	<del>((4,491))</del> <u>4,625</u>
10 or more	<del>((4,882))</del> <u>5,025</u>

(b) A household with shelter provided at no cost effective September 1, ~~((1992))~~ 1993.

Recipients in Household	185% of Need Standard
1	\$ <del>((808))</del> <u>830</u>
2	<del>((1,024))</del> <u>1,052</u>
3	<del>((1,269))</del> <u>1,304</u>
4	<del>((1,492))</del> <u>1,531</u>
5	<del>((1,718))</del> <u>1,766</u>
6	<del>((1,951))</del> <u>2,005</u>
7	<del>((2,253))</del> <u>2,314</u>
8	<del>((2,493))</del> <u>2,562</u>
9	<del>((2,739))</del> <u>2,815</u>
10 or more	<del>((2,976))</del> <u>3,058</u>



(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

**WSR 93-15-050**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**

[Filed July 14, 1993, 4:22 p.m.]

Continuance of WSR 93-12-092.

Title of Rule: Commercial fishing regulations.

Purpose: Continue rule for adoption at a later date.

This continuance is for WAC 220-20-026.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sale of commercially caught shellfish.

Name of Agency Personnel Responsible for Drafting: E. Jacoby, P.O. Box 43147, Olympia, WA 98504, 902-2930; Implementation: M. Mills, P.O. Box 43144, Olympia, WA 98504, 902-2834; and Enforcement: D. Matthews, P.O. Box 43147, Olympia, WA 98504, 902-2927.

Name of Proponent: Washington State Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: All amounts in excess of the equivalent of one daily bag limit must [be] sold to a licensed wholesale dealer and be recorded on fish tickets.

Proposal Changes the Following Existing Rules: All amounts in excess of the daily bag limit must be sold to a licensed wholesale dealer and be recorded on fish tickets.

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

This proposal does not affect ten percent of the businesses in any one three-digit industrial classification nor twenty percent of all businesses.

Date of Intended Adoption: July 21, 1993.

July 14, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**WSR 93-15-052  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Order 93-03—Filed July 15, 1993, 8:06 a.m.]

Continuance of WSR 93-05-048.

Title of Rule: Chapter 173-400 WAC, General regulations for sources of air pollution.

Purpose: To extend the adoption date from July 6, to August 20, 1993.

Date of Intended Adoption: August 20, 1993.

July 6, 1993  
M. Riveland  
Director

**WSR 93-15-053  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Order 91-68—Filed July 15, 1993, 8:08 a.m.]

Continuance of WSR 93-07-062.

Title of Rule: Chapter 173-401 WAC, Operating permit regulation.

Purpose: To extend the adoption date from July 30, to September 17, 1993.

Date of Intended Adoption: September 17, 1993.

July 6, 1993

M. Riveland

Director

**WSR 93-15-054  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Order 93-17—Filed July 15, 1993, 8:10 a.m.]

Original Notice.

Title of Rule: WAC 173-19-3201 City of Brewster shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Brewster.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Peter Skowlund, Department of Ecology, Box 47600, Olympia, 98504-7600, (206) 438-7430; Implementation and Enforcement: D. Rodney Mack, Box 47600, Olympia, 98504-7600, (206) 459-6777.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This is a revised and updated shoreline master program for Brewster. It provides goals, objectives, policies and regulations to guide development within shoreline areas of the Columbia River within the corporate limits of Brewster.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Hearing Location: City of Brewster, Council Chambers, 14 South Third, Brewster, WA 98812, on September 2, 1993, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47692, Olympia, WA 98504-7692, by September 12, 1993.

Date of Intended Adoption: October 26, 1993.

July 14, 1993  
Mary Riveland  
Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

**WAC 173-19-3201 Brewster, town of.** Town of Brewster master program approved December 16, 1975. Revision approved March 9, 1976. Revision approved October 26, 1993.

**WSR 93-15-055  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE**

[Filed July 15, 1993, 9:17 a.m.]

Continuance of WSR 93-14-110.

Title of Rule: Amending WAC 232-12-007 Classification of wild animals.

Purpose: To change adoption date of rule to October 2, 1993. There is no change to the hearing date or location.

Date of Intended Adoption: October 2, 1993.

July 14, 1993

Rich Poelker

Administrative Rules Officer

**WSR 93-15-056  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE**

[Filed July 15, 1993, 9:20 a.m.]

Continuance of WSR 93-14-111.

Title of Rule: Amending WAC 232-12-011 Wildlife classified as protected shall not be hunted or fished.

Purpose: To change adoption date of rule to October 2, 1993. There is no change to the hearing date or location.

Date of Intended Adoption: October 2, 1993.

July 14, 1993

Rich Poelker

Administrative Rules Officer

**WSR 93-15-057  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE**

[Filed July 15, 1993, 9:22 a.m.]

Continuance of WSR 93-14-112.

Title of Rule: Amending WAC 232-12-014 Wildlife classified as endangered species.

Purpose: To change adoption date of rule to October 2, 1993. There is no change to the hearing date or location.

Date of Intended Adoption: October 2, 1993.

July 14, 1993

Rich Poelker

Administrative Rules Officer

**WSR 93-15-058  
PROPOSED RULES  
SECRETARY OF STATE**

[Filed July 15, 1993, 9:25 a.m.]

Original Notice.

Title of Rule: Election review procedures.

Purpose: Implement the provisions of RCW 29.60.070, which require periodic reviews of county elections policies and procedures.

Statutory Authority for Adoption: RCW 29.60.020.

Statute Being Implemented: Chapter 29.60 RCW.

Summary: These rules are intended to provide the framework for the election review process, including tentative schedules, notification requirements, report requirements, and the appeals process.

Name of Agency Personnel Responsible for Drafting: John Pearson, Olympia, 753-2336; Implementation: Gary McIntosh, Olympia, 753-2336; and Enforcement: Ralph Munro, Olympia, 753-7121.

Name of Proponent: Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will improve the conduct of elections at the local level by helping to standardize elections procedures. The rules require the secretary of state staff to visit each county at least once every four years, observe elections policies and procedures, and make whatever recommendations are deemed appropriate in order to improve the conduct of elections in that county and to help ensure standardization and uniformity in the conduct of elections statewide.

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 of the Secretary of State, on August 25, at 10:00 a.m.

Submit Written Comments to: Ralph Munro, Secretary of State, P.O. Box 40229, Olympia, WA, by August 18.

Date of Intended Adoption: August 30, 1993.

July 15, 1993

Ralph Munro

Secretary of State

**Chapter 434-60 WAC  
ELECTION REVIEW PROCESS**

NEW SECTION

**WAC 434-60-010 Intent.** It is the intent of this chapter to provide procedures to be followed in the conduct of election reviews as required by chapter 29.60 RCW.

NEW SECTION

**WAC 434-60-020 Definitions.** As used in this chapter:  
(1) "Election review" means the process of examining all or a part of a county's election policies and procedures and includes the review of any documentation of those procedures;

(2) "Election review staff" means the person or persons employed by the secretary of state for the purpose of conducting election reviews;

(3) "Scheduled election review" means an election review conducted in each county at least once every four years. A scheduled election review may be held on one or more contiguous dates or may be conducted in phases;

(4) "Election review checklists" means a document listing the various activities and tasks required to be completed in order to conduct an election in accordance with state law and administrative rules;

(5) "Special election review" means an election review conducted in a county or counties whenever the unofficial returns of a primary or election indicate that a mandatory recount is likely in a race for the state legislature, congress, or state-wide office;

(6) "Preliminary scheduled review report" means that report made by the election review staff to the county auditor and the county canvassing board and which contains a copy of the election review checklist, any recommendations made by the review staff, and a preliminary conclusion/evaluation of the county's election procedures;

(7) "Final scheduled review report" means that report made by the election review staff which contains a copy of the election review checklist, recommendations made by the review staff, any response to those recommendations made by the county auditor or the county canvassing board, and an evaluation/conclusion written by the staff;

(8) "Special review recommendations" means recommendations made by the review staff to the county auditor and the county canvassing board following the conduct of any special review;

(9) "Election certification and training board" means that board created pursuant to the provisions of RCW 29.60.010 which is responsible for hearing and ruling on any appeals made by a county auditor or any member of the county canvassing board following the conduct of an election review;

(10) "County auditor designee" is that person designated by the county auditor to participate in the review process, pursuant to the provisions of RCW 29.60.080. Such a designee must be certified as qualified as required by chapter 29.60 RCW.

#### NEW SECTION

**WAC 434-60-030 Scheduled reviews—Auditor request.** Not later than March 1, any county auditor may request that the secretary of state designate his or her county for a scheduled review during that calendar year. The secretary of state shall, whenever practical, honor that request. In the event the secretary is unable to schedule a county that has requested review, he or she shall, not later than March 15, notify the county of his or her decision and the reasons for that decision.

#### NEW SECTION

**WAC 434-60-040 Scheduled reviews—Secretary of state to designate.** Not later than March 15 the secretary of state shall designate, in writing, the counties selected for a scheduled review during that calendar year. The designation may include tentative dates for the conduct of the reviews. Whenever possible, scheduled reviews shall be conducted on dates that are mutually agreeable to the secretary and to the

county auditor, except that those parts of the review process dealing with the actual conduct and canvassing of the election itself must be conducted between election day and the certification of the election returns. In designating counties to be reviewed, the secretary shall take into consideration any complaints filed with his or her office pursuant to the provisions of RCW 29.60.070 (1)(b).

#### NEW SECTION

**WAC 434-60-050 Notice of review.** Whenever any scheduled review is to be held in a county, the secretary of state shall provide written notice to the county auditor and to the chairs of the state committees of any major political party of the date and time the review is scheduled to begin. Notice for scheduled reviews shall be provided at least thirty days in advance of the review. Notice of a special review shall be provided to the county auditor and the political party chairs, by telephone or by electronic facsimile transmission, not later than twenty-four hours after the determination has been made to conduct the special review.

#### NEW SECTION

**WAC 434-60-060 Notification of review process.** At least five days prior to a scheduled review, or as soon as possible prior to a special review, the review staff shall notify the county auditor of the number of persons conducting the review, any policies and procedures of special interest, and of any needs incidental to their review. The county auditor will provide adequate working accommodations, and copies of any county election policies or procedures, at the time scheduled for the review. Review staff will make every effort to minimize any disruption to the normal work of the county during the review process.

#### NEW SECTION

**WAC 434-60-070 Frequency of scheduled reviews.** Each county shall be designated for a scheduled review at least once every four years, but nothing in this section shall prevent a county from being reviewed more than once in a four-year period should either the county auditor or the secretary of state desire such a review. Special reviews conducted because of potential mandatory recounts shall not constitute a scheduled review, except that the review staff may take into consideration the results of any special review conducted when the scheduled review is held.

#### NEW SECTION

**WAC 434-60-080 Special review—Legislative district race.** A special review shall be conducted in any legislative district contained entirely within one county whenever the unofficial returns from a legislative race indicate that a mandatory recount is likely. Such a review may be as extensive as a scheduled review or may, at the secretary of state's discretion, concentrate only on those aspects of the election process dealing with ballot accountability, audit trail procedures, and ballot security. In any legislative district encompassing more than one county where the unofficial returns indicate that a mandatory recount is likely for a legislative district race, the secretary of state may direct a

partial review in each county or may prioritize the review process. In prioritizing the review process, the secretary shall take into consideration the following factors:

- (1) The date and results of the last scheduled review held in each county;
- (2) Any request from a county auditor for a special review;
- (3) Any written complaints filed with the secretary pursuant to the provisions of RCW 29.60.070 (1)(b);
- (4) Any written complaints, from any resident of the county regarding the specific election in question;
- (5) Any media stories or reports alleging election irregularities with respect to the election in question.

#### NEW SECTION

**WAC 434-60-090 Special review of congressional or state-wide races.** In conducting special reviews for congressional or state-wide offices, the secretary of state may prioritize the review process, using the same criteria as is used in prioritizing special reviews in joint legislative districts.

#### NEW SECTION

**WAC 434-60-100 Expense of reviews.** The expenses of reviews, including review staff salaries and travel expenses, will not be charged to the county being reviewed. However reasonable and necessary office expenses incidental to the review process, such as copying charges, computer printouts, and telephones, will be provided by the county being reviewed.

#### NEW SECTION

**WAC 434-60-110 Election review checklist.** The secretary of state shall develop an election review checklist, which shall be the basis for any scheduled election review and which shall also serve, in whole or in part, as the basis for any special review. The checklist shall be provided to every county auditor and to the chairs of the state central committees of each major political party. The checklist shall be provided to any other person requesting it at actual reproduction cost.

#### NEW SECTION

**WAC 434-60-120 Adoption of election review checklist.** The election certification and training board shall approve, by majority vote, the checklist to be used and additionally shall, in conjunction with the office of the secretary of state, adopt rules to cover those checklist activities not currently mandated by either statute or rule.

#### NEW SECTION

**WAC 434-60-130 Preliminary scheduled review report.** As soon as practical, but in any event not later than January 15 of the year following a scheduled review, the review staff shall issue a preliminary scheduled review report. The report shall be made to the county auditor and the county canvassing board only, and shall include, but not be limited to, the following:

- (1) A copy of the completed election review checklist;
- (2) A narrative description of recommendations made by the review staff;
- (3) Any other information the review staff deems pertinent;
- (4) A preliminary conclusion/evaluation of the county's election procedures.

The preliminary scheduled review report is exempt from public inspection and copying, as provided by RCW 42.17.310.

#### NEW SECTION

**WAC 434-60-140 Response from county auditor/canvassing board.** The county auditor or the county canvassing board may respond, in writing, to the preliminary report issued by the review staff. Such a response shall be provided to the review staff not later than thirty days following the issuance of the preliminary report, and may take issue with any aspect of the preliminary report or may detail what action is being taken by the county in response to any recommendations made by the review staff.

#### NEW SECTION

**WAC 434-60-150 Final scheduled review report.** As soon as practicable, but in any event not later than March 1 of the year following a scheduled review, the review staff shall issue a final scheduled review report. The report shall be made to the county auditor and the county canvassing board, and shall include, but not be limited to, the following:

- (1) A copy of the completed review checklist;
- (2) A narrative description of any general observations by the review staff;
- (3) A narrative description of any recommendations made by the review staff;
- (4) A response by the county auditor or the county canvassing board, if any;
- (5) A conclusive/evaluation by the review staff. A copy of the final scheduled review report shall be provided to the chairperson of the election certification and training board and a copy shall also be kept on file by the secretary of state.

#### NEW SECTION

**WAC 434-60-160 Special review recommendations.** After conducting a special review, the review staff shall make any recommendations to the county auditor and the county canvassing board that they deem necessary to minimize the possibilities of any administrative errors being made either prior to or during the conduct of a mandatory recount. Such recommendations shall be in writing and shall be made not later than five days following the certification of the election returns or twenty-four hours in advance of the conduct of a mandatory recount, whichever occurs first. The county auditor and/or the canvassing board may respond in writing to any recommendations, and such response shall become part of the official record of the special review.

NEW SECTION

**WAC 434-60-170 Distribution of special review recommendations and response.** In addition to those persons specified in WAC 434-60-160 as receiving a copy of the special review recommendations, the review staff shall, after the county auditor and county canvassing board has had an opportunity to respond, provide a copy of its recommendations and any response to any person requesting them at actual reproduction costs. Nothing in this section shall prevent the review staff from modifying or amending its recommendations, based on the response received from the county auditor or county canvassing board. In the event the special review recommendations are modified or amended, only the final recommendations and any response by the county shall be made available for inspection and copying. A copy of the special review recommendations and any response shall be provided to the chairperson of the election certification and training board and a copy shall also be kept on file by the secretary of state.

NEW SECTION

**WAC 434-60-180 Appeal from scheduled review report.** Any county auditor or member of the county canvassing board may appeal the recommendations or the conclusion/evaluation of any final scheduled review report to the election certification and training board. Any appeal must be in writing, must detail the specific exceptions made to the final scheduled review report, and must be filed with the board not later than thirty days following the issuance of the report.

NEW SECTION

**WAC 434-60-190 Processing of appeal.** Within thirty days of an appeal being filed, the election certification and training board shall meet to consider the appeal. The board may request that the county auditor, the review staff, or any other persons they deem appropriate, appear before them and assist them in their consideration of the appeal. The board shall have access to all written material prepared by the review staff, including a copy of the preliminary scheduled review report. The board, by majority vote, may accept the final report, may modify all or part of the final report, or may reject the report in total. In the event the board rejects the report, they shall direct that a new review be conducted and shall detail, in writing, the reasons for rejecting the original report. The board shall issue a written summary of its findings following any consideration of any appeal. The summary shall include the minutes of any meeting of the board to consider the appeal, a summary of the testimony of any witnesses appearing before them, and the reasons for any decision made.

NEW SECTION

**WAC 434-60-200 Standards for evaluating appeals.** In determining whether or not an appeal filed pursuant to RCW 29.60.070 and WAC 434-60-160 should be upheld and the final scheduled review report either modified or set aside, the certification and training board shall consider the following factors:

- (1) Whether or not the course of action or activity recommended by the review staff is required by federal or state law or by administrative rule;
- (2) Whether or not the findings or the course of action or activity recommended by the review staff enhances the standardization and uniformity of election practices and procedures throughout the state;
- (3) Whether or not the findings or the course of action or activity recommended by the review staff enhances the security or integrity of the ballots or the ballot counting process;
- (4) Whether or not the course of action or activity recommended by the review staff would cause unnecessary hardship or expense to the county making the appeal.

**WSR 93-15-060  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed July 15, 1993, 11:04 a.m.]**

Original Notice.

Title of Rule: WAC 388-49-505 Utility allowances.

Purpose: To implement a recent increase in the food stamp standard utility allowance effective on October 1, 1993.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Increases the food stamp program standard utility allowance (SUA) from \$196 to \$207 and the telephone standard from \$25 to \$27.

Reasons Supporting Proposal: Food and nutrition service (FNS) approved a department request to increase the food stamp program standard utility allowance (SUA) and telephone standard.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, 438-8326.

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

Rule is necessary because of federal law, 7 CFR 273.9 (d)(6)(vi) and Letter of Approval from Food and Nutrition Services.

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 August 24, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 10, 1993. TDD #753-4595 or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, August 17, 1993.

July 15, 1993  
Dewey Brock  
for Rosemary Carr  
Acting Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 3473, filed 10/28/92, effective 11/28/92)

**WAC 388-49-505 Utility allowances.** (1) The department shall:

- (a) Establish an annualized standard utility allowance for use in calculating shelter costs;
  - (b) Obtain FNS approval of the methodology used to establish the standard utility allowance;
  - (c) Establish a separate annualized telephone allowance;
  - (d) Obtain FNS approval of the methodology used to establish the telephone allowance.
- (2) The annual standard utility allowance shall be ~~((one))~~ two hundred ~~((and ninety-six))~~ seven dollars.
- (3) The monthly telephone standard shall be ~~((twenty-five))~~ twenty-seven dollars.

**WSR 93-15-064**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed July 15, 1993, 2:25 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-115 Sales of packing materials and containers.

Purpose: This rule is amended to clarify department policy.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule explains how persons performing custom or commercial packing are taxed. It provides that manufacturers who use packing materials in transporting goods between their own plants are consumers of the packing materials.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 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 the business and occupation, retail sales, and use tax applications to the sale or use of packing materials and containers. It explains the tax liability of persons who perform custom or commercial packing. It explains that persons who perform processing for hire, services, or operate cold storage warehouses, are not considered to be performing custom or commercial processing or warehousing activity. It provides that manufacturers who use packing materials in the process or transporting goods between their own plants are consumers of the packing materials.

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, the additions and amendments to the rule will not add costs to small businesses; and negligible impact, the amendments to the rule do not require additional action on the part of small businesses.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 25, 1993, at 9:30 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47459, FAX (206) 664-0972, Olympia, WA 98504-7459, by August 25, 1993.

Date of Intended Adoption: September 1, 1993.

July 15, 1993  
Russell W. Brubaker  
Assistant Director  
Legislation and Policy

**AMENDATORY SECTION** (Amending Order 88-6, filed 9/27/88)

**WAC 458-20-115 Sales of packing materials and containers.** (1) **Introduction.** This section explains the B&O, retail sales, and use taxes which apply to persons who sell packing materials and to those who use packing materials.

~~((+))~~ (2) **Definitions.** The term "packing materials" means and includes all boxes, crates, bottles, cans, bags, drums, cartons, wrapping papers, cellophane, twines, gummed tapes, wire, bands, excelsior, waste paper, and all other materials in which tangible personal property may be contained or protected within a container, for transportation or delivery to a purchaser.

~~((+))~~ (3) **Business and occupation tax.**

(a) Sales of packing materials to persons who sell tangible personal property contained therein or protected thereby are sales for resale and subject to tax under the wholesaling classification. Sellers must obtain resale certificates from the purchaser to support that these sales are for resale. Refer to WAC 458-20-102.

(b) Sales of containers to persons who sell tangible personal property therein, but who retain title to such containers which are to be returned, are sales for consumption and subject to tax under the retailing classification. This class includes wooden or metal bottle cases, barrels, gas tanks, carboys, drums, bags and other items, when title thereto remains in the seller of the tangible personal property contained therein, and even though a deposit is not made for the containers, and when such articles are customarily returned to the seller. If a charge is made against a customer for the container, with the understanding that such charge will be cancelled or rebated when the container is returned, the amount charged is deemed to be made as security for the return of the container and is not part of the selling price for

tax purposes. However, refer to the comments below for sales of containers for beverages and foods.

(c) Title to containers, whether designated as returnable or non-returnable, for beverages and food sold at retail, including beer, milk, soft drinks, mixers and the like, will be deemed to pass to the customer along with the contents. In such cases, amounts charged for the containers are part of the selling price of the food or beverage and subject to retailing tax when sold to consumers. Sales to persons who will resell the food or beverages are wholesale sales.

(d) Persons who perform custom or commercial packing for others are generally taxable under the service B&O tax classification on the income from the packing activity.

(i) Under RCW 82.04.190, persons taxable under the service B&O tax classification are consumers of any materials used in performing the service. Sales of packing materials to persons engaged in the business of custom or commercial packing are sales for consumption and are subject to the retail sales tax. However, there is a specific statutory exemption from the B&O tax for persons who perform packing of fresh perishable horticultural products for the grower. These persons are also exempt from retail sales tax on the purchase of any materials and supplies used in performing the packing service.

(ii) Persons who perform custom or commercial packing for others and who also manufacture the boxes, containers, or other packaging materials used by them in the packing are subject to the manufacturing tax and use tax on the value of the packing materials which they manufacture. Refer to WAC 458-20-136.

(e) Persons who operate cold storage warehouses or who perform processing for hire for others, which includes packaging the processed items, are not the consumers of the containers or other packaging materials. Sales of boxes, cartons, and packaging materials to these persons are taxable under the wholesaling tax classification. Refer to WAC 458-20-136 and WAC 458-20-133.

(f) Persons who manufacture packing materials for delivery outside Washington or for their own commercial or industrial use are manufacturers and should refer to WACs 458-20-136, 134, and 112.

~~((3))~~ (4) **Retail sales tax.**

(a) All sales taxable under the retailing classification of the business and occupation tax as indicated above (~~in subsection (2) of this section~~) are also subject to retail sales tax except those specifically distinguished hereafter in this subsection.

(b) Retail sales tax does not apply to sales of returnable food and beverage containers, and vendors may take a deduction from gross retail sales for the amount of such sales in reporting sales tax due, providing (i) the seller separately states the charge for the container and (ii) the separately stated charge is the amount the vendor will pay for a repurchase of the container. Return of the containers is a repurchase by the vendor, and sales tax is not due on amounts paid to the customer on such repurchases, since the vendor will resell the containers in the regular course of (~~his~~) business. (RCW 82.08.0282.)

(c) No deduction is allowed in computing tax under the retail sales tax classification where the retail sales tax is

collected from the customer upon the charge for the container.

(d) Sales of packing materials to cooperative marketing associations, agents, or independent contractors for the purpose of packing fresh perishable horticultural products for the growers thereof, are not subject to retail sales tax. See also WAC 458-20-214 (~~((3) and (4))~~).

~~((4))~~ (5) **Use tax.**

(a) The use tax applies to uses of packing materials and containers to which retail sales tax would apply as indicated in subsection (3) of this section but, for (~~some~~) any reason, was not paid at the time such materials and containers were acquired.

~~((Effective July 1, 1974-))~~

(b) The use tax applies to the use of packing materials, such as boxes, cartons, and strapping materials, by a manufacturer in Washington where the packing materials are used to protect materials while being transported to another site of the manufacturer for further processing.

(c) The use tax applies to the use of pallets by a manufacture or seller where the pallets will not be sold with the product, but are for use in the manufacturing plant or warehouse.

(6) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(a) ABC Packing Co. does custom packing of small parts for a Washington manufacturer. The parts are sent by truck to ABC who then places the parts into plastic bags and seals the bags through a heat fusion process. ABC is the consumer of the bags and must pay either retail sales tax or use tax on the use of the bags. This is true even though the bags will remain with the parts until delivered to the ultimate user of the parts.

(b) XY manufactures paper products in Washington. The paper is placed on large rolls. These large rolls are shipped to another of its own plants where the paper goes through a slitter for conversion into reams of paper. These large rolls involve the use of "cores" made of heavy fiber board on which the paper is rolled. "Plugs" are placed in the ends to give additional support. The rolls are also wrapped and banded with steel banding. The cores, plugs, wrapping materials, and banding are all eventually removed during the additional processing. XY is the consumer of the plugs, cores, and other packing materials and must pay retail sales or use tax on these items.

(c) XY uses three types of pallets in its manufacturing operation. One type of pallet is used strictly for storing paper which is in the manufacturing process. A second type of pallet is returnable and the customer is charged a deposit which is refunded at the time the pallet is returned. The third type of pallet is non-returnable and is sold with the product. XY is required to pay retail sales or use tax on the first two types of pallets. The third type of pallets may be purchased by XY without the payment of retail sales or use tax since these pallets are sold with the paper products.

(d) Cold Storage Co. does custom fish processing for various customers. The processing involves cutting whole fish into fillets or steaks, vacuum packaging the pieces, and



freezing the packages. The packing activity is considered to be part of a processing for hire activity. As a processor for hire, Cold Storage Co. is not the consumer of the packing materials.

July 15, 1993  
Russell W. Brubaker  
Assistant Director  
Legislation and Policy

**WSR 93-15-065**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed July 15, 1993, 2:27 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-116 Labels, name plates, tags, premiums and advertising matter.

Purpose: This rule is amended to clarify department policy.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule explains when labels, name plates, tags, premiums, and advertising may be purchased at wholesale.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 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 the business and occupation, and retail sales tax applications to the sale of labels, name plates, tags, and advertising matter. It also provides tax reporting information to persons offering premiums at reduced or no cost to customers. This rule clarifies that labels, name plates, and tags may not be purchased without payment of the retail sales or use tax when they are put to intervening use prior to sale and delivery to the purchasers customers.

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, the changes to the rule will not require additional expenditures on the part of small business for implementation of the rule changes; and negligible impact, the additions and changes to the rule do not require any actions on the part of small business.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 25, 1993, at 9:30 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47459, FAX (206) 664-0972, Olympia, WA 98504-7459, by August 25, 1993.

Date of Intended Adoption: September 1, 1993.

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

**WAC 458-20-116 Sale and/or use of labels, name plates, tags, premiums, and advertising (~~matter~~) Material.** (1) Introduction. This section explains Washington's B&O and retail sales tax applications to the sale of labels, name plates, tags, and advertising material. It also gives tax reporting information to persons offering premiums at reduced or no cost to customers.

(2) Definitions. For the purposes of this section, the following definitions apply:

(a) "Labels," "name plates," and "tags" are slips, generally made of paper or cloth, which are affixed to articles or containers for identification or description.

(b) A "premium" is an item offered free of charge or at a reduced price to prospective customers as an inducement to buy.

(3) Sales for resale. Sales of labels, name plates, tags, premiums, and advertising material to persons for use in the following manner are sales for resale (wholesale sales) and not subject to retail sales tax:

(a) Sales of labels, name plates, and tags to persons who will attach these items to articles or containers sold by them, or enclose these items with articles sold by them. However the labels, name plates, or tags may not be purchased for resale if they will be put to intervening use by such persons.

(b) Sales of premiums to persons who pass title to the premium along with other articles which are sold by them, when the passing of title to the premiums is not contingent upon the returning of coupons or other evidence of prior purchase.

(c) Sales of premiums to persons who in turn sell the same to customers at a reduced price.

(d) Sales of advertising material to persons who enclose the advertising material with articles sold by them, when such advertising material relates primarily to the articles with which it is enclosed. Persons who enclose advertising material with articles being sold for the purpose of promoting sales of other products are consumers and may not purchase this advertising material for resale. (See RCW 82.12.010(5).)

(4) Retail sales tax. Sales of labels, name plates, tags, premiums, and advertising material to consumers are retail sales. The retail sales tax applies to the following:

(a) Sales of labels, (~~and~~) name plates, and tags to persons who attach the same to containers enclosing articles sold by them (~~are sales for consumption~~), when such persons retain title to the containers which are to be returned (~~to the seller for re-use, and the retail sales tax applies to such sales~~). Such sales are sales for consumption and subject to the retail sales tax. Since the container is not being resold, any labels, name plates, tags, or similar items attached to the container are also not being resold.

(Sales of labels and name plates, and sales of price tags and shipping tags to persons who attach same to articles or

~~containers sold by them or enclose them with articles therein sold by them, are sales for resale and the retail sales tax does not apply thereto.))~~

~~(b) Sales of labels, name plates, ((or price)) and tags to persons who ((retain)) use them for inventory, statistical, or other business purposes. Such sales are sales for consumption and the retail sales tax applies ((to such sales)), notwithstanding the labels, name plates, or tags remain attached to the articles or containers delivered to the customer.~~

~~((The retail sales tax does not apply to sales of so-called premiums to persons who pass title thereto with other articles which are sold by them, when the passing of title to the premiums is not contingent upon the returning of coupons or other evidence of prior purchases of similar articles.))~~

~~(c) Sales of ((so-called)) premiums to persons who do not pass title thereto with other articles which are sold by them, but which are given as an inducement to perform a service, ((such as the soliciting of subscriptions,)) or are given upon the returning of coupons or other evidence of prior ((purchases of similar articles,)) purchase. Such sales are sales for consumption((;)) and are subject to the retail sales tax ((applies thereto)).~~

~~((The retail sales tax does not apply to sales of advertising matter sold to persons who enclose the same with articles sold by them, when such advertising matter relates primarily to such articles with which they are enclosed. (For use tax liability on the use of advertising materials, see WAC 458-20-178.))~~

~~(d) Sales of premiums to persons who offer them as an inducement to potential customers at no charge and with no requirement that the customer purchase any other article or service as a condition to receive the premium. Such sales are sales for consumption and subject to the retail sales tax.~~

~~**(5) Business and occupation tax.** The B&O tax applies to the sale of labels, name plates, tags, premiums, and advertising material as follows:~~

~~(a) **Wholesaling.** Persons who sell labels, name plates, tags, premiums, and advertising material to persons who will resell these items as described in subsection (3) of this section are subject to the wholesaling B&O tax on the gross proceeds of these sales. Sellers must obtain resale certificates from their customers to support the resale nature of these transactions. (Refer to WAC 458-20-102.)~~

~~(b) **Retailing.** Persons who sell labels, name plates, tags, premiums, and advertising material to consumers are subject to the retailing B&O tax on such sales.~~

~~**(6) Deferred sales or use tax.** If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.~~

~~**(7) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.~~

~~(a) ABC Timber purchases log tags which are attached to logs as they are received in ABC's yard. These tags are used by ABC to keep track of the logs for inventory purposes. These tags remain on the logs after sale, and are also used by ABC's customers to verify receipt of the logs. ABC~~

must remit retail sales or use tax upon the purchase of the log tags, notwithstanding they remain attached to the logs after sale to ABC's customers. The use of these tags for inventory purposes by ABC prior to actual sale is intervening use as a consumer.

(b) MT Gas, a gasoline and service station, offers customers a free set of stemware with any gasoline purchase of ten gallons or more. Customer purchasing seven to nine gallons of gasoline may purchase the same set of stemware for a nominal amount. MT Gas may purchase the stemware without paying retail sales tax. The stemware is offered as a premium, and is considered to be resold along with the gasoline. It is immaterial that the sale of gasoline is exempt from the retail sales tax. MT Gas must report the retailing B&O tax and collect and remit retail sales tax on the price charged for the stemware sold to those customers purchasing seven to nine gallons of gasoline.

(c) KMP Company is a camping club which purchases gift items which are used as premiums. These gift items are offered free of charge to potential customers on condition that the potential customer attend a sales presentation. No purchase of a membership or anything else is required to receive the premium. KMP must remit retail sales or use tax upon the purchase of the premiums. KMP is the consumer of premiums given away free of charge where the recipient has no requirement to purchase any service or article as a condition of receiving the premium.

(d) BC Bank offers a choice of various premiums to customers opening new savings accounts. In some cases, a charge may be made to the customer for the premium, with the amount of the charge based on the amount of deposit the customer makes in the new savings account. BC Bank may give a resale certificate to its suppliers for those premiums which will be resold to its new customers. For those premiums which will be given to customers without charge, BC Bank must pay either the retail sales tax to its suppliers or use tax to the department on the cost of the premiums. (Refer to WAC 458-20-102.) It also must report the retailing B&O tax and collect and remit retail sales tax on any amounts charged to its customers.

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 93-15-066**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed July 15, 1993, 2:29 p.m.]

Original Notice.  
Title of Rule: Amending WAC 458-20-117 Sales of dunnage.

Purpose: This rule is amended to clarify department policy.

Statutory Authority for Adoption: RCW 82.32.300.  
Statute Being Implemented: Title 82 RCW.

Summary: This rule provides tax information to persons who manufacture and use dunnage. It clarifies that the retail

sales or use tax is due upon materials initially used for dunnage even though these materials are resold.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 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 the business and occupation, retail sales, and use tax applications to the sale or use of dunnage. It also explains that sales of dunnage to air, rail, or water carriers claiming a retail sales tax exemption under the provisions of RCW 82.08.0261 are subject to retailing of interstate business and occupation tax classification. This rule provides tax reporting information to persons who manufacture and use dunnage and to persons who initially use materials as dunnage and subsequently resell these materials.

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, the changes in this rule will not add costs to small businesses; and negligible impact, the amendments to the rule will not impact the operations of small businesses.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 25, 1993, at 9:30 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47459, FAX (206) 664-0972, Olympia, WA 98504-7459, by August 25, 1993.

Date of Intended Adoption: September 1, 1993.

July 15, 1993

Russell W. Brubaker  
Assistant Director  
Legislation and Policy

#### AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70)

**WAC 458-20-117 Sales and/or use of dunnage. (1) Introduction.** This section explains Washington's B&O tax, retail sales tax, and use tax to the sale or use of dunnage.

(a) The ~~((word))~~ term "dunnage" means any material used for the purpose of protecting or holding in place cargo or freight during transportation by any carrier of property, and which is not an integral part of the carrier itself. Dunnage includes, but is not limited to ~~((:))~~, wood blocks, stakes, separating strips, timber, double decks, false floors, door shields, bulkheads, and other bracing. Dunnage generally does not remain with the cargo that is being transported and will not be delivered to the person who will ultimately receive the cargo. On the other hand, packing

materials are generally part of the total package containing the cargo and are ultimately delivered to the customer as part of the cargo or merchandise.

~~((Sales to persons of any material to be used as dunnage are retail sales and the retail sales tax applies thereto. (See WAC 458-20-175 concerning sales to certain interstate and foreign carriers.))~~

~~Issued May 1, 1943.))~~

(b) Persons selling dunnage to air, rail, or water carriers operating in interstate or foreign commerce should also refer to WAC 458-20-175. Persons selling or purchasing packing materials should refer to WAC 458-20-115 (Sales of packing materials and containers).

(2) Business and occupation tax. The B&O tax applies as follows to sales of dunnage.

(a) Wholesaling-other. The wholesaling-other tax applies to the gross proceeds derived from sales of dunnage to persons who resell the dunnage, without intervening use.

(b) Retailing of interstate transportation equipment. This B&O tax classification applies to sales of dunnage to air, rail, and water carriers. These sales are exempt from retail sales tax because of the provisions of RCW 82.08.0261.

(c) Retailing. The retailing tax applies to sales of dunnage to motor carriers and all other consumers.

(3) Retail sales tax. The retail sales tax generally applies to the sale of dunnage to consumers. This includes situations in which the purchaser may initially use the materials for dunnage and then resell the materials after they have served that purpose. RCW 82.08.0261 does provide a retail sales tax exemption for sales of tangible personal property, including dunnage, to air, rail, and water carriers operating in interstate or foreign commerce. To substantiate a claim for this exemption, the seller must retain as part of its records the completed exemption certificate(s) prescribed by WAC 458-20-175. However, air, rail, and water carriers are subject to use tax on dunnage used in Washington. (see below).

(4) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(a) Air, rail, and water carriers engaged in interstate or foreign commerce should note that while the purchase of dunnage may qualify for the retail sales tax exemption provided by RCW 82.08.0261, the subsequent use in Washington of that dunnage is subject to use tax. These carriers should refer to WAC 458-20-175 to determine any potential use tax liability.

(b) Persons who manufacture the materials which they will use for dunnage, such as lumber manufacturers, are subject to use tax on the value of the dunnage and are also subject to the manufacturing B&O tax. These persons should refer to WAC 458-20-136 and WAC 458-20-112.

(5) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances. Unless stated otherwise, these examples presume both seller and purchaser are located in Washington.

(a) BCD, Inc. provides stevedoring services within the State of Washington. BCD routinely purchases lumber for use in securing cargo within the holds of ships during transport. While this lumber may be bolted or nailed to the ship, it is removed at the destination port when the cargo is off-loaded. BCD provides the lumber as a part of its overall stevedoring services, and does not make retail sales of the lumber to its customers.

BCD Inc. must pay retail sales tax when purchasing all such lumber. The lumber is used as dunnage and does not become an integral part of the ship, despite being bolted or nailed to the ship. If BCD has not paid retail sales tax on the acquisition of the lumber, it must remit the deferred sales or use tax directly to the department.

(b) D Company sells lumber and wood blocks to FG Engineering. FG is a manufacturer of equipment parts and uses the lumber and wood blocks as dunnage for the transportation of parts by rail to Montana. The lumber and wood blocks are salvaged and sold by FG after the transportation of the parts is completed.

The sale of the lumber and wood blocks to FG Engineering is a sale at retail, notwithstanding FG resells the dunnage materials in Montana. The use of the lumber and wood blocks as dunnage by FG Engineering is considered use as a consumer. D Company must collect and remit the retail sales tax, and report the gross proceeds of the sale under the retailing B&O tax classification.

(c) RB Lumber manufacturers lumber in Washington which it ships by rail to customers in other states. RB Lumber takes irregular sized and other low quality lumber and uses it as dunnage in loading rail cars. Arrangements have been made with the rail carrier for the dunnage to be given away as firewood at the destination.

RB Lumber is subject to manufacturing B&O tax and also use tax on the value of the dunnage. If there is a comparable retail selling price for these materials, the value will be determined on that basis. If there is no comparable selling price, the value may be determined on the basis of cost of production as provided in WAC 458-20-112.

(d) KMB, Inc. sells lumber for use as dunnage to Western Rail, a common carrier operating by rail in multiple states. Some of the lumber will be first used in Washington and some will be transported to other states without intervening use for use in those states as dunnage. Western Rail may purchase the dunnage without payment of retail sales tax by giving the seller an exemption certificate as explained in WAC 458-20-175.

KMB, Inc. must report this sale under the retailing of interstate equipment B&O tax classification since Western Rail has claimed exemption for payment of the retail sales tax under RCW 82.12.0261. The seller must retain copies of the exemption certificates for five years. Western Rail must report use tax on the dunnage which is used in Washington.

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

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 93-15-067  
PROPOSED RULES  
DEPARTMENT OF REVENUE**

[Filed July 15, 1993, 3:31 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-150 Optometrists, ophthalmologists, and oculists.

Purpose: This rule is amended to clarify department policy.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule explains that optometrists, ophthalmologists, and similar persons providing or selling any combination of professional services, prescription lenses and for optical merchandise are required to segregate and separately account for the income derived from each source.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 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 the application of the business and occupation, and retail sales taxes to the rendering of professional services and the sale of prescription lenses, frames, and other optical merchandise. It clarifies that persons receiving income from providing or selling any combination of professional services, prescription lenses, frames, or other optical merchandise must segregate and separately account for income derived from each source. This rule explains that optometrists, ophthalmologists, and similar persons are required to pay retail sales or use tax on any samples, with the exception of prescription drug samples, which they give away.

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): As department policy is not changed by this amendment, we are unaware of any economic burden on small businesses.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 25, 1993, at 11:00 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47459, FAX (206) 664-0972, Olympia, WA 98504-7459, by August 25, 1993.

Date of Intended Adoption: September 1, 1993.

July 15, 1993  
 Russell W. Brubaker  
 Assistant Director  
 Legislation and Policy

AMENDATORY SECTION (Amending Order ET 83-17,  
 filed 3/15/83)

~~WAC ((458-20-150 Optometrists, ophthalmologists,  
 and oculists.~~

#### **BUSINESS AND OCCUPATION TAX**

~~**RETAILING.** Taxable under the retailing classification upon gross proceeds of sales of eye glasses, regular or contact lenses, frames, springs, bows, etc., and upon charges made for repair or replacement thereof. In case a lump sum or single charge is made to a customer or patient for an examination or refraction and the furnishing of glasses, the total charge so made must be included within the gross proceeds of sales.~~

~~**SERVICE AND OTHER BUSINESS ACTIVITIES.** Taxable under the service and other business activities classification upon the gross income from charges made for examinations and refractions and upon fees for fitting or adjustment of glasses or contact lenses when such charges are accounted for and billed separate and apart from the selling price of eye glasses or lenses furnished to the patient.~~

#### **RETAIL SALES TAX**

~~Eye examinations, refractions, and the fitting or adjustment of prescription lenses are professional services, the charges for which are not subject to the retail sales tax if billed to a customer or patient separately from the selling price of the glasses.~~

~~A deduction is allowed from gross retail sales for sales to patients of prescription lenses by a dispensing optician licensed by chapter 18.34 RCW where such sales are separately stated on invoices and separately accounted for. (See WAC 458-20-188.)~~

~~Where examinations, refractions, or fitting or adjustment of prescription lenses are sold together with frames, springs, bows, and similar articles, and single lump sum charge is made therefor, the seller will be liable for retail sales tax on the total charge. However, where separate charges are made on invoices rendered patients for examinations, refractions, or for the fitting or adjustment prescription lenses and each such charge is separately accounted for, the retail sales tax will apply only upon the remaining price charged for the frame, spring, bow, etc.~~

~~Sales by optical supply houses to optometrists, ophthalmologists and oculists of eye glasses, lenses, frames, springs, bows and other articles which are resold to customers or patients are sales for resale and not subject to the retail sales tax. On the other hand, sales by supply houses of machinery or equipment, and supplies which are incidental to the rendering of a professional service, are taxable retail sales.)~~

WAC 458-20-150 Optometrists, ophthalmologists, and opticians. (1) Introduction. This section explains Washington's B&O and retail sales tax applications to sales and services provided by optometrists, ophthalmologists, and opticians. It explains the tax liability resulting from the

rendering of professional services and the sale of prescription lenses, frames, and other optical merchandise. It also discusses the retail sales tax exemption provided by RCW 82.08.0281 to the sale of prescription lenses.

(2) Definitions. The following definitions apply to this section.

(a) The term "professional services" is defined as the examination of the human eye, the examination and identification of any defects of the human vision system and the analysis of the process of vision. It includes the use of any diagnostic instruments or devices for the measurement of the powers or range of vision, or the determination of the refractive powers of the eye or its functions. It does not include the preparation or dispensing of lenses or eye glasses.

(b) "Prescription lens" means any lens, including contact lenses, with power or prism correction for human vision, which has been prescribed in writing by a physician or optometrist. The term "prescription lens" includes all ingredients and component parts of the lens itself, including color, scratch resistant or ultra violet coating, and fashion tints. It does not include miscellaneous service or repair charges other than the replacement or repair of the prescription lens itself.

(c) The term "optical merchandise" includes frames, springs, bows, cases, and sundry items or accessories to be worn or used with lenses. It also includes nonprescription lenses or eyeglasses. "Optical merchandise" does not include prescription lens as defined above.

(3) Business and occupation tax. Persons providing or selling any combination of professional services, prescription lenses, and/or optical merchandise are required to segregate and separately account for the income derived from each source. For example, persons performing eye examinations and selling prescription eyeglasses must segregate and separately account for the income attributable to eye examinations, sales of prescription lenses, and sales of frames.

(a) Service and other business activities. The service B&O tax applies to the gross proceeds received for providing professional services.

(b) Retailing. Sales of prescription lenses and optical merchandise are subject to the retailing tax, when made to consumers.

(4) Retail sales tax. Sales to consumers of optical merchandise, as that term is herein defined, are subject to the retail sales tax. The retail sales tax does not, however, apply to income received for providing professional services.

A retail sales tax exemption for the sale of prescription lenses is available under RCW 82.08.0281, provided the lenses are dispensed by an optician licensed under the provisions of chapter 18.34 RCW or by a physician or optometrist pursuant to a prescription written by a physician or optometrist. To claim a retail sales tax exemption under RCW 82.08.0281, persons providing or selling any combination of professional services, prescription lenses, and/or optical merchandise must segregate and separately account for the income derived from each source. (Also see WAC 458-20-18801).

(5) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is

required to pay the deferred sales or use tax directly to the department.

(a) The purchase of eyeglasses, lenses, frames, springs, bows, and other articles which are resold to customers or patients are purchases for resale and not subject to the retail sales tax.

(b) The retail sales or use tax applies to the purchase of office supplies and equipment. This includes subscriptions to magazines and technical publications.

(c) Purchases of supplies which are consumed in rendering a professional service are subject to the retail sales tax.

(d) Prescription drugs may be purchased without payment of retail sales or use tax by optometrists, ophthalmologists, and opticians when those drugs will be used for the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans. Refer to WAC 458-20-18801.

(e) Optometrists, ophthalmologists, and opticians are required to pay use tax on any samples, with the exception of prescription drug samples, which they acquire or give away unless retail sales or use tax has been previously paid on these samples. However, these taxpayers are not required to pay retail sales or use tax on items which will be given to customers as part of a sale of eyeglasses or contact lenses, such as cleaning supplies, carrying cases, etc. These items are considered to be sold along with the eyeglasses or contact lenses.

(6) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(a) DM is an optometrist who performs eye examinations and sells prescription eyeglasses and contact lenses. All sales of prescription lenses are made pursuant to written prescription. DM segregates the income attributable to the eye examinations, the sale of prescription lenses, and the sale of optical merchandise in its books of account. Retail sales tax is collected on the sale of the optical merchandise.

The income derived from the eye examinations is subject to the service B&O tax. Retailing B&O tax is due on the gross proceeds of sales of the prescription lenses and the optical merchandise. When reporting the retail sales tax liability, DM may claim a deduction for the sales of prescription lenses, but must remit the retail sales tax collected on the sales of optical merchandise.

(b) DM purchases nonprescription saline and cleaning solutions for contact lenses, and carrying cases for eyeglasses and contact lenses. The saline and cleaning solutions are consumed when DM performs eye examinations. The eyeglass and contact lens carrying cases are provided to customers at the time they purchase a pair of eyeglasses or contact lenses.

DM incurs no retail sales or use tax liability on the purchase of the eyeglass and contact lens carrying cases. These cases are considered to be purchased for resale, and sold to the customer along with the eyeglasses or contact lenses. The purchase of the saline and cleaning solutions is, however, subject to the retail sales tax. These solutions are consumed while providing professional services, and cannot

be considered to be purchased for resale. They also do not qualify for sales tax exemption as prescription drugs. If DM has not paid retail sales tax at the time of purchase, it must remit use tax directly to the department.

(c) AB Inc. is a retail drugstore which includes preassembled "off the shelf" reading glasses in its sales inventory. These eyeglasses have lenses with power or prism correction. These glasses are sold without a written prescription.

Sales of such "off the shelf" reading glasses are subject to the retail sales tax, measured by the gross proceeds of sale. Even had AB segregated the charge between the frame and lenses, the gross proceeds of sales would be subject to the retail sales tax. The conditions and requirements necessary to qualify for exemption under RCW 82.08.0281 have not been satisfied.

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

**WSR 93-15-070**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed July 17, 1993, 9:29 a.m.]

Original Notice.

Title of Rule: WAC 388-28-500 Allocating income from an assistance unit and 388-28-560 Allocating income to an assistance unit.

Purpose: Current rules are amended to comply with the Code of Federal regulations with respect to allocating the income of ineligible IRCA aliens to AFDC assistance units. This eliminates a quality control error. Current policy allocates the income of an IRCA alien ineligible for AFDC after eligibility has been established and allows for a \$90 work expense deduction. This rule proposal will bring department policy into compliance with current federal requirements to allocate the income of an ineligible IRCA alien as part of the eligibility process and to allow a \$75 work expense deduction. This should result in a small increase in assistance units which were formerly ineligible for AFDC because of the policy to allocate after eligibility has been established. Under the Omnibus Reconciliation Act of 1990 (OBRA '90), the requirement to include the income of a legal guardian in the process of allocating income to a minor parent's assistance unit was removed. As a result, current department policy and procedures are out of compliance with federal requirements in that the income of legal guardians is currently allocated to meet the needs of the minor parent's assistance unit. These amendments will revise policy to allocate the income of parents and stepparents only and not to allocate the income of legal guardians to meet the needs of the minor parent's assistance unit. This should increase grant payments to certain AFDC minor parent assistance units which formerly had the income of legal guardians allocated against their grants.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The purpose of this amendment is to make necessary corrections to the appropriate rules to ensure that federal regulations are followed.

Reasons Supporting Proposal: Amending rules to comply with the Code of Federal Regulations with respect to allocating the income of ineligible IRCA aliens to AFDC assistance units which will remove errors in quality control.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

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

Rule is necessary because of federal law, 45 CFR 233.20 (a)(3)(iv)(B) and (xiv) and Social Security Act 402 (a)(39).

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 September 7, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 24, 1993. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by August 31, 1993.

Date of Intended Adoption: September 8, 1993.

July 16, 1993

Dewey Brock

for Rosemary Carr

Acting Director

Administrative Services

**AMENDATORY SECTION** (Amending Order 3451, filed 9/10/92, effective 10/11/92)

**WAC 388-28-500 Allocating income from an assistance unit.** The department shall ~~((attribute))~~ allocate all nonexempt ((net)) income possessed by an assistance unit member to meet the needs of the assistance unit ((of which the person is a member)), except in the following situations:

(1) Families with two or more assistance units. The department shall ~~((equally divide))~~ allocate an equal portion of the total nonexempt net community income, including income in-kind, ((between)) to meet the needs of each assistance unit((s)) unless:

- (a) The family prefers some other division; and
- (b) The preferred division does not increase the total amount of assistance, excluding medical care.

(2) Person with a nonapplying spouse for GAU only. The department shall ~~((consider))~~ allocate:

(a) At least half of the total community income, including income in-kind, ~~((available to a person living with a))~~ to meet the needs of the nonapplying spouse;

(b) Net income from wages, retirement benefits, or separate property ~~((of the nonapplying spouse available))~~ up to the appropriate ((person to the extent the net income

exceeds a)) one-person payment level, to meet the needs of the assistance unit member((?)).

(c) ~~((Wages or))~~ Income from separate property to meet the needs of the person as provided under WAC 388-28-365 ((and 388-28-370)).

(3) ~~((Nonrelated adults in household. The department shall follow rules in WAC 388-28-355 for nonrelated adults in the household.~~

(4) ~~Minor parent with a nonapplying parent or legal guardian. The department shall consider as available to the minor parent, income from a nonapplying parent or a legal guardian with court order support responsibility.~~

(a) ~~"Minor parent" means a person who:~~

(i) ~~Is seventeen years of age or younger; and~~

(ii) ~~Resides in the same household with an adult responsible for the minor parent's support.~~

(b) ~~To determine the amount available to the minor parent, the department shall disregard:~~

(i) ~~Seventy five dollars per month for each employed parent or legal guardian;~~

(ii) ~~An amount equal to the need standard in WAC 388-29-100 for the following:~~

(A) ~~The parents or legal guardians residing in the home; and~~

(B) ~~Others living in the home but not in the assistance unit who could be claimed as dependents on the parents' or legal guardians' federal income tax return.~~

(iii) ~~Payments by the parents or legal guardians to persons outside the home who could be claimed as dependents on the parents' or legal guardians' federal income tax return; and~~

(iv) ~~Child support or alimony payments by the parents or legal guardians to persons outside the home.~~

(5) ~~Persons in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. ((When a person in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home applies for or receives an AFDC or a general assistance grant.))~~ The department shall allocate ((income as follows)):

(a) ~~((First to))~~ The appropriate payment level ((of)) for the legal dependents living in the family home as stated in chapter 388-29 WAC; and

(b) ~~((Then to))~~ Any remaining income to meet the needs of the person in the institution, center, facility, or home according to WAC 388-29-125, 388-29-130, 388-29-280, and 388-40-095(1).

(4) Parent or stepparent income. The department shall allocate the income of a parent or stepparent included in the assistance unit to meet the needs of the assistance unit after deducting an amount for:

(a) Applicable work expense disregards to meet the cost of employment;

(b) For AFDC only, support of other dependents not eligible for inclusion in the assistance unit for factors other than sanction or non-cooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition;

(c) Court or administratively ordered support for a legal dependent not living in the parent or stepparent's home, not



to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent.

(d) The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(ii) The parent or stepparent is legally obligated to support.

**AMENDATORY SECTION** (Amending Order 2912, filed 12/1/89, effective 1/1/90)

**WAC 388-28-560 Allocating income** (~~for support of legal dependents~~) **to an assistance unit.** The department shall allocate nonexempt income possessed by a nonassistance unit member to meet the needs of the assistance unit as follows:

(1) Minor parent living with nonapplying parent or stepparent. The department shall (~~allot~~) allocate the income of a nonapplying parent or stepparent (~~in the assistance unit after applying the proper earned income exemptions in WAC 388-28-570(6). The department shall allot the income in the following order~~) to meet the needs of the minor parent's assistance unit after deducting:

(a) (~~To pay court or administratively ordered support for a legal dependent not living in the parent or stepparent's home. The department shall verify support payments and exempt up to the amount of the one person continuing assistance need standard for each legal dependent;~~

(b) ~~To meet the needs of family members not eligible for AFDC but who are the legal responsibility of the parent or stepparent. The exempt amount shall not exceed the appropriate payment standard;~~

(c) ~~To meet the needs of members of the AFDC assistance unit)~~ Seventy-five dollars per month for each employed parent or stepparent to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the nonapplying parent or stepparent and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the nonapplying parent or stepparent for federal income tax purposes.

(c) Amounts actually paid by the nonapplying parent or stepparent to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(2) (~~After applying the earned income work expense and dependent care exemptions allowed in WAC 388-28-570(6), the department shall allot the income of a parent or stepparent in the household, but not in the assistance unit as in subsections (1)(a), (b), and (c) of this section. The department shall not allot any income to the needs of the parent or stepparent if that person is sanctioned or failed to~~

~~cooperate with the department~~) IRCA alien ineligible for AFDC. When determining eligibility and payment for AFDC, the department shall allocate the income of an IRCA alien, ineligible for AFDC pursuant to WAC 388-26-120 (3)(a) and (b), to meet the needs of the assistance unit after deducting:

(a) Seventy-five dollars per month of the ineligible IRCA alien's gross earned income to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the ineligible IRCA alien and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the ineligible IRCA alien parent for federal income tax purposes.

(c) Amounts actually paid by the ineligible IRCA alien to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(3) All other excluded assistance unit members for AFDC only. The department shall allocate the income of an excluded assistance unit member to meet the needs of the assistance unit after deducting:

(a) Ninety dollars per month for each employed excluded person to meet the cost of employment;

(b) An amount for the support of the parent or stepparent and other dependents, ineligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition; and

(c) An amount for court or administratively ordered support for a legal dependent not living in the parent or stepparent's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(ii) The parent or stepparent is legally obligated to support.

(4) Income of a nonapplying spouse for GAU. The department shall allocate net income from wages, retirement benefits, or separate income or property of the nonapplying spouse to meet the needs of the assistance unit after deducting:

(a) The allowable earned income disregards as specified under WAC 388-28-515, excluding the earned income exemptions in WAC 388-37-025, to meet the costs of employment.

(b) Court or administratively ordered support actually paid for a legal dependent not living in the GAU client's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parents; or



(ii) The parent is legally obligated to support.

(c) An amount equal to the appropriate one-person payment level to meet the needs of the nonapplying spouse.

(5) Clients in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. The department shall allocate:

(a) The appropriate payment level for the legal dependents living in the family home as stated in chapter 388-29 WAC; and

(b) Any remaining income to meet the needs of the client in the institution, center, facility, or home according to WAC 388-29-125, 388-29-130, 388-29-280, and 388-40-095(1).

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 93-15-076**  
**PROPOSED RULES**  
**YAKIMA COUNTY**  
**CLEAN AIR AUTHORITY**  
 [Filed July 19, 1993, 11:33 a.m.]

Original Notice.

Title of Rule: Restated Regulation I of the Yakima County Clean Air Authority.

Purpose: Establish general and specific regulations governing the control of air contaminant emissions in Yakima County. Bring local regulations up-to-date and make consistent with current state law, chapter 70.94 RCW.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: The proposed regulation establishes agency policy, powers and duties, administrative procedures, and penalty provisions. The regulation outlines new regulations on open burning and air operating permits. Additionally, it requires fees for source registration, notices of construction, asbestos removal and air operating permits. The restated Regulation I of the Yakima County Clean Air Authority will replace the existing regulation of the Yakima County Clean Air Authority. The restated Regulation I will also be submitted in its entirety into the state implementation plan.

Reasons Supporting Proposal: To bring the local regulation up-to-date and make it consistent with state law, chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom T. Silva, 6 South 2nd Street, Room 1016, Yakima, WA 98901, (509) 575-4116 ext. 11.

Name of Proponent: Yakima County Clean Air Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The restated Regulation I establishes general and specific regulations governing the control of air contaminant emissions in Yakima County. The proposed regulation establishes agency policy, powers and duties, administrative

procedures, and penalty provisions. The regulation outlines new regulations on open burning and air operating permits. Additionally, it requires fees for source registration, notices of construction, asbestos removal, and air operating permits. The restated Regulation I of the Yakima County Clean Air Authority will replace the existing regulation of the Yakima County Clean Air Authority. The restated Regulation I will also be submitted in its entirety into the state implementation plan.

Proposal does not change existing rules.

It is intended that the restated Regulation I replace the existing regulation of the Yakima County Clean Air Authority.

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

Hearing Location: Yakima County Courthouse, 128 North 2nd Street, Room 420, Yakima, WA, on October 13, 1993, at 2:30 p.m.

Submit Written Comments to: Tom Silva, Director APCO, Yakima County Clean Air Authority, 6 South 2nd Street, Room 1016, Yakima, WA 98901, by September 21, 1993.

Date of Intended Adoption: October 13, 1993.

July 16, 1993

Tom T. Silva

Director

Air Pollution Control Officer

Reviser's note: The material contained in this filing will appear in the 93-17 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 93-15-077**  
**PROPOSED RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**  
 [Filed July 19, 1993, 2:10 p.m.]

Original Notice.

Title of Rule: Spokane County Air Pollution Control Authority Regulation I, Article X, fees and charges.

Purpose: To amend existing fee schedules for registered air pollution sources, notices of construction and asbestos abatement projects. To add new fee schedules for operating permits and oxygenated gasoline blenders.

Statutory Authority for Adoption: RCW 70.94.141, [70.94.]151, and [70.94.]161.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Increases some existing fee schedules to more closely approach program cost recovery. Adds new fee schedules to implement new state and federal mandates.

Reasons Supporting Proposal: Additional revenue is needed to continue required programs and to adequately respond to new mandates.

Name of Agency Personnel Responsible for Drafting: Eric Skelton, Spokane, Washington, (509) 456-4727 x. 121; Implementation: Barbara Nelson, Spokane, Washington, (509) 456-4727 x. 116; and Enforcement: Mabel Caine, Spokane, Washington, (509) 456-4727 x. 120.

Name of Proponent: Spokane County Air Pollution Control Authority, West 1101 College Avenue, Suite 403, Spokane, WA 99201, governmental.

Rule is necessary because of federal law, 42 USC; Title V, Section 502.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule authorizes the Spokane County Air Pollution Control Authority to assess fees for registrations, permits, notices of construction and other activities. The purpose and effect is to partially or fully recover the cost of administering programs.

Proposal Changes the Following Existing Rules: The proposal is an amendment to increase certain fees and to expand the fee categories.

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

Chapter 19.85 RCW applies to agencies, departments, and instrumentalities of the state government. The Spokane County Air Pollution Control Authority is a municipal corporation pursuant to RCW 70.94.081.

Hearing Location: Spokane County Public Works Building, Hearing Room, Lower Level, West 1026 Broadway, Spokane, WA 99201, on September 2, 1993, at 9:30 a.m.

Submit Written Comments to: Eric Skelton, Spokane County Air Pollution Control Authority, West 1101 College Avenue, Suite 403, Spokane, WA 99201, by August 26, 1993.

Date of Intended Adoption: September 2, 1993.

July 15, 1993  
Eric Skelton  
Director

**ARTICLE X  
FEES AND CHARGES**

ADOPTED: September 12, 1991  
REVISION: September 3, 1993  
EFFECTIVE: ~~October 13, 1991~~ October 4, 1993

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

AMENDATORY SECTION

SECTION 10.01 DEFINITIONS

When used in Regulation I of the Spokane County Air Pollution Control Authority:

~~((A. Air Contaminant Source means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.~~

- ~~B. Class A-1 means that the actual or potential controlled emissions of any one criteria pollutant are equal to or greater than 100 tons per year.~~
- ~~C. Class A-2 means that the actual emissions of any one criteria pollutant are less than 100 tons per year, but potential uncontrolled emissions of any one criteria pollutant are equal to or greater than 100 tons per year.~~
- ~~D. Class B means that the actual and potential uncontrolled emissions of any one criteria pollutant are less than 100 tons per year.~~
- ~~E. Class A-1 (Toxic) means that the actual or potential controlled emissions of any one TAP are greater than or equal to 10 tons per year, OR, the actual or potential controlled emissions of any combination of TAPs are greater than or equal to 25 tons per year.~~
- ~~F. Class A-2 (Toxic) means that the actual emissions are below Class A-1 (Toxic) levels, but potential uncontrolled emissions are greater than Class A-1 (Toxic) levels.~~
- ~~G. Class B (Toxic) means that the actual and potential uncontrolled emissions are below Class A-1 (Toxic) levels.))~~
- H A. Criteria Pollutant ((is)) means any one of the following: fine particulate matter (PM10), nitrogen oxides, sulfur oxides, ozone, lead, or carbon monoxide ((or any other pollutant as determined by the Control Officer)).
- B. Emission Fee means the component of a registration fee or operating permit fee which is based on actual emissions of criteria and toxic air pollutants. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.
- I C. Emission Reduction Credit means a credit granted to a source for a voluntary reduction in actual emissions per 173-400-131 WAC.
- D. Fiscal Year has the same meaning as the term in RCW 70.94.161.
- E. Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.
- J F. Significant Emissions means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, at a rate of

emissions equal to or greater than any one of the following rates: ((new sources or modifications resulting in one of the following: -increased emissions of 100 tons per year of any one criteria pollutant;))

- increased emissions of 10 tons per year of any one toxic air pollutant; or,
- increased emissions of 25 tons per year of two or more toxic air pollutants; or,

~~((Sources with significant emissions are also those sources which emit more than the following of any pollutant for which the area exceeds or threatens to exceed ambient air quality standards for that pollutant or a related pollutant.~~

<u>Pollutant</u>	<u>Tons/</u> <u>year</u>	<u>Pounds/</u> <u>day</u>	<u>Pounds/</u> <u>hour</u>
<u>Volatile organic compounds</u>	40		
<u>Nitrogen oxides</u>	40	800	80
<u>Sulfur oxides</u>	40		
<u>Lead</u>	0.6		
<u>Particulate Matter</u>	25	500	50
<u>PM 10</u>	15))		

<u>Pollutant</u>	<u>Tons/Year</u>
<u>Carbon monoxide</u>	100
<u>Nitrogen oxides</u>	40
<u>Sulfur dioxide</u>	40
<u>Particulate Matter (PM)</u>	25
<u>Fine particulate matter (PM10)</u>	15
<u>Volatile organic compounds</u>	40
<u>Lead</u>	0.6
<u>Fluorides</u>	3
<u>Sulfuric Acid Mist</u>	7
<u>Hydrogen sulfide (H<sub>2</sub>S)</u>	10
<u>Total reduced sulfur (including H<sub>2</sub>S)</u>	10
<u>Reduced sulfur compounds (including H<sub>2</sub>S)</u>	
<u>Municipal waste combustor organic (measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans)</u>	0.0000035
<u>Municipal waste combustor metals (measured as PM)</u>	15
<u>Municipal waste combustor acid gases (measured as SO<sub>2</sub> and hydrogen chloride)</u>	40

~~K F.~~ Toxic Air Pollutant means any toxic air pollutant (TAP) listed in WAC 173-460-150 and 173-460-160(~~(- or as determined by the Control Officer)~~). Toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of substances.

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

AMENDATORY SECTION

SECTION 10.02 FEES AND CHARGES REQUIRED

~~((A fee or service charge shall be paid to the Authority for issuance of permits and for providing services as hereinafter provided.))~~ Any fee assessed pursuant to Article X shall be paid within 60 days of assessment. Any person who is more

than 90 days late with such payment shall pay a penalty equal to three times the amount of the emissions fee component.

Revenues collected pursuant to RCW 70.94.161 shall be deposited in the operating permit program dedicated account and shall be used exclusively for the program.

SECTION 10.03 FEES OTHERWISE PROVIDED

All fees and charges provided for in this Article X are in addition to fees otherwise provided for or required to be paid by Regulation I, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if such fee is duplicative of a fee charged or required to be paid by another Article of this regulation.

AMENDATORY SECTION

SECTION 10.04 FEE WAIVER, INDIGENCY

Except for sources subject to the operating permit program, pursuant to RCW 70.94.161, ((F)) the Control Officer ((shall)) may waive payment of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that ((the permit or service requested is necessary and)) payment of the fee would cause financial hardship upon the applicant.

AMENDATORY SECTION

SECTION 10.05 GENERAL ADMINISTRATIVE FEES

- A. A fee of \$.25 per page for photocopies shall be charged for ten or fewer copies.
- B. A fee of \$.20 per page for photocopies shall be charged for more than ten copies.

~~((C. — A fee of \$20.00 per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopies for requests covering more than ten pages.))~~

~~D C.~~ The actual cost of postage shall be charged for all material requested to be mailed.

~~E D.~~ For other administrative services requested and performed by Authority staff which are not provided to the public generally the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.

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

AMENDATORY SECTION

SECTION 10.06 REGISTRATION AND INSPECTION OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

- A. All ~~((air contaminant))~~ sources required by Article IV, Section 4.01 to be registered, all sources subject to the operating permit program pursuant to

RCW 70.94.161, ((shall pay a fee of \$50.00 at the time of initial registration. In addition, registered air contaminant sources)) and ((those air contaminant-)) all sources required by Article V, Section 5.01 to obtain an approved Notice of Construction and Application for Approval shall pay an annual fee ((of \$50.00 per each calendar year, or portion thereof, in which each facility operates)). Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. ((IN ADDITION to the fee provided in "A" above, each air contaminant source inspected annually shall pay an)) The annual fee ((of)) for each source shall be determined as follows:

((1) — \$30.00 per each inspection for each stack or other emission point not to exceed \$600.00; and

(2) — For Class B sources, \$10.00 per ton per year of each criteria and/or toxic air pollutant, as determined by annual emissions; and

(3) — For Class A-2 sources, 10.00 per ton per year of each criteria and/or toxic air pollutant, as determined by annual emissions; and

(4) — For Class A-1 sources, \$10.00 per ton per year of each criteria and/or toxic air pollutant up to 4,000 tons per year, as determined by annual emissions.))

(1) For sources that emit less than 5 tons per year of criteria and toxic air pollutants:

(a) a flat fee of \$125; and

(b) a \$30 fee for each stack and other emission point, not to exceed \$600; and

(c) an emission fee of \$10 per ton of each criteria and toxic air pollutant.

(2) For sources that emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant, excluding carbon monoxide:

(a) a flat fee of \$125; and

(b) an emission fee of \$15 per ton of each criteria and toxic air pollutant, including carbon monoxide.

(3) For sources that emit 100 tons or more per year of criteria and toxic air pollutants, excluding carbon monoxide:

(a) an emission fee of \$30 per ton, including carbon monoxide, half of which shall be applied in Fiscal Year 1994 to development of the operating permit program, pursuant to RCW 70.94.161; and

(b) an interim assessment, as determined by the Department of Ecology, pursuant to RCW 70.94.161, which shall be remitted by the Authority to the Department of Ecology.

(4) Effective the latter of either July 1, 1994, or 90 days after receiving approval of delegation of the operating permit program from the U.S. Environmental Protection Agency, for sources subject to the operating permit program pursuant to RCW 70.94.161:

(a) except for affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq), an emission fee of \$44 per ton, including carbon monoxide. Any source subject to the fee schedule in Section 10.06.B.(4). is exempt from the fee schedules in Section 10.06.B.(1), (2), & (3). In the event the fee schedule in Section 10.06.B.(4). becomes effective after July 1, 1994, the source shall pay a prorated Fiscal Year 1994 fee, based on the respective portions of the fiscal year during which the source was subject to the two different fee schedules.

(b) for affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq), a fee of \$50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.

(c) an assessment, as determined by the Department of Ecology, pursuant to RCW 70.94.161, which shall be remitted by the Authority to the Department of Ecology.

(5) Gasoline dispensing facilities which are not subject to RCW 70.94.161 shall not be assessed the emission fee component of a registration fee.

(6) After December 31, 1999, Section 10.06.B. (4)(b) of this regulation shall no longer be in effect, and affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq) shall be subject to the fee schedule in Section 10.06.B. (4)(a) of this regulation.

C. On or before April 7, 1994, and annually thereafter, the Board of Directors shall review the fee schedule established in Section 10.06.B.(4). and projected costs to implement the requirements of RCW 70.94.161 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to recover program costs. Such review shall include opportunity for public review and comment on the projected costs and any changes to the operating permit fee schedule. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board of Directors determines that the total projected fee revenue is either significantly excessive or deficient

for this purpose, then the Board of Directors shall amend the fee schedule to more accurately recover program costs.

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

AMENDATORY SECTION

**SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE**

A. For all construction required by Article V to file a Notice of Construction and Application for Approval (NOC), a filing fee of ~~((\$50.00))~~ \$125 shall be paid at the time of filing the NOC. ~~((The registration fee required in Section 10.06A shall be waived whenever a NOC is required.))~~

B. IN ADDITION to the filing fee provided in "A" above, a plan review and ~~((inspection))~~ approval fee shall be paid according to one of the following:

(1) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

Design Input Size

<u>(Mbtu/hr)</u>	<u>Install Fee</u>	<u>Fuel Change Fee</u>
.4 < 5	\$ <del>50</del> <u>100</u>	\$ 20
5 < 10	\$ <del>100</del> <u>150</u>	\$ 40
10 < 20	\$ <del>150</del> <u>200</u>	\$ 60
20 < 50	\$ 250	\$ 80
50 < 100	\$ 350	\$ 100
100 < 250	\$ 500	\$ 150
250 < 500	\$ 650	\$ 200
500 < UP	\$ 850	\$ 250

(2) Refuse Burning Equipment Including Air Pollution Control Equipment:

<u>Capacity (ton/day)</u>	<u>Fee</u>
0 < 12	\$ 500
12 < 250	\$ 1,000
250 < UP	\$ 2,500

(3) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

<u>Actual ft<sup>3</sup>/min</u>	<u>Fee</u>
0 < 5,000	\$ 100
5,000 < 20,000	\$ 200
20,000 < 50,000	\$ 300
50,000 < 100,000	\$ 400
100,000 < 250,000	\$ 500
250,000 < 500,000	\$ 650
500,000 < UP	\$ 800

(4) Gasoline dispensing facilities: \$50

~~(4)~~ (5) For sources not included in (1), (2), ~~or (3), or (4)~~ above, ~~((a plan review and inspection fee of \$100.00 shall be paid plus))~~ an hourly

fee of \$50.00 per hour of time expended in plan review and ~~((inspection))~~ approval.

C. For temporary portable sources required by Article V to notify the Agency of intent to operate at a new location, the filing fee shall be ~~((\$50.00))~~ \$125 and the plan review and ~~((inspection))~~ approval fee shall be one half (1/2) of the current fee for a Notice of Construction and Application for Approval.

D. IN ADDITION to the other fees and costs herein above required any new source of air pollution to be constructed and anticipated to produce SIGNIFICANT EMISSIONS shall pay an additional fee of ~~\$250.00~~.

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

AMENDATORY SECTION

**SECTION 10.08 EMISSION REDUCTION CREDITS MISCELLANEOUS FEES**

A. A fee of ~~((\$500.00))~~ \$50 per hour of time expended in review shall be paid for each ~~((review of an emission reduction credit request))~~ of the following:

- (1) Emission reduction credit request pursuant to Chapter 173-400-131 WAC.
- (2) Paving waiver request pursuant to Spokane County Zoning Code, Section 14.802.080 or City of Deer Park Code, Chapter 18.74.050.
- (3) Alternate opacity limit request pursuant to RCW 70.94.331 (2)(c).
- (4) Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.161.
- (5) Variance request pursuant to SCAPCA Regulation II; Article III or RCW 70.94.181. In addition, the applicant shall pay a filing fee of \$125.

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

AMENDATORY SECTION

**SECTION 10.09 ASBESTOS**

Any owner or operator of a demolition or renovation activity required by federal regulation or Regulation I to notify the Authority prior to removal or demolition, or required by Federal Regulation to be approved or inspected by the Authority, shall give required notice and pay a fee according to the following:

- (a) If more than 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter

(35 cubic feet) of asbestos is to be removed a ~~(\$100.00)~~ \$150 fee is required.

- (b) If less than 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) but more than 3 linear meters (10 linear feet), one square meter (11 square feet), one cubic foot of asbestos is to be removed a ~~(\$50.00)~~ \$75 fee is required.
- (c) If less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of asbestos is to be removed or if the activity is a demolition not requiring asbestos removal a ~~(\$25.00)~~ \$40 fee is required.
- (d) If more than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of asbestos is to be removed from a private residence a ~~(\$25.00)~~ \$40 fee is required.
- (e) No notice or fee is required for private residences if the amount of asbestos to be removed is less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot.
- (f) Registered sources may elect to submit an annual notice, for work conducted in their own facility by their own employees rather than individual notifications. A fee of ~~(\$100.00)~~ \$150 shall accompany the annual notice.

REPEALER

~~((SECTION 10.10 RESIDENTIAL BURN BARRELS~~

~~An annual fee of \$15.00 shall be paid for issuance of any permit for a residential burning barrel.))~~

AMENDATORY SECTION

SECTION 10.4 10 SOLID FUEL BURNING DEVICE EXEMPTIONS

An initial fee of ~~\$25.00~~ shall be paid for review of any exemption request to use solid fuel combustion device during periods of impaired air quality. An annual renewal fee of ~~\$10.00~~ will be required each year thereafter. Payment of the fee shall not guarantee the applicant that the request will be approved. These fees may be waived per Section 10.04 or for emergency situations.

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

NEW SECTION

SECTION 10.11 OXYGENATED GASOLINE

Pursuant to Chapter 173-492 WAC, the following annual fees shall be paid by lenders of oxygenated gasoline for sale in the Spokane Control Area.

Small volume	<u>(&lt;100,000 Gallons/Month)</u>	<u>\$500</u>
Medium volume	<u>(100,000 to &lt;1,000,000 Gallons/Month)</u>	<u>\$1,000</u>

Proposed

Large Volume	<u>(1,000,000 to &lt;15,000,000 Gallons/Month)</u>	<u>\$6,200</u>
Very Large Volume	<u>(&gt;15,000,000 Gallons/Month)</u>	<u>\$15,500</u>

**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 93-15-079**  
**PROPOSED RULES**  
**WALLA WALLA**  
**COMMUNITY COLLEGE**  
 [Filed July 19, 1993, 2:12 p.m.]

Original Notice.

Title of Rule: Chapter 132T-20 WAC, Rules of conduct and procedures of enforcement; and chapter 132T-24 WAC, Summary suspension procedures.

Purpose: To decodify (repeal) these chapters.

Statutory Authority for Adoption: Chapter 1-21 WAC, RCW 288.50.140 [28B.50.140] and chapters 34.05 and 34.08 RCW.

Summary: The need for codification of these chapters no longer exists.

Reasons Supporting Proposal: Modifications to rules and procedures will be able to be made more quickly and with greater ease.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathy Small, Dean of Students, Walla Walla Community College, (509) 527-4300.

Name of Proponent: Walla Walla Community College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Decodification of the rules of conduct and procedures of enforcement and summary suspension procedures will allow greater expediency when needed additions, revisions, or deletions become necessary.

Proposal Changes the Following Existing Rules: The rules and procedures being addressed will continue to exist and be administered by the college's board of trustees; however, they will not be codified.

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

Hearing Location: Walla Walla Community College Board Room, 500 Tausick Way, Walla Walla, WA, on September 1, 1993, at 10:00 a.m.

Submit Written Comments to: Kathy Small, Walla Walla Community College, by August 12, 1993.

Date of Intended Adoption: September 1, 1993.

July 15, 1993

Steven L. VanAusdle  
President

REPEALER

The following chapters of the Washington Administrative Code are repealed:

Chapter 132T-20 WAC	Rules of conduct and procedures of enforcement.
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Chapter 132T-24 WAC Summary suspension procedures.

Chapter 388-240 WAC  
Alcohol/Drug Programs

**WSR 93-15-080**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed July 19, 1993, 3:20 p.m.]

Original Notice.

Title of Rule: New chapter 388-240 WAC, Alcohol/drug programs; and repealing chapter 388-40 WAC, Alcohol/drug programs.

Purpose: The department is rewriting, reorganizing, and recodifying the Washington Administrative Code (WAC) policies relating to financial and medical assistance programs. This new chapter will facilitate the on-line computer access by eligibility staff in field offices.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This WAC is rewritten to clarify and simplify existing rules without making substantive changes to existing policy, including a shift from long narrative paragraphs to an outline format, use of short words and sentences, deletion of redundant policies, deletion of procedural material, reorganization of chapters into a sequence that corresponds with worker process, and use of terms consistently within and between chapters.

Reasons Supporting Proposal: Currently rewriting, reorganizing, and recodifying the rules relating to financial and medical assistance programs. This is being completed to facilitate on-line computer access by eligibility staff in our field offices and to make these policies easier to understand.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Friedman, Division of Alcohol and Substance Abuse, 438-8225.

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 September 7, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 24, 1993. TDD #753-4595 or SCAN 234-4595.

Submit Written Comments to: Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by August 31, 1993.

Date of Intended Adoption: September 8, 1993.

July 19, 1993  
Rosemary Carr  
Acting Director  
Administrative Services

NEW SECTION

**WAC 388-240-0010 Introduction.** This chapter contains the rules for program service levels and for determining client eligibility for:

- (1) The alcohol/drug detoxification program; and
- (2) The Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program. The ADATSA program is divided into two subprograms:
  - (a) Treatment; and
  - (b) Shelter.

NEW SECTION

**WAC 388-240-0020 Definitions.** (1) "Active addiction" means use of alcohol or drugs by a diagnosed alcoholic or drug addict within a specific time period immediately preceding the latest assessment center evaluation:

(a) For ADATSA shelter eligibility purposes, within the sixty-day period immediately preceding assessment.

(b) For ADATSA treatment eligibility purposes, within the ninety-day period immediately preceding assessment.

(2) "Alcohol and Drug Addiction Treatment and Support Act (ADATSA)" is a legislative enactment providing state-financed treatment and support to indigent alcoholics and drug addicts.

(3) "Gainfully employed" means performing in a regular and predictable manner an activity for pay or profit. Gainful employment does not include noncompetitive jobs such as work in a department-approved sheltered workshop or sporadic or part-time work, if the person, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) "Intensive protective payee" provides case management services for an ADATSA shelter client. These services include:

(a) Sufficient controls of monthly shelter expenditures as necessary to ensure the client's basic needs are met; and

(b) Preventing the diversion of assistance toward purchase of alcohol or drugs.

(5) "Protective payee" means a person or agency who has the authority and responsibility to make decisions about the expenditure of outpatient treatment living stipends for an outpatient client.

(6) "Shelter services" or "shelter assistance" means:

(a) Room and board in a supervised living arrangement to an ADATSA client by a facility under contract with the department; or

(b) Where contracted facilities are not available, benefits paid to an intensive protective payee for an ADATSA client living in independent housing.

NEW SECTION

**WAC 388-240-1100 Detoxification services.** The department shall only pay for three-day detoxification services for acute alcoholic condition or five-day detoxification services for acute drug addiction for eligible persons when the services are:

- (1) Directly related to detoxification; and
- (2) Performed by a certified detoxification center or a general hospital contracted with the department to perform these services.

#### NEW SECTION

**WAC 388-240-1200 Detoxification eligibility.** (1) The department shall consider a person eligible who is an AFDC/general assistance, a medical assistance program, or a supplemental security income (SSI) beneficiary; or

(2) The department shall consider a person eligible who does not have combined nonexempt income and/or resources that exceed the aid to families with dependent children (AFDC) payment standards. The department shall:

(a) Exempt the following resources for the alcoholism and drug detoxification program:

- (i) A home;
- (ii) Household furnishings and personal clothing essential for daily living;
- (iii) Other personal property used to reduce need for assistance or for rehabilitation; and
- (iv) A used and useful automobile.

(b) Not exempt the following resources:

- (i) Cash;
- (ii) Marketable securities; and
- (iii) Any other resource not specifically exempted that can be converted to cash.

(c) Deduct or exempt the following from income:

- (i) Mandatory expenses of employment;
- (ii) Total income and resources of a noninstitutionalized SSI beneficiary;
- (iii) Support payments paid under a court order; and
- (iv) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs when failure to make such payments will result in garnishment of wages or loss of employment.

(3) The department shall not require the person receiving detoxification services to incur a deductible as a factor of eligibility for the covered period of detoxification.

(4) The department shall determine eligibility for the detoxification program on the basis of information shown on the department's application forms.

(5) The department shall require supplemental forms, verification procedures, and/or face-to-face interviews only in cases where there is a specific reason for requiring further verification of eligibility.

(6) When the department is notified within ten working days of the date detoxification began, the department shall cover this period if all eligibility factors are met.

(7) The department shall continue the effective period of eligibility from the date detoxification treatment began through the end of the month in which the client completed the three-day or five-day treatment.

#### NEW SECTION

**WAC 388-240-2100 ADATSA purposes and programs.** (1) The purpose of ADATSA is to:

(a) Assist in the rehabilitation of alcoholics and drug addicts who can benefit from treatment; or

(b) Provide a program of shelter services for those alcoholics and drug addicts whose chemical dependency has resulted in incapacitating physiological or cognitive impairments.

(2) The department shall provide eligible persons with those ADATSA services available within legislative appropriation and only to the extent such service conforms to all conditions and limitations set by the department.

(3) Persons qualifying for the ADATSA program may be eligible for:

(a) Alcohol/drug treatment services and support described under WAC 388-240-4100 and 388-240-4400; or

(b) Shelter services as described under WAC 388-240-5100.

(4) A person eligible for ADATSA shall be eligible for medical care services as described under WAC 388-86-120 or its successor.

#### NEW SECTION

**WAC 388-240-2300 ADATSA categorical eligibility.**

(1) A person eligible for ADATSA services shall:

(a) Be eighteen years of age or older;

(b) Be a resident of Washington as defined by the GAU program; and

(c) Be either a United States citizen or alien who:

(i) Is lawfully admitted for permanent residence;

(ii) Is otherwise permanently residing in the United States under color of law; or

(iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

(d) Provide the department with the applicant's Social Security number. If the applicant cannot finish a Social Security number because it has not been issued or is not known, the applicant shall apply for a number before authorization of assistance. The applicant shall provide the Social Security number to the department upon receipt.

(e) Meet the same income and resource criteria as required by the general assistance-unemployable (GA-U) program; except, persons excluded from GA-U under WAC 388-235-9000, because they are clients of federal aid, may be eligible for ADATSA treatment services.

(2) A person placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568 or its successor. However, the department shall not require a client receiving services in an intensive inpatient chemical dependency treatment program of thirty days or less to participate in the cost of care.

(3) The department shall require a client with income while residing in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility to contribute toward the cost of care of that portion of their income in excess of the clothing and personal incidental standard. This participation shall:

(a) Begin the month following the month of admission; and

(b) For benefits, be computed by the department according to applicable rules for the program under which the benefits are received.



NEW SECTION

**WAC 388-240-2400 ADATSA treatment—Eligibility requirements.** (1) Within the current appropriation, the department may grant ADATSA treatment services to an alcoholic or drug addict.

(2) An eligible person for ADATSA treatment services shall meet the:

- (a) Financial eligibility criteria in WAC 388-240-2300; and
- (b) Incapacity eligibility criteria in WAC 388-240-2450.

NEW SECTION

**WAC 388-240-2450 ADATSA treatment—Incapacity requirements.** (1) In order to qualify for ADATSA treatment services, a person shall be:

(a) Diagnosed as having a mild, moderate, or severe dependency on a psychoactive substance class other than nicotine, using the criteria for *Psychoactive Substance Dependence in the Diagnostic and Statistical Manual of Mental Disorders* (third edition revised), published by the American Psychiatric Association (this publication will be referred to below as the DSM III-R.); and

(b) Incapacitated, i.e., unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) Currently pregnant or up to two months post partum; or

(ii) Diagnosed as at least moderately psychoactive substance dependent and referred for treatment by child protective services; or

(iii) Diagnosed as severely psychoactive substance dependent and currently an intravenous drug user; or

(iv) Diagnosed as severely psychoactive substance dependent and has:

(A) One prior diagnosis of severe psychoactive substance dependency by an assessment center; or

(B) At least one prior admission to a department-approved alcohol/drug treatment or detoxification program.

(v) Diagnosed as severely psychoactive substance dependent and has had two or more arrests for offenses directly related to the chemical dependency; or

(vii) Lost two or more jobs during the last six months as a direct result of chemical dependency; or

(viii) Admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment services.

(c) Not eligible for ADATSA treatment, notwithstanding subsection (b) of this section, when the person:

(i) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(ii) Has abstained from alcohol and drug use for the last ninety days, excluding days spent while incarcerated; or

(iii) Has been gainfully employed in a job in the competitive labor market at any time during the last thirty days.

(2) A person who is successfully participating in ADATSA outpatient treatment services shall be considered incapacitated through completion of the planned treatment, even if the person:

(a) Becomes employed;

(b) Abstains from alcohol or drug use; or

(c) Has full or partial remission of psychoactive substance abuse dependence.

NEW SECTION

**WAC 388-240-2500 ADATSA shelter—Eligibility requirements.** (1) Within the current appropriation, the department may grant ADATSA shelter services to an alcoholic or drug addict.

(2) An eligible person for these ADATSA shelter services shall meet the:

(a) Financial eligibility criteria in WAC 388-240-2300; and

(b) Incapacity eligibility criteria in WAC 388-240-2550.

NEW SECTION

**WAC 388-240-2550 ADATSA shelter—Incapacity requirements.** To meet shelter incapacity standards, a person shall meet the following conditions:

(1) Be actively addicted, meaning having used alcohol or drugs within the sixty-day period immediately preceding the latest assessment center evaluation, as determined by the assessment center;

(2) Have resulting physiological or organic damage, or have resulting cognitive impairment not expected to dissipate with sixty days of sobriety or detoxification;

(3) To qualify on the basis of physical impairment, the physiological or organic damage must have a severity rating of "03" or more as defined under the GA-U program;

(4) To qualify on the basis of cognitive impairment, the applicant must have:

(a) At least a moderate impairment of ability to understand, remember, and follow complex instructions; and

(b) An overall moderate impairment in ability to:

(i) Learn new tasks;

(ii) Exercise judgment;

(iii) Make decisions, and

(iv) Perform routine tasks without undue supervision.

(5) The department shall require the impairments described in subsections (2), (3) and (4) of this section to be supported by documented, objective, and current medical evidence provided by a licensed physician, licensed clinical psychologist, or mental health professional as defined by RCW 71.05.020.

NEW SECTION

**WAC 388-240-2570 ADATSA shelter—Eligibility determination and review.** The department shall:

(1) Make an eligibility decision for ADATSA shelter within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant;

(2) Redetermine incapacity and financial and medical eligibility for ADATSA shelter every six months or more often; and

(3) Provide adequate and advance notice of adverse action.

NEW SECTION

**WAC 388-240-2600 ADATSA SSI referral requirements.** (1) An ADATSA client the department determines potentially eligible for supplemental security income (SSI) shall:

- (a) Make application for SSI; and
- (b) Assign the initial SSI payment to the department of social and health services up to the amount of ADATSA assistance provided to the recipient pending approval of the SSI application.

(2) To establish eligibility, the department shall assist an ADATSA client in:

- (a) Making application for SSI; and
- (b) Obtaining the necessary documentation required by the Social Security Administration.

NEW SECTION

**WAC 388-240-3100 ADATSA assessment center—Role.** (1) A department-designated chemical dependency assessment center shall determine incapacity based on alcoholism or drug addiction. The assessment center is the department’s sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

- (2) The department shall:
  - (a) Require a current assessment, in writing, for all ADATSA clients; and
  - (b) Pay the costs of assessments needed to determine eligibility.
- (3) ADATSA assessment centers shall:
  - (a) Be responsible for diagnostic evaluation and treatment placement;
  - (b) Not be responsible for providing direct treatment;
  - (c) In accordance with chapter 275-19 WAC or its successor, conduct a face-to-face diagnostic assessment to determine if the client:
    - (i) Is chemically dependent;
    - (ii) Meets incapacity standards for treatment under WAC 388-240-2400; and
    - (iii) If incapacitated, is willing, able, and eligible to undergo a course of ADATSA treatment.
  - (4) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement and treatment needs in accordance with RCW 70.96A.100 and the procedures under chapter 275-19 WAC or its successor.

(5) Once the treatment client’s financial and medical eligibility is established, the assessment center shall:

- (a) Develop an ADATSA treatment plan;
- (b) Arrange all placements into ADATSA treatment taking into account the treatment priorities described under WAC 388-240-4200;
- (c) Provide the client with written notification of the client’s right to return to the community service office (CSO) at any time while receiving ADATSA treatment. This includes, but is not limited to, those situations where the client is discharged from any residential or outpatient agency providing services under contract to the department;

(d) Provide the client with written notification of the client’s right to request a fair hearing to challenge any action affecting eligibility for ADATSA treatment;

(e) Provide ongoing case monitoring of treatment services; and

(f) Notify the community services office promptly of all placement or eligibility status changes.

(6) When evaluating the person’s ability to benefit from primary outpatient treatment, the assessment center shall consider clinical or medical factors indicating the likelihood of a client’s success in a less-structured primary treatment modality. Such factors may include:

- (a) An assessment of former treatment history;
- (b) The number of detoxification admissions;
- (c) The chronicity and degree of incapacity of the client; and
- (d) Social factors, such as:
  - (i) The availability of social support systems;
  - (ii) Family support; and
  - (iii) Stable living arrangement.

NEW SECTION

**WAC 388-240-4100 ADATSA treatment limitations.**

(1) The department shall offer ADATSA treatment services to an eligible person incapacitated by alcoholism or drug addiction, subject to:

- (a) Availability defined under WAC 388-240-2100; and
- (b) Priority classifications set forth under WAC 388-240-4200.

(2) The department shall limit a person’s treatment services to a maximum of six months in a twenty-four-month period. The twenty-four-month period begins on the date of initial entry into treatment.

(3) The department shall limit residential treatment to the following durations:

- (a) Intensive inpatient treatment, not to exceed thirty days per admission;
- (b) Recovery house treatment, not to exceed sixty days per admission;
- (c) Extended care recovery house treatment, not to exceed ninety days;
- (d) Long-term care residential treatment, not to exceed one hundred eighty days;
- (e) Drug residential treatment, not to exceed one hundred eighty days.

(4) An ADATSA client shall not receive more than ninety days of ADATSA outpatient treatment in a twenty-four-month period, if referred:

- (a) Directly to outpatient treatment; or
- (b) Following a residential placement.

NEW SECTION

**WAC 388-240-4200 ADATSA treatment terminations and reinstatements** (1) The department shall terminate an ADATSA client who withdraws or is discharged from treatment for any reason. The client must reapply and be rereferred to the assessment center if the client requires further ADATSA treatment services.

(a) The department shall refer an ADATSA client demonstrating an inability to remain abstinent in outpatient treatment to residential treatment.

(b) The department may require a client dropping out of treatment in the intensive inpatient modality to repeat this phase.

(c) The department may require a client dropping out of treatment during the recovery house or outpatient modality to:

(i) Return to the modality from which the client dropped out; or

(ii) Enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted.

(2) A client absent from inpatient treatment or other residential services for less than seventy-two hours may reenter that program without being considered as having dropped out. This is done at the discretion of the treatment service administrator and without requiring the client to apply for readmittance through the assessment center.

(3) An ADATSA client terminating treatment shall not be eligible for benefits beyond the month in which treatment services end. Regulations regarding advance and adequate notice still apply, but an ADATSA treatment client shall not be eligible for continued assistance pending a fair hearing as provided under WAC 388-33-377 or its successor.

#### NEW SECTION

**WAC 388-240-4400 ADATSA treatment priority groups.** (1) When assigning residential admissions, the assessment center shall:

(a) Give first priority to a pregnant woman or a parent with a child in the home;

(b) Additionally, provide priority access to ensure admission for:

(i) A person referred through by the department's children's protective services (CPS) program; and

(ii) An injecting drug user (IDU).

(2) When assigning outpatient admissions, the assessment center shall:

(a) Give first priority to a pregnant woman or a parent with a child in the home unable to access Title XIX outpatient treatment;

(b) Additionally, provide priority access to ensure admission for:

(i) A person completing residential treatment;

(ii) A person referred through CPS; and

(iii) An IDU.

(3) The department may deny ADATSA treatment services to a person able to access, at no cost to the person, comparable state-approved chemical dependency treatment.

#### NEW SECTION

**WAC 388-240-4600 ADATSA treatment living allowance.** (1) An ADATSA client in residential treatment shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(2) An ADATSA client in an outpatient treatment modality shall be eligible for a treatment living allowance for housing and other living expenses.

(3) The department shall:

(a) Base the living allowance amount on the current ADATSA payment standard;

(b) Issue this living allowance directly to the outpatient provider as (protective) payee; and

(c) Not authorize the use of any treatment living allowance to pay for shelter in a dormitory setting not requiring sobriety as a condition of residence.

#### NEW SECTION

**WAC 388-240-5100 ADATSA shelter services.** (1) The department shall limit ADATSA shelter services to shelter assistance in the contracted facilities unless the client resides in a county described under subsection (2) of this section.

(2) A client residing in a county where a contracted shelter bed is not available may receive shelter assistance in independent housing, subject to the following provisions:

(a) The client shall, as a condition of continued eligibility, move to a contracted shelter bed when available. "Availability" means the existence of a vacant shelter bed, rather than whether or not a particular A/R is accepted or rejected from a shelter facility based on disciplinary problems;

(b) The client shall receive the monthly shelter assistance payment through an intensive protective payee defined under WAC 388-240-6100; and

(c) The department shall only provide assistance for independent housing to a client residing in a permanent residential structure. The client must have a deed of purchase, rental agreement, or other verifiable written agreement between the client and the person or entity to whom the client is obligated for shelter costs or from whom the recipient is receiving supplied shelter.

(3) The department shall base the amount of a client's assistance for independent housing and basic needs on the appropriate payment standard for the GA-U program. For a client in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard for congregate care facilities.

(4) The department shall terminate a client receiving contracted shelter services:

(a) When the client is discharged from the facility for disciplinary reasons; or

(b) If the client subsequently leaves shelter, without notice, for more than seventy-two hours.

(5) The department shall continue benefits for an ADATSA shelter requesting a fair hearing within the advance notice period before termination is to occur as required under WAC 388-37-377 or its successor.

#### NEW SECTION

**WAC 388-240-6100 ADATSA protective payees.** (1) The department shall pay the assistance needs of an ADATSA client receiving outpatient treatment or shelter

assistance by protective payee or vendor payment. The protective payee for:

(a) An outpatient client shall be the same agency providing outpatient treatment;

(b) A shelter client in independent housing shall be an agency under contract with the department to provide intensive protective payee services described under subsection (5) of this section; and

(c) A shelter client residing in a contracted shelter facility shall be the facility operator. The facility operator shall have the authority to use personal discretion on the method of disbursing the client's clothing and personal incidental money each month.

(2) The protective payee for an outpatient client shall:

(a) Have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends;

(b) Encourage the client to participate in the decision-making process. The amount of decision-making the protective payee allows the client shall depend upon the level of responsibility the client demonstrates; and

(c) Disburse funds to meet the basic needs of a client's shelter, utilities, food, clothing, and personal incidentals.

(3) The outpatient protective payee may use discretion on the method of disbursing to the client any cash balance remaining from the client's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the client at regular intervals throughout the month.

(4) The intensive protective payee shall provide to a client case management services to include, but not be limited to:

(a) Disbursement of a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc;

(b) Direct payment to vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(c) An exception only where unusual circumstances prevent direct payment and the recipient is unlikely to divert the money to purchasing alcohol or drugs.

(5) A shelter client in independent housing has the right to request a change of an intensive protective payee within the county if dissatisfied with the department's selection of a particular intensive protective payee. If the department determines good cause exists for the payee change, the department shall reassign the client to another intensive protective payee, if available.

(6) In the event the client or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-40-010, Alcoholism and drug detoxification program—Eligible persons.

WAC 388-40-020, Alcoholism and drug addiction treatment and support act

WAC 388-40-030,  
WAC 388-40-040,

WAC 388-40-050,

WAC 388-40-055,

WAC 388-40-060,

WAC 388-40-070,  
WAC 388-40-080,

WAC 388-40-090,

WAC 388-40-091,

WAC 388-40-095,

WAC 388-40-100,  
WAC 388-40-110,

(ADATSA)—Program description.

ADATSA services.  
Financial eligibility requirements.

Incapacity requirements for ADATSA treatment.

Incapacity requirements for ADATSA shelter.

Eligibility determination and review—Time frame.

SSI referral requirements.  
ADATSA assessment centers—Role.

ADATSA treatment modalities—Description of services, requirements, and limitations.

Availability of treatment—Priority groups.

ADATSA treatment—Living allowance.

ADATSA shelter services.

ADATSA protective payee requirements.

**WSR 93-15-081  
PROPOSED RULES  
CLARK COLLEGE**  
[Filed July 20, 1993, 9:44 a.m.]

Original Notice.

Title of Rule: Parking and traffic rules and regulations.  
Purpose: To effect corrections/improvements to college's parking and traffic rules and regulations.

Other Identifying Information: Revision and update.  
Statutory Authority for Adoption: Chapters 28B.50 and 28B.10 RCW.

Statute Being Implemented: RCW 28B.50.140(10).

Summary: Correct, modify, and improve college's parking and traffic rules and regulations.

Reasons Supporting Proposal: Necessary to effect clarification and improvement of rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tony Birch, Administrative Services, (206) 699-0123.

Name of Proponent: Clark College, Community College District 14, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Parking and traffic rules and regulations have been established to maintain the health and safety of Clark College students, employees, visitors, vendors and to provide a fair and uniform method of regulating campus vehicular and pedestrian traffic.

Proposal Changes the Following Existing Rules: To improve parking and traffic rules as recommended by college; to accomplish editorial changes; to improve "definitions"; to add notification that insurance coverage information will be shared with parties to an accident; to extend

parking control and permit requirements from 5:00 p.m. to 10:00 p.m.; to prohibit parking facilities from being used as a place of habitation; to eliminate notification prior to impoundment for illegally or hazardedly parked vehicles; to prohibit utilities and stairway railings being used for bicycle parking; to add transportation demand management and commute trip reduction activities as an allowed use of fees.

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

Hearing Location: Clark College Baird Administration, Building Board Room, on August 25, 1993, at 4:00 p.m.

Submit Written Comments to: Tony Birch, by August 25, 1993.

Date of Intended Adoption: August 25, 1993.

July 19, 1993

Earl P. Johnson  
President

**AMENDATORY SECTION** (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-300 Purpose.** The parking and traffic rules and regulations contained herein provide a fair and uniform method of regulating college vehicular, nonvehicular, and pedestrian traffic and are based on the following objectives:

((●)) (1) To protect and control vehicular, nonvehicular, and pedestrian traffic.

((●)) (2) To assure access at all times for emergency equipment.

((●)) (3) To minimize traffic disturbances during class hours.

((●)) (4) To facilitate the work of the college by assuring access for college vehicles and by assigning the limited parking spaces to the most efficient use.

(5) To protect college facilities.

Permission to park or operate a vehicle on college property is governed by these regulations. The purchase of a permit for designated parking does not ensure the regular availability of a parking space.

**AMENDATORY SECTION** (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-310 Authority.** Pursuant to ((the authority granted by)) RCW 28B.50.140(10) the board ((of trustees of Clark College)) is granted authority to establish rules and regulations for pedestrians and vehicular and nonvehicular traffic over property owned, operated, and/or maintained by the college.

The enforcement of these ((parking and traffic)) rules and regulations shall be the responsibility of the ((college safety/security department)) security/safety office.

((College safety)) Security officers are authorized to issue parking and traffic citations, impound and/or immobilize vehicles, and control and regulate facilities use, traffic, and parking as prescribed in these ((parking and traffic)) rules and regulations.

Any person interfering with a college ((safety)) security officer in the discharge of the provisions of these ((parking and traffic)) rules and regulations shall be in violation of ((chapter 9A.76)) RCW 9A.76.020, Obstructing governmen-

tal operation, and may be subject to arrest by a peace officer ((under RCW 9A.76.020)).

Failure by students to abide by these rules and regulations ((by students)) may be considered to be a violation of the code of student conduct (WAC 132N-20-050 (4), (5), (9), (10), (11), (14), and (17), as applicable).

**AMENDATORY SECTION** (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-320 Definitions.** College - Clark College, Community College District No. 14.

**College property** - Campus property, parking lots, or land owned, leased ((or)), controlled or maintained by Clark College.

**Immobilization** - Rendering a vehicle inoperable by use of a wheel-lock device.

**Impoundment** - Removal of a vehicle to a storage facility ((or immobilization by use of a wheel lock device)).

**Pedestrian** - Any person afoot, as defined in chapter 46.04 RCW.

**Student** - Any individual currently registered for classes at the college.

**Vehicular traffic or vehicles** - Those devices defined as "vehicles" in chapter 46.04 RCW.

**Nonvehicular modes of transportation** - ((Nonvehicular modes of transportation shall mean)) Nonpedestrian transportation devices other than vehicles ((and)); shall include, but not be limited to, bicycles, skateboards, snowmobiles, roller skates and roller blades, snow sleds, and scooters.

**AMENDATORY SECTION** (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-330 Liability of ((Clark)) the college.** The college assumes no liability for vehicles parking or traveling on college property, nor shall it be held liable for the loss of goods or property from vehicles parked on college property.

((Clark)) The college, the ((college safety/security department, college safety)) security/safety office, security officers, ((members and)) or other employees or agents shall not be held liable for any damages or losses occurring to or from vehicles or equipment when rendering motorist assistance, impounding vehicles, or performing any duties as described in these ((parking and traffic)) rules and regulations. This section also applies to nonvehicular modes of transportation.

The college provides only limited maintenance to college parking lots during periods of ((ice, snow, and rain)) inclement weather. Persons using the college parking lots do so at their own risk. The college will not be responsible for any liability or damage claims arising from weather-related causes or conditions.

**AMENDATORY SECTION** (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-400 Authorized use of ((campus avenues and parking)) facilities.** Only those vehicles as defined and regulated in chapter 46.04 RCW and as defined

herein, may be operated in parking lots or in traffic areas ~~((and only))~~ by licensed drivers, as defined in chapter 46.20 RCW. No vehicle ~~((or nonvehicular mode of transportation))~~, with the exception of nonmotorized bicycles, ~~((handicapped))~~ transportation devices for the handicapped, and certain maintenance vehicles, may be operated on intracampus property, pathways, or sidewalks without the specific permission of the ~~((college safety/security department))~~ security/safety office.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-420 Regulatory signs and directions.** Drivers of vehicles shall obey regulatory signs and markings at all times and shall comply with directions given by ~~((college safety/))~~ security officers in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-430 Pedestrian right of way.** The operator of a vehicle shall yield the right of way, slowing down or stopping if need be, to ~~((so yield to))~~ any pedestrian crossing any street, roadway, fire lane, or pathway with or without a marked crosswalk.

Whenever any vehicle is stopped at a marked crosswalk, unmarked crosswalk, intersection or any other place in order to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass the yielding vehicle.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-440 Traffic accidents.** Persons involved in traffic accidents on college property are to report the accident to the ~~((college safety/security department))~~ security/safety office. An officer will be dispatched to investigate and file ~~((a report on the accident))~~ an accident report. In addition, RCW 46.52.030 requires that accidents on college property involving injury or property damage in excess of five hundred dollars be reported to local law enforcement agencies. State accident report forms are available at the security/safety office. Security officers are authorized to obtain and share with all parties to an accident information on the insurance coverage of the parties.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-450 Traffic offenses.** ~~((College safety/security officers may issue a citation for any of the following traffic offenses:))~~ Due to the severe risk to public safety, traffic offenses do not require a previous warning prior to the issuance of a fine. Security officers may issue a citation for any of the following traffic offenses:

- (1) Failure to yield right of way (posted);
- (2) Failure to yield right of way to pedestrian;
- (3) Failure to yield right of way to vehicle;
- (4) Failure to obey one-way directional arrows;
- (5) Failure to yield right of way to emergency vehicle;

- (6) Driving with excessive speed;
- (7) Failure to stop at traffic signal/sign;
- (8) Failure to use due care and caution;
- (9) Driving without lights after dark;
- (10) Having a passenger or animal outside of vehicle while in motion;
- (11) Driving with an obstructed view;
- (12) Driving on shoulder, or sidewalk or intracampus sidewalk or lane without authorization;
- (13) Disobeying flagger, peace officer, ~~((college safety/))~~ security officer, ~~((or))~~ fire fighter~~((s))~~, or other agent of the college;
- (14) Damaging college property including but not limited to landscape and plant material, curbs, sidewalks, utilities, etc.

All traffic offenses carry a twenty-dollar fine.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-460 Bicycles and nonvehicular transportation usage.** Bicycles may be ridden any place where vehicles are permitted. They may also be ridden on campus sidewalks or pathways, though pedestrians always have the right of way. An audible signal shall be used by bicyclists to warn pedestrians of oncoming bicycles. Bicyclists shall not ride in a reckless manner ~~((nor))~~ or engage in stunts or dangerous acts ~~((nor))~~, or operate at speeds greater than ten miles per hour or such lower speed as is reasonable and prudent under the circumstances. With the exception of ~~((handicap))~~ transportation devices for the handicapped and certain college service vehicles, no other nonvehicular modes of transportation as ~~((defined in WAC 132N-156-320))~~ specified in the preceding "definitions" will be allowed on college property.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-500 Allocation of parking space.** The parking spaces available on college properties shall be assigned by the ~~((college safety/security department))~~ security/safety office in ~~((such))~~ a manner ~~((as))~~ which will best ~~((obtain))~~ attain the objectives of these regulations. The ~~((safety/security department))~~ security/safety office is authorized to mark various parking areas on college property with numbers or titles or by posting signs, ~~((and))~~ or marking the pavement ~~((markings))~~.

Open parking - Open parking is limited to those parking areas not otherwise marked as faculty/staff, handicapped, special use, or visitor. Student vehicles are not required to display a parking permit.

Faculty/staff parking - Faculty, staff and administrators using college owned or leased parking facilities up to 10:00 p.m. during the academic year are to purchase parking permits.

Faculty/staff parking spaces are marked on the pavement with an F/S. Only college employee vehicles displaying a valid parking permit may park in faculty/staff parking ~~((zones))~~ spaces. Faculty/staff parking ~~((zones))~~ spaces shall be considered open parking zones after ~~((5:00))~~ 10:00 p.m. each day that the college is in regular session. ~~((Faculty/~~

~~staff/administrators using college parking facilities up to 5:00 p.m. during the academic year are to purchase parking permits.~~)

Vehicles with ~~((an))~~ approved faculty/staff parking permits are permitted to park in open parking areas only when the designated parking ~~((areas))~~ faculty/staff spaces are full.

Visitor parking - All visitors, including guests, salespersons, maintenance or service personnel and all other members of the public, may park on college property in open parking, in designated special use visitor zones, or as directed by the ~~((college safety/security))~~ security/safety office.

Use of vehicle as habitation - No vehicle or vehicle trailer may be used as a place of habitation on any college facility without permission from the security/safety office.

Handicapped parking - Handicapped parking zones may ~~((only))~~ be occupied only by vehicles displaying a valid temporary handicapped parking permit issued by the college or a valid permanent or temporary handicapped permit issued by the state of Washington in compliance with RCW 46.16.381 and 46.16.390. Temporary handicapped parking permits are available in ~~((the college's wellness resource center))~~ health services. Valid handicapped parking permits issued by other states will be honored.

Motorcycle parking - Motorcycle parking zones are reserved for motorcycles and motor-driven cycles. These vehicles are not to occupy regular automobile parking spaces or other areas not designed for parking.

Service vehicle parking - Service vehicle parking zones are limited to use by authorized college service or contractor vehicles only.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-510 Designated and assigned parking.** Vehicles ~~((shall be parked))~~ on college property shall park only in those areas set aside and designated as parking areas. No vehicle shall park in any area requiring a special parking permit ~~((, no vehicle shall park))~~ without said permit.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-520 Parking within designated areas.** No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been ~~((so))~~ parked so as to require a vehicle attempting to park to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this ~~((section))~~ rule.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-530 Impounding of disabled/abandoned vehicles.** No disabled or inoperative vehicle shall be parked on college property for a period in excess of twenty-four hours, unless permission is ~~((arranged with the~~

~~college safety/security department))~~ granted by the security/safety office. Vehicles which have been parked ~~((for periods))~~ in excess of twenty-four hours may be impounded and stored at the expense of either or both the owner or operator thereof. Notice of intent to impound will be posted on the vehicle at least twenty-four hours prior to ~~((impound))~~ impoundment unless a vehicle is illegally or hazardedly parked. Neither the college nor college employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

Vehicles under repair in the college's instructional program must be parked in a designated area and must have an approved "vehicle in repair" notice visibly posted within the vehicle.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-540 Registered owner is responsible for illegal parking.** Every person in whose name a vehicle is registered (licensed) shall be responsible for any parking of said vehicle and for all offenses, other than moving violations, under these regulations. It shall be no defense that said vehicle was illegally parked or used by another, unless it ~~((be))~~ is clearly established that at such time said vehicle was being used without the consent of the registered owner.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-550 Illegal parking.** No person shall stop, ~~((stand))~~ place, or park a vehicle at any place where official signs, curbs, or pavement markings prohibit parking, ~~((nor))~~ or within fifteen feet of a fire hydrant ~~((or ten feet of any building, nor))~~, or at any place for which the vehicle does not have a valid parking permit. Any vehicle not parked in a marked parking stall shall be considered illegally parked.

~~((The))~~ Drivers ~~((of any vehicle))~~ who ~~((is))~~ are instructed by a ~~((college safety/))~~ security officer to either move an illegally parked vehicle or not to park in violation of this section, and refuse~~((s))~~, will have their vehicle immediately impounded or immobilized.

~~((College safety/))~~ Security officers may issue ~~((a))~~ citations resulting in ~~((a))~~ fines even if the vehicle has not received a previous warning citation for any violation of ~~((the parking and traffic))~~ these rules and regulations ~~((or))~~ if the vehicle is found in the commission of any of the following parking violations:

~~((a))~~ (1) Parking in a faculty/staff parking zone without a valid permit.

~~((a))~~ (2) Parking a disabled or inoperable vehicle on campus in excess of twenty-four hours.

~~((a))~~ (3) Occupying more than one parking space.

~~((a))~~ (4) Parking in a space not designated for parking.

~~((a))~~ (5) Parking in an area not authorized.

~~((a))~~ (6) Blocking traffic.

~~((a))~~ (7) Parking within fifteen feet of a fire hydrant.

~~((a))~~ (8) Parking in a fire lane, sidewalk, or intracampus avenue.

~~((a))~~ (9) Parking in a "No Parking" zone.

~~((●))~~ (10) Parking on the grass.  
~~((●))~~ (11) Parking overnight parking without permission and/or permit.

~~((●-Illegal))~~ (12) Parking of a bicycle illegally.  
~~((●))~~ (13) Parking in handicapped parking zone without an authorized handicapped parking permit.

(14) Use of a vehicle for habitation without permission.  
 All parking citations carry a ten-dollar fine, with the exception of handicapped parking violations which carry a twenty-dollar fine.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-560 Hazardous (~~(illegal)~~) parking.** No person shall stop, ~~((stand))~~ place, or park a vehicle so as to obstruct traffic along or upon any street, firelane, or sidewalk ~~((nor))~~ or at any location as described in RCW 46.61.570. Due to the severe risk to public safety created by any vehicle parking in violation of this section, ~~((college safety))~~ security officers are authorized to cite and immediately impound said vehicle. ~~((College safety))~~ Security officers will complete a vehicle impound report, including the reason for the impoundment.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-570 Bicycle parking.** Bicycles shall be parked in bicycle racks or other facilities provided for the purpose. Where such facilities are provided, at no time shall a bicycle be parked in a building, against a building, near a building exit, on a path or sidewalk, ~~((nor))~~ or chained or otherwise secured to trees, lamp standards, utilities, stairway railings, or sign posts. Any bicycle found in violation of this section may be cited for illegal parking and impounded by the ~~((college safety/security department))~~ security/safety office without warning.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-580 Damage to state property.** The cost of repair/replacement of college property damaged by negligent operation~~((s))~~, or as the result of indiscriminate acts, must be paid in addition to assessed fines.

**((PARKING)) PERMITS ((REQUIREMENTS))**

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-600 Faculty and staff parking permits.** All college faculty~~((f))~~, staff~~((f))~~, and administrators using college parking facilities ~~((up to 5:00 p.m.))~~ at any time between 8:00 a.m. and 10:00 p.m. during the academic year are to purchase and display a valid parking permit. The fact that an employee may be eligible to park in a handicapped parking zone~~((r))~~ will not relieve the employee of this requirement. A valid faculty/staff parking permit ~~((does))~~ may not, by itself, constitute authority to park in other parking facilities leased or owned by the college.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-610 Permit parking on campus.** ~~((A valid))~~ The correct parking permit ~~((is:))~~ ~~●~~ A current vehicle permit) must be properly displayed in accordance with permit instructions.

~~((●-A))~~ Temporary parking permits ~~((authorized))~~ are issued by the ~~((college safety/security department))~~ security/safety office and must be displayed in accordance with ~~((the instructions shown on the))~~ permit instructions.

Parking permits are not transferable and shall not be utilized by any person except the ~~((employee purchasing said permit))~~ person designated on the parking permit application. The college reserves the right to deny any application, or to revoke any permit at any time, if actions resulting from such application or permission constitute present, imminent danger of unlawful activity, or if a prospective user has previously violated the provisions of these parking policies or other written rules or regulations of the college. All outstanding college parking fines must be paid before a parking permit will be issued or renewed.

~~((●))~~ No bailment is created by the sale or issuance of a permit.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-620 Fees for parking permits.** The fees charged by the college for the issuance of permits shall be those established ~~((under the authority of))~~ by the board of trustees ~~((of the college))~~. Parking permits are issued as a license to park ~~((on))~~ at college ~~((property))~~ facilities.

Fees collected will be utilized for parking operations ~~((only))~~ including parking enforcement ~~((and))~~, parking lot maintenance, and for those transportation demand management and commute trip reduction activities and programs permitted by law.

Current faculty/staff parking permit fees are five dollars per ~~((school))~~ quarter for one vehicle, and six dollars per ~~((school))~~ quarter for two or more vehicles. Permits may be purchased on either a permanent, annual, or quarterly basis. Permits are required for fall, winter, and spring quarters only, and ~~((with))~~ are not ~~((be))~~ required summer quarter.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-630 Parking fee payment.** Faculty and staff can purchase annual permits by cash or check paid directly to the college or by payroll deduction. Annual or quarterly parking permits may be purchased at either the college bookstore or at the cashier's office in the Baird Administration Building. Annually contracted faculty and staff members may select the payroll deduction plan for payment of the permanent or annual permit only. Those selecting this payment plan must complete a payroll deduction authorization form before issuance of a permit. The form is available in the ~~((safety/security))~~ security/safety office and the personnel services office.



~~((Annual or quarterly parking permits may be purchased at either the college bookstore or at the cashier's office in the Baird Administration Building.))~~

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-640 Temporary parking permits.** Any permit holder may obtain a temporary parking permit from the ~~((college safety/security department))~~ security/safety office for an unregistered vehicle when the registered vehicle is unavailable due to repairs or for another valid reason. These permits are good for a period of two weeks.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-650 Revocations.** Parking permits are licenses and the property of the college and may be recalled for any of the following reasons:

~~((When))~~ (1) The purpose for which the permit was issued changes or no longer exists.

~~((When a))~~ (2) The permit is used on an unregistered vehicle or by an unauthorized individual.

~~((Falsification on))~~ (3) A parking permit application form was falsified.

~~((Continued))~~ (4) Violation~~((s))~~ of these parking regulations occurred.

~~((Counterfeiting or altering of))~~ (5) The parking permit~~((s))~~ was counterfeited or altered.

~~((Failure to comply with))~~ (6) A decision of the ~~((safety/security supervisor))~~ college was not followed.

Appeals of parking permit revocations may be made to the dean of administrative services. Appeals must be filed within seven days of the date of notice of revocation. The decision of the dean is final.

~~((PARKING AND TRAFFIC RULES AND REGULATIONS))~~ ENFORCEMENT

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-700 Policy ~~((enforcement))~~.** The board ~~((of trustees of the college)),~~ or its designee, shall set and approve fair and uniform fines for violations of these rules and shall provide adequate means for the enforcement and/or collection of such ~~((a))~~ fines ~~((policy))~~. If a violation of ~~((the parking and traffic))~~ these rules and regulations is committed, the ~~((college safety/security department))~~ security/safety office is authorized to issue a citation as prescribed ~~((by WAC 132N-156-450, 132N-156-550, and 132N-156-560))~~ in these rules.

Any violation occurring after the second citation may result in the violator's vehicle being impounded or immobilized and held until all outstanding citations have been paid and/or the loss of parking privileges on college property/facilities.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-710 Payment of fines.** Persons cited for violations of ~~((the parking and traffic))~~ these rules and regulations may respond either by filing a written appeal or by paying a fine within fifteen days of receipt of the citation. All fines are ~~((to be made))~~ payable to Clark College. Fines can be paid by mail or in person at the cashier's office in the Baird Administration Building. Fines that are mailed must be received within fifteen days of receipt of the citation.

AMENDATORY SECTION (Amending Order 87-02, Resolution No. 87-02, filed 9/18/87)

**WAC 132N-156-720 Reduction in fines.** Fines for parking and traffic offenses will be reduced by two dollars if paid in person within forty-eight hours, ~~((excluding weekends and holidays)),~~ ~~((payable to Clark College))~~. No reduction will be made on mail-in payments.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-730 Appeals.** Visitors, students, faculty, and staff who receive citations for violations of ~~((the parking and traffic))~~ these rules and regulations may appeal to the ~~((safety/security))~~ security/safety supervisor. Upon showing good cause or mitigating circumstances, the ~~((safety/security))~~ security/safety supervisor is authorized to dismiss, suspend, impose any lesser fine, and/or to grant an extension of time ~~((within which))~~ to comply with ~~((the determination of))~~ the fine.

If the situation is not resolved satisfactorily, visitors, students, faculty, and staff may appeal in writing to the dean of administrative services. Appeals must be submitted and received ~~((without posting of fine))~~ within fifteen days after the date of the citation. The security/parking advisory committee shall consider each appeal on its merits and shall make written notification of each decision of the committee through the dean of administrative services to the appellant and the ~~((college safety/security department))~~ security/safety office.

The final decision on an appeal of a citation for violations of these ~~((parking and traffic))~~ rules and regulations is by the security/parking advisory committee.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-740 Security/parking advisory committee.** The security/parking advisory committee is responsible for advising the ~~((college safety/security department))~~ security/safety office on security and parking operations. ~~((Examples of committee activity include:))~~ Committee functions include, but are not limited to, the following:

~~((1))~~ (1) Reviewing parking regulations and fees and recommending their adoption.

~~((2))~~ (2) Considering appeals of citations for violations of these ~~((parking and traffic))~~ rules and regulations, and making written notification of each decision of the committee to the appellant and the ~~((safety/security department))~~ security/safety office.

~~((●)) (3) Reviewing and recommending ((suggested)) changes to parking lot configuration and use to improve quality and quantity of parking on campus.~~

~~((●)) (4) Reviewing provisions for security on campus and recommending practices and procedures for the enhancement of security.~~

The security/parking advisory committee meets as needed, when the college is in session ~~((The security/parking advisory committee consists of the dean of administrative services (chair), the safety/security supervisor, two faculty, two classified employees, and one student member))~~, and consists of the following:

- (a) Dean of administrative services, chair.
- (b) Security/safety supervisor.
- (c) Two faculty members.
- (d) Two classified employees.
- (e) One student.
- (f) And others as added by the chair.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-750 Unpaid fines.** If any fine remains unpaid after fifteen days, any or all of the following actions may be taken by the ~~((college safety/security department))~~ security/safety office.

~~((●)) (1) A hold may be placed on transcripts.~~

~~((● A delay of)) (2) Registration for the following quarter may be delayed.~~

~~((● Revocation of)) (3) Parking privileges may be revoked.~~

~~((●)) (4) The amount due as a result of fines due and payable ~~((will be withheld))~~ may be deducted from paychecks of ~~((all))~~ college employees ~~((including faculty, staff, and students)).~~~~

~~((● All fines)) (5) Outstanding fines may be ~~((turned over))~~ referred to a collection agency.~~

(6) The vehicle may be immobilized or impounded.

If a violator has two or more unpaid fines, his/her vehicle will be impounded or immobilized and held until all outstanding fines are paid.

These procedures will be applicable to all students, faculty, and staff or other persons utilizing college facilities ~~((receiving))~~ who receive fines for violations of these ~~((parking and traffic))~~ rules and regulations.

AMENDATORY SECTION (Amending WSR 91-21-022, filed 10/7/91, effective 11/7/91)

**WAC 132N-156-760 Special circumstances.** During special occasions ~~((causing additional))~~ that result in heavy traffic and during emergencies, the ~~((college safety/security department))~~ security/safety office is authorized to impose ~~((additional))~~ special traffic and parking regulations and ~~((instructions in order))~~ restrictions to lessen the ~~((chance))~~ risk of personal injury or property damage. Whenever possible, prior notice of these regulations or restriction changes shall be ~~((made known and))~~ posted. ~~((This))~~ Such authorization is of a temporary nature and should last only as long as the situation ~~((continues))~~ necessitates.

**WSR 93-15-082**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed July 20, 1993, 9:45 a.m.]

Original Notice.

Title of Rule: Qualifications for 1993 early retirement.

Purpose: To implement the 1993 Early Retirement Act included in chapter 519, Laws of 1993.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapter 519, Laws of 1993.

Summary: Clarifies eligibility criteria for Early Retirement Act of 1993.

Reasons Supporting Proposal: Provide guidance to members regarding early retirement eligibility in situations alluded to but not specifically addressed in chapter 519, Laws of 1993.

Name of Agency Personnel Responsible for Drafting: Paul Neal, Olympia, Washington, (206) 586-3368; Implementation and Enforcement: Jerry Long, Olympia, Washington, (206) 753-3108.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules clarify qualification for the 1993 Early Retirement Act, chapter 519, Laws of 1993. The proposed rules clarify the application and eligibility requirements for early retirement.

Proposal does not change existing rules.

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

Hearing Location: 1025 East Union Avenue, 2nd Floor Board Room, Olympia, WA 98504, on September 3, 1993, at 4:00 to 5:00 p.m.

Submit Written Comments to: Paul Neal, Department of Retirement Systems, by September 1, 1993.

Date of Intended Adoption: September 7, 1993.

July 13, 1993

Paul Neal

Rules Coordinator

NEW SECTION

**WAC 415-108-671 Administration of early retirement.** (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.40 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible for early retirement unless that member meets the application, age and service,

and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering early retirement:

(a) The following persons shall be considered to be employed by an employer in an eligible position on March 1, 1993:

(i) Persons in an eligible plan I position who reported for work or otherwise provided service to an employer on March 1, 1993;

(ii) Persons who were on paid leave from an eligible plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from an eligible plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in an eligible plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to have been employed by an employer in an eligible position on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993.

(c) For purposes of administering chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 4 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 4 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 4 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department regarding early retirement prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory retirement deadline; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the statutory deadline date to retire under the provisions of early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the applicable statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

(6) If a person who retires under early retirement and subsequently enters an eligible position inadvertently or otherwise, he or she shall reenter membership and have his or her pension benefits suspended pursuant to RCW 41.40.150. That person will not be eligible for reretirement until he or she qualifies under RCW 41.40.180.

#### NEW SECTION

**WAC 415-112-561 Administration of early retirement.** (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.32 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible to retire under early retirement unless that member meets the application, age and service, and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993:

(a) The following persons shall be considered to be employed by an employer on March 1, 1993:

(i) Persons in a plan I position who reported for work or otherwise provided service to an employer on March 1, 1993, in a position other than as a substitute teacher;

(ii) Persons who were on paid leave from a plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from a plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in a plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to be employed by an employer on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993;

(iii) Persons working as substitute teachers on March 1, 1993.

(c) For purposes of chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 6 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 6 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline, that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory deadline date; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the statutory deadline date to retire under early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

**WSR 93-15-083**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed July 20, 1993, 10:59 a.m.]

Original Notice.

Title of Rule: Special education programs—DSHS students, chapter 392-173 WAC.

Purpose: To bring state regulations into compliance with recent amendments to the Individuals with Disabilities Education Act.

Statutory Authority for Adoption: Chapter 28A.155 RCW.

Summary: Amends current regulations to include provisions for interagency agreements between the Office of Superintendent of Public Instruction and any public agency providing special education or related services to eligible students.

Reasons Supporting Proposal: Receipt of federal special education funding is contingent upon amendment of these regulations.

Name of Agency Personnel Responsible for Drafting: John Brattain, Old Capitol Building, 753-6733; Implementation and Enforcement: Doug Gill, Old Capitol Building, 753-6733.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is necessary because of federal law, CFR 34/Parts 300 and 301.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule brings into alignment with federal requirements the establishment of interagency agreements between the Office of Superintendent of Public Instruction and agencies within the Division of Social and Health Services which may provide special education and related services to some eligible students.

Proposal Changes the Following Existing Rules: Current regulations provide less specific detail of the federal requirements.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504-47200, on August 27, 1993, at 9:00 a.m.

Submit Written Comments to: Doug Gill, Special Education, Old Capitol Building, Box 47200, Olympia, WA 98504, by August 24, 1993.

Date of Intended Adoption: September 10, 1993.

July 20, 1993  
Judith A. Billings  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending Order 84-46, filed 10/2/84)

**WAC 392-173-005 Purpose.** The purpose of this chapter is to accommodate the unique goals and student population of the state schools for the deaf and the blind and the early childhood developmental centers operated by the department of social and health services by establishing the standards governing the development and implementation of special education and related services for ~~((handicapped))~~ residents with disabilities of such schools who are under the age of twenty-one. This chapter applies to the maintenance and operation of such programs by the department of social and health services and the general supervisory authority of the office of the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 84-46, filed 10/2/84)

**WAC 392-173-010 Definitions.** As used in this chapter:

(1) "Department" shall mean the department of social and health services.

(2) The meaning of terms as used in this chapter shall be as provided in WAC 392-171-310, 392-171-311, 392-171-315, and 392-171-320.

(3) The term "schools" shall mean the state schools for the deaf and the blind and the early childhood developmental centers.

(4) Early childhood developmental centers shall mean state/department supported community based programs for preschool students aged ~~((zero))~~ birth to three.

AMENDATORY SECTION (Amending Order 84-46, filed 10/2/84)

**WAC 392-173-015 General duties of the department of social and health services and the superintendent of public instruction.** In recognition of the fact that the department has the immediate statutory duty, authority, and responsibility to establish, maintain, operate, and administer a comprehensive program for the care, custody, control, and education of students at the state schools for the deaf and the blind and early childhood developmental centers; and that the superintendent of public instruction is charged with the responsibility of assisting the state schools so that the educational programs maintained therein shall be comparable to such programs provided for in chapter 392-171 WAC for children with similar aptitudes in local school districts; and that the superintendent of public instruction is appropriated federal funds for these programs from time to time and has the constitutional and statutory authority to supervise all matters pertaining to the public school system, the principal duties of the superintendent of public instruction and department shall be as follows:

(1) The superintendent of public instruction shall cooperate with the department in the exercise of powers granted by law with the objective of assuring each student ~~((an educational opportunity))~~ a free appropriate public education consistent with this chapter;

(2) The superintendent of public instruction ~~((defers to the authority and duty of))~~ shall assist the department

regarding the operation and maintenance of educational programs for students in such schools;

(3) The superintendent of public instruction shall seek, allocate, and distribute federal funds made available for these programs on the condition that funds made available for the education of students be expended in compliance with the requirements of this chapter and other state or federal funding conditions; and

(4) The superintendent of public instruction shall provide the department with information and the advice and services of his or her staff necessary to achieve the purpose of this chapter to the extent the same are reasonably available. This part may not be construed to permit the state to reduce medical and other assistance available to students with disabilities, or to alter the eligibility of a student with a disability, under Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, to receive services that are also part of a free appropriate public education.

AMENDATORY SECTION (Amending Order 84-46, filed 10/2/84)

**WAC 392-173-030 Medical evaluation.** Medical evaluation shall be the responsibility of the department whenever a ~~((handicapped))~~ student with disabilities is suspected of having a health problem which may affect his or her educational program: *Provided*, That medical evaluations at the expense of the department as otherwise in behalf of the department shall be obtained only:

(1) At the direction of or with prior approval of the department's designee, except in the case of an independent assessment ordered pursuant to WAC 392-171-371.

(2) In accordance with criteria established by the department, but not limited to, the location of the evaluation and report required.

(3) When the student's personal physician, if the student has a physician, has been involved in the planning.

NEW SECTION

**WAC 392-173-047 Interagency agreements.** WAC 392-171-728 shall be applicable to the department.

AMENDATORY SECTION (Amending Order 84-46, filed 10/2/84)

**WAC 392-173-080 Decisions, appeals and citizen complaints regarding educational programming and exclusion from an educational program.** (1) Decisions made by the state school for the deaf and the blind and early childhood developmental centers regarding the educational program of a student or the student's total or partial exclusion therefrom shall be the responsibility of the department, as shall be complaints registered by any person, entity, or organization alleging one or more violations of this chapter; Provided, That such procedures shall at least guarantee parents, guardians, surrogate parents, public agencies, and others such notice and right to register a complaint, including the appeal process, as may now or hereafter be provided for in and pursuant to chapter 392-168 WAC.

(2) Appeals and complaints by a parent, guardian, or a surrogate parent shall be pursuant to procedures as now or hereafter established by the department: *Provided*, That such procedures shall at least guarantee parents, guardians, surrogate parents, and others such notice and hearing rights as may now or hereafter be provided for in and pursuant to 20 U.S.C. § 1415 as amended by Public Law 94-142 including, but not limited to, prior notice of and a right to an impartial due process hearing in connection with decisions to initiate or change, or to refuse to initiate or change, the identification, evaluation, or educational placement of a student or the provision of ~~((an educational opportunity to a student))~~ a free appropriate education.

**WSR 93-15-084**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed July 20, 1993, 11:01 a.m.]

**Original Notice.**

Title of Rule: Citizen complaint for certain categorical federal programs, WAC 392-168-110.

Purpose: To bring state regulations into compliance with recent amendments to the Individuals with Disabilities Education Act.

Statutory Authority for Adoption: Chapter 28A.155 RCW.

Summary: Amends current regulations to require the superintendent to give public notice of the complaint process and describes procedures for investigation of complaints alleging violation of federal regulations.

Reasons Supporting Proposal: Receipt of federal special education funding is contingent upon amendment of these regulations.

Name of Agency Personnel Responsible for Drafting: John Brattain, Old Capitol Building, 753-6733; Implementation and Enforcement: Doug Gill, Old Capitol Building, 753-6733.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is necessary because of federal law, CFR 34/Parts 300 and 301.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for complaints by citizens or other entities that the Superintendent of Public Instruction or other subgrantees of federal educational funds is in violation of federal regulations and statutes governing these programs. The revisions proposed provide for procedures for investigation and public notice regarding the availability of the right to complain.

Proposal Changes the Following Existing Rules: Current regulations do not require public notice of the right to complain and do not spell out procedures for special education complaint investigations.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504-47200 [98504-7200], on August 27, 1993, at 9:00 a.m.

Submit Written Comments to: Doug Gill, Special Education Section, Old Capitol Building, Box 47200, Olympia, WA 98504, by August 24, 1993.

Date of Intended Adoption: September 10, 1993.

July 20, 1993

Judith A. Billings  
 Superintendent of  
 Public Instruction

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-168-110 Purpose.** The purpose of this chapter is to ensure compliance by the state of Washington with 34 CFR 76.780 through 782, Department of Education regulations governing state-administered federal grant programs, 34 CFR 300.660 through 662, Individuals with Disabilities Education Act, and with the Hatch Amendment.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-168-115 Applicability.** This chapter shall apply to federal programs administered by the superintendent of public instruction and listed in 34 CFR 76.1(b):

(1) Title III-A of the National Defense Education Act of 1958, Strengthening Instruction in Academic Subjects in Public Schools;

(2) Title IV of Public Law 96-511, Emergency Immigrant Education Program;

(3) Title II, Sections 201-206, 208-211, and 213 of the Education for Economic Security Act, State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning;

(4) Part B of the ~~((Education of the Handicapped))~~ Individuals with Disabilities Education Act, Assistance to States for Education of ~~((Handicapped Children))~~ Students with Disabilities;

(5) Section 619 of the ~~((Education of the Handicapped))~~ Individuals with Disabilities Education Act, Incentive Grants;

(6) Part A of Title I of the Vocational Education Act, State Vocational Education Program;

(7) Career Education Incentive Act (except Sections 10, 11, and 12) Career Education—State Allotment Program; and

(8) Adult Education Act (except Sections 309, 314, 317, and 318), State Adult Education Program;

(9) *Provided*, That pursuant to 34 CFR 76.1(c), this chapter shall not apply to programs authorized under Chapter 1 and Chapter 2 of the Education Consolidation and Improvement Act of 1981:

(a) Chapter 1—Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived Children, Grants to State Educational Agencies for Program to Meet the Special Educational Needs of Migratory Children, Grants to State Agencies for Programs to Meet the Special Education Needs of Children in Institutions for Neglected or Delinquent Children, State-operated Programs for Handicapped Children; and

(b) Chapter 2—Consolidation of Federal Programs for Elementary and Secondary Education:

(10) *Provided further*, That any additional complaint procedure requirements of particular programs shall be applicable to those programs in addition to the basic citizen complaint procedure described in this chapter.

**NEW SECTION**

**WAC 392-168-132 Informing citizens about complaint procedures.** The superintendent of public instruction shall inform parents and other interested individuals about the citizen complaint procedures in this chapter. Specific actions to be taken by the superintendent of public instruction include:

- (1) Disseminating copies of the state's procedures to parent, advocacy, and professional organizations;
- (2) Conducting inservice training sessions on the complaint process through educational service districts; and
- (3) Including information about the system in state-wide conferences.

**NEW SECTION**

**WAC 392-168-167 General responsibilities of superintendent of public instruction.** In implementing the appeals process, the superintendent of public instruction shall:

- (1) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- (2) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of part B of the Individuals with Disabilities Education Act or of this part; and
- (3) Consistent with the provisions of WAC 392-168-170 through 392-168-185, issue a written decision to the complainant that addresses each allegation in the complaint and contains:
  - (a) Findings of fact and conclusions; and
  - (b) The reasons for the state's final decision.

**WSR 93-15-085  
PROPOSED RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION  
[Filed July 20, 1993, 11:04 a.m.]**

Original Notice.

Title of Rule: Special education programs—Education for all students with disabilities, WAC 392-171-300.

Purpose: To bring state regulations into compliance with recent amendments to the Individuals with Disabilities Education Act.

Statutory Authority for Adoption: Chapter 28A.155 RCW.

Summary: Amends current regulations to require the management of state and local educational agencies to operate within the requirements of the federal Individuals with Disabilities Education Act as amended.

Reasons Supporting Proposal: Receipt of federal special education funding is contingent upon amendment of these regulations.

Name of Agency Personnel Responsible for Drafting: John Brattain, Old Capitol Building, 753-6733; Implementation and Enforcement: Doug Gill, Old Capitol Building, 753-6733.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is necessary because of federal law, CFR 34/Parts 300 and 301.

Explanation of Rule, its Purpose, and Anticipated Effects: The rules include additional definitions of categories of disabilities, specific due process procedural protections, and establish a state-wide system of special education personnel development.

Proposal Changes the Following Existing Rules: Present regulations do not include these definitions and requirements.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 95804-47200 [98504-7200], on August 27, 1993, at 9:00 a.m.

Submit Written Comments to: Doug Gill, Special Education, Old Capitol Building, Box 47200, Olympia, WA 98504, by August 24, 1993.

Date of Intended Adoption: September 10, 1993.

July 20, 1993

Judith A. Billings  
Superintendent of  
Public Instruction

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

**WAC 392-171-300 Purposes.** The purposes of this chapter are:

- (1) To implement chapter 28A.155 RCW in a manner that is compatible also with the federal (~~Education for All Handicapped Children~~) Individuals with Disabilities Education Act, 20 United States Code (USC) section 1401 et seq. (PL 94-142);
- (2) To assure that all (~~handicapped~~) students with disabilities as defined in this chapter have an opportunity for a free and appropriate education at public expense (i.e., free special education and related services) to meet their unique needs;
- (3) To assure that the rights of (~~handicapped~~) students with disabilities and their parents are protected;
- (4) To assist school districts and others to provide for the education of all (~~handicapped~~) students with disabilities;
- (5) To assess and assure the effectiveness of efforts to educate (~~handicapped~~) students with disabilities; and
- (6) To be applicable to all (~~handicapped~~) education programs for students with disabilities established pursuant to law and operated by the common school districts or on behalf of the common school districts, including the state residential school programs established and operated pursuant to RCW 28A.190.020 et seq.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-305 Advisory council.** (1) Council established—The special education state advisory council is hereby established in order to help facilitate the provision of special education and related services to meet ~~((every handicapped student's))~~ the unique needs, abilities, and limitations of students with disabilities.

(2) Membership—The membership of the council shall include at least one representative of each of the following groups or entities:

- (a) ~~((Handicapped individuals;))~~ Individuals with disabilities;
- (b) Teachers of ~~((handicapped))~~ students with disabilities;
- (c) Parents of ~~((handicapped))~~ students with disabilities;
- (d) Local administrators of special education programs;
- (e) Support services personnel;
- (f) Superintendents;
- (g) Principals;
- (h) Nonpublic schools serving ~~((handicapped))~~ students with disabilities;
- (i) School directors;
- (j) Institutions of higher education;
- (k) Department of social and health services;
- (l) The medical profession; and
- (m) Other individuals or groups as may hereafter be designated and approved by the superintendent of public instruction.

(3) Functions—The council's purposes are:

- (a) To advise the superintendent of public instruction and make recommendations on all matters related to special education and specifically advise the superintendent of unmet needs within the state in the education of ~~((handicapped))~~ students with disabilities;
- (b) Comment publicly on the state's annual program plan, state rules regarding the education of ~~((handicapped))~~ students with disabilities, and the procedures for distribution of funds; and
- (c) Assist the state in developing and reporting such information and evaluations as may assist the federal government.

(4) Organization—The council shall conduct its affairs in accordance with bylaws approved by the superintendent of public instruction. To assure that maximum information and recommendations are provided to the superintendent of public instruction, the state advisory council shall have the authority to recommend the design of its organization and to appoint subcommittees from its membership for carrying out council responsibilities. Ad hoc subcommittees with membership other than council members may be appointed: *Provided*, That the superintendent of public instruction or his or her designee has given prior approval for such appointments.

**AMENDATORY SECTION** (Amending Order 17, filed 7/25/90, effective 7/25/90)

**WAC 392-171-310 Definitions of "free appropriate, public education," "adult student,"** ~~"((handicapped))"~~

**student with disabilities," "parent," and "school district."** As used in this chapter:

(1) "Free appropriate, public education" means special education and related services which:

- (a) Are provided at public expense, under local school district supervision and direction, and without charge;
- (b) Meet the standards of the state educational agency, including the requirements of this chapter; ~~((and))~~
- (c) Include preschool, elementary school, or secondary school education in the state; and

(d) Are provided in conformity with an individualized education program which meet the requirements of WAC 392-171-461.

(2) "Adult student" means a ~~((handicapped student or a))~~ student with disabilities who is eighteen, nineteen, or twenty years of age, except as provided for in WAC 392-171-331, and who has not been judged incompetent by a court of law or otherwise judged by a court of law as being incapable of assuming and exercising the rights, duties and responsibilities otherwise granted to and imposed upon parents by this chapter (a student shall assume and be entitled to exercise all rights, duties and responsibilities otherwise granted to or imposed upon parents by this chapter upon attaining the age of eighteen and shall retain and be entitled to exercise the same until he or she has been judged incompetent or otherwise incapable of exercising the same by a court of law).

(3) ~~"((Handicapped student))"~~ "Student with disabilities" and "student" (depending upon the context in which the terms are used) mean:

- (a) A person under the age of twenty-one, except as provided for in WAC 392-171-331, who has been determined pursuant to this chapter to have one or more of the disabilities set forth in WAC 392-171-381 through 392-171-451 and to be in need of special education and related services; or
- (b) A person under the age of twenty-one who has become a focus of concern and who may have one or more of the disabilities set forth in WAC 392-171-381 through 392-171-451 in the judgment of the school district superintendent or his or her designee, or the parent(s), or the adult student; or
- (c) A person under the age of twenty-one, except as provided for in WAC 392-171-331, who resides in a residential school ~~((for the handicapped))~~ servicing students with disabilities in accordance with RCW 28A.190.020 et seq.; who also qualifies pursuant to (a) of this subsection.

(d) The foregoing categories of persons— notwithstanding the fact the person(s) may not be enrolled in or attending school in the normal sense of the term "student."

(4) "Parent" means a ~~((natural))~~ parent, a ~~((legal))~~ guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with WAC 392-171-581, who represents a nonadult student. The term does not include the state if the ~~((child))~~ student is a ward of the state. The term does include persons acting in the place of a parent, such as a grandparent or stepparent with whom a student lives, as well as persons who are legally responsible for a student's welfare.

(5) "School district" means:



- (a) Each public school district in the state;
- (b) Each educational service district that provides special education or related services to one or more (~~handicapped~~) students with disabilities; and
- (c) Each public or private organization or entity or person who provides special education and/or related services to one or more (~~handicapped~~) students with disabilities in behalf of a public school district—even though such public school district, educational service district, or public or private organization or entity or person does not receive federal funds made available for the purposes of the (~~Education for All Handicapped Children~~) Individuals with Disabilities Education Act.

**AMENDATORY SECTION** (Amending Order 17, filed 7/25/90, effective 7/25/90)

**WAC 392-171-315 Definition of "special education."**  
As used in this chapter "special education" means specially designed instruction, at no cost to the parent or the student, to meet the unique needs, abilities, and limitations of a student having a (~~handicapped~~) disabling condition, including classroom and itinerant instruction, instruction in physical education, home instruction, (~~and~~) instruction in hospitals and institutions, and instruction in other settings. The term includes communication disorders services, physical and occupational therapy, orientation and mobility instruction, behavioral intervention, and audiological services. The term also includes career development and vocational education if either consists of specially designed instruction, at no cost to the parents or the student, to meet the unique needs of a (~~handicapped~~) student with disabilities.

The terms in the definition of "special education" are defined as follows:

(1) "Specially designed instruction" means organized and planned teaching and/or training activities to meet the unique needs, abilities, and limitations of the (~~handicapped~~) student with disabilities. The term does not include diagnostic or assessment activities, related services per se, or materials preparation. Specially designed instruction shall be provided as follows:

(a) Regular classroom. Provided directly by certificated and/or licensed special education personnel or by regular certificated teachers and/or classified instructional staff who are under the direct supervision of the regular certificated teacher.

(b) Nonregular classrooms. Provided directly by certificated and/or licensed special education personnel or by classified instructional staff either who are under the direct supervision of the certificated and/or licensed special education personnel or who are performing individual or small group—six students or less—instructional and/or training activities pursuant to specific directives provided by the certificated and/or licensed special education personnel.

(c) Condition. If the specially designed instruction is not delivered directly by certificated and/or licensed special education personnel, it must be designed, monitored, and evaluated by certificated and/or licensed special education personnel pursuant to a written plan which shall include at least a monthly evaluation of student progress toward specific written objectives.

(2) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to (~~nonhandicapped~~) students who are not disabled or their parents as a part of the regular education program.

(3) "Physical education" means the development of:

(a) Physical and motor fitness;

(b) Fundamental motor skills and patterns; and

(c) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

The term includes special physical education, adapted physical education, movement education, and motor development.

(4) "Career development" means instructional activities infused into a student's education program which make provision for career awareness, career exploration and career preparation for all occupations.

(5) "Vocational education" means a planned series of learning experiences, the specific objective of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in recognized occupations not designated as professional or requiring a baccalaureate or higher degree.

(6) "Audiology" means the provision of habilitative activities related to a hearing impairment, such as language habilitation, auditory training, speech reading (lip reading), training for hearing evaluation, and speech conservation.

(7) "Occupational therapy" means improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation; improving ability to perform tasks for independent functioning when functions are impaired or lost; and preventing through early intervention, initial or further impairment or loss of function.

(8) "Orientation and mobility instruction" means the provision of training/instruction in orientation and mobility for students who are visually (~~handicapped students~~) impaired.

(9) "Physical therapy" means seeking to relieve disability or pain, developing or restoring motor function and maintaining appropriate performance commensurate with the student's unique needs, abilities, and limitations.

(10) "Communication disorders services" mean the provision of speech and language services for the habilitation or prevention of communication disorders.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-320 Definition of "related services."**  
As used in this chapter "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a (~~handicapped~~) student with disabilities to benefit from special education, and includes communication disorders services and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, medical services for diagnostic or assessment purposes, and orientation and mobility services. The term also includes school health

services, social work services in schools, parent counseling and training, and classified staff services.

The terms used in the definition of "related services" are defined as follows:

- (1) "Audiology" includes:
  - (a) Identification of students with hearing loss;
  - (b) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
  - (c) Creation and administration of programs for prevention of hearing loss;
  - (d) Counseling and guidance of students, parents, and teachers regarding hearing loss; and
  - (e) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- (3) "Early identification and assessment of disabilities in students" means the implementation of a formal plan for identifying a disability as early as possible in a student's life.
- (4) "Medical services" means services provided by a licensed physician to determine a student's medically related (~~handicapped~~) disabling condition which results in the student's need for special education and related services.
- (5) "Occupational therapy" includes:
  - (a) The identification and assessment of the student's physical and self-care status;
  - (b) Determination of the student's need for occupational therapy; and
  - (c) Related counseling and guidance of parents, students, and staff regarding the provision of occupational therapy.
- (6) "Orientation and mobility services" includes:
  - (a) Identification and assessment of the student's mobility status;
  - (b) Determination of the student's need for orientation and mobility services; and
  - (c) Related counseling and guidance of parents, students and staff regarding orientation and mobility services.
- (7) "Parent counseling and training" means assisting parents in understanding the special needs, abilities, and limitations of their child or ward and providing parents with information about child/student development.
- (8) "Physical therapy" includes:
  - (a) Identification and assessment of the student's physical status;
  - (b) Determination of the student's need for physical therapy; and
  - (c) Related counseling and guidance of parents, students and staff regarding physical therapy services.
- (9) "Psychological services" includes:
  - (a) Administering psychological and educational tests, and other assessment procedures;
  - (b) Interpreting assessment results;
  - (c) Obtaining, integrating, and interpreting information about child/student behavior and conditions relating to learning;
  - (d) Consulting with other staff members in planning school programs to meet the special needs of students as

indicated by psychological tests, interviews, and behavioral evaluations; and

- (e) Planning and managing a program of psychological services, including psychological counseling for students and parents.
- (10) "Recreation" includes:
  - (a) Assessment of leisure function;
  - (b) Therapeutic recreation services;
  - (c) Recreation programs in school and community agencies; and
  - (d) Leisure education.
- (11) "School health services" means services provided by a qualified school nurse or other qualified person.
- (12) "Social work services in schools" include:
  - (a) Preparing a social or developmental history on a (~~handicapped~~) student with disabilities;
  - (b) Group and individual counseling with the student and family;
  - (c) Working with those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and
  - (d) Mobilizing school and community resources to enable the student to (~~receive maximum benefit from~~) learn as effectively as possible in his or her educational program.
- (13) "Communication disorders services" includes:
  - (a) Identification of students with communication disorders;
  - (b) Diagnosis and appraisal of specific communication disorders;
  - (c) Referral for medical or other professional attention necessary for the habilitation of communication disorders; and
  - (d) Counseling and guidance of parents, students, and staff regarding communication disorders.
- (14) "Transportation" includes:
  - (a) Travel to and from school and between schools;
  - (b) Travel in and around school buildings; and
  - (c) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a (~~handicapped~~) student with disabilities.
- (15) "Classified staff services" includes:
  - (a) Services provided by classified staff which provide for the (~~handicapped~~) student's safety and/or personal care and instructional assistance (e.g. interpreter services and braille services); and
  - (b) Services provided by classified staff which provide assistance for (~~handicapped~~) students with disabilities and certificated staff to achieve placement in the least restrictive environment.
- (16) "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

**AMENDATORY SECTION** (Amending Order 91-18, filed 8/23/91, effective 9/23/91)

**WAC 392-171-321 Definition—Transition services.**

(1) As used in this chapter, the term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post school activities. Some examples of appropriate post school outcomes include:

- (a) Postsecondary education;
- (b) Integrated employment;
- (c) Supported employment;
- (d) Continuing and adult education;
- (e) Adult services; and
- (f) Independent living and/or community participation.

(2) The coordinated set of activities shall be based upon the individual student needs, taking into account the student's preferences and interests, and shall include:

- (a) Functional vocational evaluation;
- (b) Instruction;
- (c) Vocational education/training;
- (d) Community experiences; ~~(and)~~
- (e) The development of employment and other postschool adult living objectives; and
- (f) Where appropriate, acquisition of daily living skills.

The following terms used in the definition of "transition services" are defined as follows:

(i) "Coordinated set of activities" means a planned and organized sequence of activities which promotes the movement of a student from school to post school adult living.

(ii) "Outcome oriented process" means a series of events unique to an individual student's needs which lead directly to integrated employment, supported employment, postsecondary education, continuing and adult education, adult services, independent living, and/or community participation.

(3) "Postsecondary education" means organized educational programs provided by qualified personnel which are available beyond grades 9-12. The term includes:

- (a) Community colleges;
- (b) Vocational-technical (~~institutes~~) colleges;
- (c) Four-year colleges and universities.

(4) "Vocational education" means a planned series of learning experiences, the specific objectives of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in recognized occupations not designated as professionals or requiring a baccalaureate or higher degree.

(5) "Vocational training" means the acquisition of specific skills through specialized instruction and practice, and provided by qualified personnel.

(6) "Integrated employment" means paid work in sites and settings that are not unique to individuals with disabilities.

(7) "Supported employment" means paid work that requires the use of designated personnel to assist individuals with disabilities in acquiring and maintaining site specific skills.

(8) "Continuing and adult education" means organized educational programs conducted by qualified personnel for individuals who have graduated or left high school.

(9) "Adult services" means health, social, housing, transportation, and/or employment opportunities normally provided for persons beyond age eighteen through public, nonprofit agencies.

(10) "Independent living" means initiating, maintaining, and/or actively participating in a household using self-generated resources.

(11) "Community participation" means integrated and active involvement in the local community.

(12) "Functional vocational evaluation" means the assessment of occupational interests, aptitudes, and preparation opportunities.

(13) "Participating agency" means any state or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

**NEW SECTION**

**WAC 392-171-323 Definition—Assistive technology device and service.** The term assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of students with disabilities.

The term assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(1) The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a student with disabilities, or if appropriate, the student's family; and

(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ or are otherwise substantially involved in the major life functions of students with disabilities.

**NEW SECTION**

**WAC 392-171-324 Definition—Availability of assistive technology.** Each public agency shall ensure that assistive technology devices or assistive technology services, or both, are made available to a student with a disability if required as a part of the student's:

- (1) Special education;
- (2) Related services; or
- (3) Supplementary aids and services.

Assistive technology devices and services must be provided only if they are required in order for a student to receive a free appropriate public education.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-325 Students' rights to special education programs.** (1) Each school district shall provide every (~~handicapped~~) student with disabilities between the age of three and twenty-one a free and appropriate educational program consisting of special education and related services. The date of eligibility to begin receiving such services shall be the child's birthdate (~~(- Provided, That handicapped children between the age of three and four need not be served until the 1985-86 school year).~~).

(2) School districts may provide special education and related services to (~~handicapped~~) students with disabilities in the (~~(zero to one, one, two,)~~) birth to three and/or three and four year old age groups without being obligated to extend preschool programs to (~~(nonhandicapped children)~~) students who are not disabled. However, if a school district provides an education to any (~~(nonhandicapped child)~~) student who is not disabled in the (~~(zero)~~) birth to three year old age group, the district shall make special education and related services available pursuant to this chapter to all its (~~handicapped~~) students with disabilities of the same age (~~(- Provided, That school districts that do not offer services to all eligible three year old handicapped children in the 1984-85 school year shall be subject to this nondiscriminatory service requirement).~~).

(3) Any student made a focus of concern shall qualify pursuant to the disability definitions and criteria set forth in this chapter in order to receive state or federal special education funding. A (~~handicapped~~) student with disabilities shall remain eligible for special education and related services until: (a) The student has met high school graduation requirements established by the school district pursuant to rules of the state board of education; or (b) the student has reached age twenty-one; or (c) the student is no longer in need of special education and related services as judged by the student's multidisciplinary team based upon a reassessment of the student, whichever occurs first. The student may continue to receive special education and related services: *Provided*, That a reassessment of the student concludes that, notwithstanding the fact that the student no longer meets the initial eligibility criteria, the student's performance is or will be adversely affected if he or she is terminated from special education.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-336 Childfind.** The local district shall conduct childfind activities to locate, evaluate, and identify students with a suspected (~~handicapping~~) disabling condition, regardless of the severity of their disability, who are residing within the boundaries of the district and not currently receiving special education services. Childfind activities shall apply to students age (~~(0 to)~~) birth through 21 and may include, but are not necessarily limited to: Preschool developmental screening, local media informational cam-

aigns, liaison with public health and other medical and social agencies, public or private, questionnaire for first-time enrolling students, screening of district-wide group standardized test results, inservice education to teaching staff, and cooperation as requested with state childfind programs.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-341 Student as focus of concern—Preassessment procedures—Timeline.** (1) A student shall become a focus of concern when the student is brought to the attention of a school district superintendent or his or her designee because of a suspected (~~handicapping~~) disabling condition(s). Such concern for a student may be originated by or transmitted through any source, including: Parents, medical personnel, school district personnel, community agencies, civil authorities, district screening procedures, and other identified, interested persons.

(2) When the possibility of a student's need for special education and related services has been brought to the attention of the school district superintendent or his or her designee, the superintendent or his or her designee shall act on the referral by promptly:

(a) Recording the circumstance by date, origin, and reason for concern; and

(b) Providing the student's parent(s) (or the adult student) written notice that the student has been referred because of a suspected (~~handicapping~~) disabling condition and that within fifteen school days the district will determine whether or not there is good reason to believe that the student is a candidate for assessment.

(3) The superintendent or his or her designee shall, within fifteen school days after the date of referral, review the referral, collect and examine existing school, medical and other records in the possession of the school district and make a determination that there is or is not good reason to believe that the student is a candidate for assessment. This decision shall be in writing and shall set forth the date and the name of the person making the decision. The superintendent or his or her designee shall, within ten school days after the date of such decision, direct a written notice to the student's parent(s) (or the adult student) that complies with the notice requirements of WAC 392-171-526.

(4) In the event the decision is that there is good reason to believe that the student is a candidate for assessment, the school district shall fully assess the student and arrive at a decision pursuant to WAC 392-171-376 within:

(a) Thirty-five school days (also referred to as the formal assessment period) after the date written consent for an assessment has been provided by the parent(s) (or the adult student); or

(b) Thirty-five school days (also referred to as the formal assessment period) after the date the refusal of the parent(s) (or the adult student) to grant consent has been overridden pursuant to a hearing (or appeal) in accordance with WAC 392-171-521 et seq.; or

(c) Such other time period as may be agreed to by the parent(s) (or the adult student) and school authorities.

(5) The school district shall request the parent to sign consent form(s) for the mutual exchange of pertinent

information where such information is available between the school, other agencies, and/or professionals.

(6) If temporary (not to exceed thirty school days) special education programming is necessary for ~~((diagnostic reasons during))~~ an eligible student with a disability as part of the assessment ((period)) process, the district shall obtain written permission ~~((for such diagnostic placement))~~ from the parent(s) prior to making the placement and develop an IEP consistent with WAC 392-171-461 for the student which sets out the specific conditions and timelines for the temporary placement. The purpose of placing the student in the program is to assist the district in determining the most appropriate placement for the student. It is essential that the temporary placement not become the final placement before the IEP is reviewed. Therefore, the school district shall conduct an IEP meeting within thirty school days in order to review and revise as necessary the student's IEP and finalize the placement.

~~((7) In the case of students admitted to state residential schools, an assessment and individualized education program must be completed as provided in this chapter within fifty school days of enrollment.))~~

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-351 General assessment safeguards— Personnel, materials and procedures.** Every student who is assessed or reassessed shall be assessed according to the procedures established in this chapter. The superintendent of public instruction shall ensure that each public agency establishes and implements protection in evaluation procedures which meet the requirements of this chapter. Before any action is taken with respect to the initial placement of a student with a disability in a program providing special education and related services, a full and individual evaluation of the student's educational needs must be conducted in accordance with the requirements of this chapter.

(1) The initial assessment of a student (except one with a suspected communication disorder) shall be made by a multidisciplinary team (i.e., a group of professionals) including at least one special education teacher and at least one person qualified to conduct individual diagnostic assessment in the area of suspected disability. In a reassessment of a student, the multidisciplinary team also shall consist of a representative from each professional area involved in identified deficits or other eligibility criteria pertinent to the classification of such student in the most recent assessment of the student and such other professional areas as recommended by any professional involved in the reassessment. Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules: *Provided*, That in assessing or reassessing a student suspected of having a specific learning disability, each school district shall include on the multidisciplinary team at least three members:

(a) The student's regular education teacher or, if the student does not have a regular education teacher, a regular education teacher qualified to teach a student of his or her age;

(b) A special education teacher having experience with learning disabled students; and

(c) A school psychologist.

(2) No single test instrument or single procedure shall be the sole criterion for determining a student's eligibility or ~~((handicapping))~~ disabling condition and/or for determining the appropriate educational program for a student.

(3) Assessment materials, procedures, and instruments used for the purpose of assessment and placement shall be selected and administered so as not to be racially or culturally discriminatory.

(4) All tests and other evaluation materials shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, the professional judgment of each member of the multidisciplinary team shall determine eligibility for special education based on other evidence of the existence of a specific ~~((handicap))~~ disability and need. This professional judgment shall be documented in a written narrative.

(5) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of their producer. Tests designed to measure intellectual functioning shall be administered and interpreted by a qualified psychologist: *Provided*, That cognitive tests for developmentally delayed students other than an intelligence quotient test shall be administered by a qualified psychologist or by professionals with other titles who have considerable training and experience in individual psychological or psychoeducational assessment.

(6) Assessment materials, procedures or instruments shall be provided and administered in a student's primary language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors the test purports to measure).

(7) In conducting assessment activities, appropriate assessment team members shall:

(a) Collect and review all available existing school, medical, and other records pertinent to the suspected ~~((handicapping))~~ disabling condition(s) of the student, including previous screening and assessment results, health reports, relevant cumulative records and recommendations of related service providers; and

(b) Conduct current assessment activities required by this chapter and in accordance with the procedures specified herein; and

(c) Collect such other data as needed to verify the results of standardized testing, including but not limited to parent and/or teacher interviews and current classroom performance data.

(8) Assessment data shall be summarized in writing, dated, and signed by each person conducting an assessment. Information used to support the assessment, but which is not incorporated into the file, (e.g., review of health record), shall be referenced as to date of record, location, and source

person. The summaries shall specify the procedures and instruments used, the results obtained, and the apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement, including the need, if appropriate, of scheduling such services over a period of time that exceeds the regular one hundred eighty day school calendar: *Provided*, That in the event the assessment is an initial assessment by the district, the recommendation regarding the appropriateness of an extended school year for a particular student need not be made until May of the school year in which the initial assessment was made.

(9) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

AMENDATORY SECTION (Amending Order 17, filed 7/25/90, effective 7/25/90)

**WAC 392-171-371 Independent educational assessment.** (1) General.

(a) The parent(s) of a student (or the adult student) made a focus of concern and assessed or any student reassessed has the right to obtain an independent educational assessment, subject to subsections (3) and (4) of this section.

(b) Each school district shall provide to parents, (or adult students) on request, information about where an independent educational assessment may be obtained.

(c) For the purposes of this section:

(i) "Independent educational assessment" means an assessment conducted by a qualified examiner who is not employed by the school district responsible for the education of the student in question; and

(ii) "Public expense" means that the school district either pays for the full cost of the assessment or assures that the assessment is otherwise provided at no cost to the parent (or to the adult student).

(2) Parent/adult student right to assessment at public expense. A parent (or the adult student) has the right to an independent educational assessment at public expense if the parent (or the adult student) disagrees with the assessment results obtained by the school district, as follows:

(a) The parent(s) (or the adult student) should provide a written or verbal notice to the school district superintendent or special education director which:

(i) ((Specifies the portion(s) of the assessment results with which)) Indicates that the parent((s)) (or the adult student) disagrees with the district's assessment; and

(ii) Requests an independent educational assessment at public expense;

(b) The school district shall have the prior opportunity to initiate and conduct a hearing pursuant to WAC 392-171-531 et seq. to show that its assessment is appropriate: *Provided*, That the school district shall provide the parent(s) (or the adult student) written notice of the election to initiate a hearing no later than the tenth day after the date of receipt of the parent's (or adult student's) notice of disagreement;

(c) If the final decision pursuant to WAC 392-171-521 et seq. is that the school district's assessment is appropriate, the parent (or adult student) still has the right to an independent educational assessment, but not at public expense; and

(d) If the district elects not to hold a hearing or is not upheld by the final decision, the parent's (or adult student's) request for an independent assessment shall be provided at public expense in accordance with the same criteria which the district uses when it initiates an assessment including, but not limited to, the location of the assessment and the qualifications of the examiner.

(3) Parent/adult student initiated assessment. If the parent (or adult student) obtains an independent educational assessment at private expense, the results of the assessment:

(a) Shall be considered by the school district in any decision made with respect to the provision of special education and related services to the student; and

(b) May be presented as evidence at such hearings regarding that student as may be conducted pursuant to WAC 392-171-521 et seq.

(4) Requests for assessment by hearing officers. If a hearing officer requests an independent educational assessment as part of a hearing, the cost of the assessment shall be at public expense.

#### **ELIGIBILITY CRITERIA FOR ((HANDICAPPED)) STUDENTS WITH DISABILITIES**

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-381 Definition and eligibility criteria for developmentally ((handicapped)) disabled.** Definition and eligibility criteria for developmentally ((handicapped)) disabled are as follows:

(1) As used in this chapter, the term "developmentally ((handicapped)) disabled" shall mean children under the age of eligibility to the first grade who meet the definition and eligibility criteria for one of the following:

(a) WAC 392-171-382, Developmentally delayed;

(b) WAC 392-171-396, Orthopedically impaired;

(c) WAC 392-171-401, Health impaired;

(d) WAC 392-171-436, Deaf;

(e) WAC 392-171-441, Hard of hearing;

(f) WAC 392-171-446, Visually ((handicapped; and))

disabled;

(g) WAC 392-171-451, Deaf-blind;

(h) WAC 392-171-452, Autism; and

(i) WAC 392-171-454, Traumatic brain injury.

(2) The term "developmentally ((handicapped)) disabled" does not include children under the age of eligibility for entry to the first grade who qualify solely for communications disorder services under WAC 392-171-391.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-382 Definition and eligibility criteria for developmentally delayed.** Definition and eligibility criteria for developmentally delayed are as follows:

(1) Developmentally delayed, birth to three years. As used in this chapter, the term "developmentally delayed, birth

to three years" shall mean those children under three years of age who:

(a) Demonstrate a 1.5 standard deviation or twenty-five percent delay in the developmental delay area of cognitive (WAC 392-171-383(1)), communication (WAC 392-171-383(2)), fine motor (WAC 392-171-383(3)), gross motor (WAC 392-171-383(4)), or motor which for the purpose of this section shall be a combined delay area of fine motor (WAC 392-171-383(3)) and gross motor (WAC 392-171-383(4)); and

(b) For that reason need special education and related services. Such children in order to continue to be eligible for special education and related services after reaching three years of age ((shall meet the entry eligibility criteria)) must be reassessed prior to age three and a determination made that the child either:

(i) Qualifies for developmentally delayed, three to six years or one of the other eligibility criteria specified in WAC 392-171-381; or

(ii) Is no longer in need of special education services; the procedural safeguard requirements in this chapter apply to this provision.

(2) Developmentally delayed, three to six years. As used in this chapter, the term "developmentally delayed, three to six years" shall mean those children between three years and the age of eligibility for entry to the first grade who receive a score on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

(a) Two standard deviations below the mean in one or more of the ((five)) six developmental delay areas defined in WAC 392-171-383; or

(b) One and one-half standard deviations below the mean in two or more of the ((five)) six developmental delay areas defined in WAC 392-171-383 and for that reason need special education and related services. Children who qualify for special education as developmentally delayed, three to six years, must be reassessed prior to the age of eligibility for entry to first grade and a determination made that the student either:

(i) Qualifies under the provisions of one of the other disabling conditions in this chapter; or

(ii) Is no longer in need of the special education services. The procedural safeguard requirements in this chapter are also applicable to this provision.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-383 Areas of developmental delay—Definitions.** The ((five)) six developmental delay areas for the purpose of applying eligibility criteria to developmentally delayed children are:

(1) Cognitive: Comprehending, remembering, and making sense out of one's experience. Cognitive ability is the ability to think and is often thought of in terms of intelligence;

(2) Communication: The ability to effectively use or understand, age-appropriate language, including vocabulary, grammar, and speech sounds;

(3) Fine motor: Motor skills requiring precise, coordinated use of the small muscles;

(4) Gross motor: Motor skills used for body control such as standing, walking, balance and climbing; ((and))

(5) Social/emotional: The ability to develop and maintain functional interpersonal relationships and to exhibit age appropriate social and emotional behaviors; and

(6) Adaptive skills: The ability to develop and exhibit age appropriate self help skills, including independent feeding, toileting, personal hygiene and dressing skills.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-401 Definition and eligibility criteria for health impaired.** ((Health-impaired students)) Students with health impairments are those who have chronic or acute health problems—such as students with serious congenital heart defect, other congenital syndrome(s), other disorders of the cardiorespiratory systems, disorders of the central nervous system including epilepsy or neurological impairment, ((autism)) or other profound health circumstances or degenerative condition(s)—which adversely affect or with a high degree of professional certainty will affect their educational performance.

All students considered for initial placement in special education as health impaired shall be assessed and determined eligible for special education and related services according to the following:

(1) A current medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstances and which provides any medical implications for educational planning;

(2) Current assessment of level of academic achievement as measured by standardized tests appropriate to age level and administered individually;

(3) A current evaluation which considers and describes the student's social and emotional behaviors and which provides any implications for educational planning which may include an evaluation of adaptive behaviors as measured by standardized instrument(s) or professionally recognized scales addressing the student's self-help and interpersonal communication skills in relation to chronological age/grade peers; and

(4) A current vision and hearing screening report.

**NEW SECTION**

**WAC 392-171-452 Definition and eligibility criteria for autism.** Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Students in this category have a range of intellectual abilities.

Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences.

The term does not apply if a student's educational performance is adversely affected primarily because the student has a serious behavioral disability, as defined in this chapter. The category of autism includes students with



pervasive developmental disorders if they meet eligibility criteria.

If a student manifests characteristics of the disability category "autism" after age 3, that student still could be diagnosed as having "autism" if the criteria in this section are satisfied.

All students considered for initial placement in special education under the category of autism shall be assessed and determined eligible for special education and related services according to the following:

(1) A developmental history which includes verbal and nonverbal communication, social interaction, play, and motor and sensory development;

(2) An adaptive behavior evaluation which includes:

(a) A standardized measure of adaptive behavior;

(b) An assessment of the student's social skills, including interactions with peers, based on a classroom observation; and

(c) An assessment of the student's self-help and community skills based on classroom and/or home observations and/or standardized assessment methods;

(3) A communication evaluation which includes assessments of:

(a) Receptive, expressive, and social communication skills;

(b) The possible contributions of the students communication impairment to challenging behavior, and their implications for educational planning; and

(c) The potential need for augmentative communication methods;

(4) An evaluation of pre-academic or academic strengths and weaknesses, preferred learning modalities, and present levels of functioning;

(5) A hearing and vision screening;

(6) An evaluation of fine and gross motor skills; and

(7) A current medical evaluation by a qualified medical practitioner which describes the student's health circumstances and which provides any medical implications for educational planning.

#### NEW SECTION

**WAC 392-171-454 Definition and eligibility criteria for traumatic brain injury.** Traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability and/or psychosocial impairment that adversely affects educational performance which results in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more of the following areas such as: Cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

All students considered for initial placement in special education under the category of traumatic brain injury shall be assessed and determined eligible for special education and related services according to the following:

(1) A current medical evaluation by a qualified medical practitioner, which describes an acquired injury to the brain or a history of significant head trauma and which provides any medical implications for educational planning;

(2) Current assessment of level of academic achievement as measured by standardized tests appropriate to age level and administered individually;

(3) Current assessment of cognitive functioning, which may include intelligence, memory, attention, reasoning, abstract thought, judgment, problem-solving, and/or information-processing;

(4) Current assessment of language and communication skills;

(5) Current assessment of fine and gross motor skills;

(6) A current evaluation which considers and describes the student's social and emotional behaviors and which provides any implications for educational planning;

(7) A current evaluation of the student's skills in activities of daily living; and

(8) Current vision and hearing screening reports.

**AMENDATORY SECTION** (Amending WSR 91-01-033, filed 12/11/90, effective 1/11/91)

**WAC 392-171-456 Meetings.** (1) A meeting shall be held within thirty calendar days after the date upon which a student's assessment is completed for the purpose of developing the student's individualized education program. The school district shall initiate and conduct the meeting and shall include the following participants:

(a) A representative of the school district other than the student's teacher who is qualified to provide or supervise the provision of special education and related services;

(b) The student's regular classroom teacher or special education teacher or therapist: *Provided*, That either the representative of the school district or the teacher or therapist is qualified in the area of the student's suspected disability;

(c) One or both of the parents (in the case of a nonadult student), subject to subsections (2) through (5) of this section;

(d) The student if he or she is an adult student (and in the case of nonadult students, the student, if appropriate);

(e) A member of the student's assessment team; ~~(and)~~

(f) A person knowledgeable about the placement options; and

(g) Other individuals at the discretion of the district or the parent or the adult student.

(2) Each school district shall take steps to assure (in the case of nonadult students) that one or both parents of the ~~((handicapped))~~ student with disabilities are present at each meeting or are afforded the opportunity to participate, including:

(a) Notifying the parent(s) of the meeting early enough to assure his or her participation; and

(b) Scheduling the meeting at a mutually agreed upon place and time.

(3) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance.

(4) If a parent cannot attend, the district shall use other methods to assure participation, including individual or conference telephone calls.



(5) A meeting may be conducted (in the case of a nonadult student) without a parent in attendance if the school district is unable to convince the parents they should attend. In such a case the school district shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parents and any responses received; and

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(6) The school district shall take whatever action is necessary to assure that the parent (or adult student) understands the proceedings at a meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.

(7) The district shall document the parent(s)' and other IEP participants' presence at the IEP meeting.

(8) Meetings consistent with this section shall be conducted by the school district at least once a year for the purpose of reviewing and revising as necessary each student's individualized education program. Meetings may be held more frequently.

#### NEW SECTION

**WAC 392-171-457 Individual education plan to be in effect.** At the beginning of each school year, each public agency shall have in effect an individual education plan for every student with a disability who is receiving special education from that agency. An individual education plan must:

(1) Be in effect before special education and related services are provided to a student; and

(2) Be implemented as soon as possible following the meetings under this chapter.

It is expected that the individual education plan of a student with a disability will be implemented immediately following the meetings under this chapter. An exception to this would be when the meetings occur during the summer or a vacation period, or where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the student.

**AMENDATORY SECTION** (Amending Order 91-18, filed 8/23/91, effective 9/23/91)

**WAC 392-171-461 Individualized education program.** (1) Each (~~handicapped~~) student's individualized education program shall be developed on the basis of assessment analysis and parent input, where it is provided, and shall include:

(a) For each orthopedically impaired and health impaired student under the age of eligibility to first grade, current medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstance and which provides any medical implications for educational planning;

(b) A statement of the student's present levels of educational performance;

(c) A statement of specific annual goals including short-term instructional objectives which are stated in terms that provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;

(d) A statement of the specific special education and related services (~~needed by~~) to be provided to the student based upon the individual needs of the student, as determined through the assessment process, and the extent to which the student will be able to participate in the regular educational program, including physical education. If the student is unable to participate in the regular physical education program, a description of the specially designed physical education to be provided to the student shall be included;

(e) The IEP developed for a student with a disability shall also include a statement of the needed transition services as defined in WAC 392-171-321 including goals and objectives, based on a functional vocational evaluation and anticipated post school outcome(s) beginning no later than age sixteen and annually thereafter (and when determined appropriate for an individual student, beginning (~~at age fourteen or younger~~)) in elementary school or sooner, including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting. In the case where a participating agency fails to provide agreed upon services, the educational agency shall reconvene the IEP team, as soon as possible, to identify alternative strategies to meet transition objectives, and, if necessary, revise the IEP, as long as the student is eligible for services;

(f) If the IEP team determines that services are not needed in one or more of the areas specified in WAC 392-171-321, the IEP must include a statement to that effect and the basis upon which the determination was made;

(g) The projected dates for the initiation of services and the anticipated duration of the services, including the number of school days, the number of hours per day, and the length of the school year over which such services shall be provided: *Provided*, That in the event the individualized educational program is the first in the district for such student and the multidisciplinary team has not made a determination as to the need for an extended school year for such (~~child~~) student, the individualized educational program team shall make its recommendation on the length of the school year over which such services shall be provided prior to the conclusion of the regular one hundred eighty school days; (~~and~~

(~~g~~)) (h) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met.

(2) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

(3) The school district shall provide the parent (or the adult student) a copy of the individualized education program.

~~((3) Nothing in this chapter may be construed as promising or guaranteeing that a handicapped student will in fact achieve the growth projected in his or her annual goals and short-term objectives.)) (4) Each public agency must provide special education and related services to a student with a disability in accordance with an IEP. However, Part B of the Individuals with Disabilities Education Act does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives.~~

NEW SECTION

**WAC 392-171-462 Parent notice—Transition services.** If a purpose of the individual education plan meeting is the consideration of transition services for a student, the notice must also:

- (1) Indicate this purpose;
- (2) Indicate that the district will invite the student; and
- (3) Identify any other agency that will be invited to send a representative.

NEW SECTION

**WAC 392-171-463 Transition services participants.** If a purpose of the individual education plan meeting is the consideration of transition services for a student, the district shall also invite:

- The student; and
- A representative of any other agency that is likely to be responsible for providing or paying for transition services.

If the student does not attend, the district shall take other steps to ensure that the student's preferences and interests are considered; and

If an agency invited to send a representative to an individual education plan meeting does not do so, the district shall take other steps to obtain the participation of the other agency in the planning of any transition services.

NEW SECTION

**WAC 392-171-464 Required student participation—Transition.** The district is required to invite each student to participate in his or her individual education plan meeting if a purpose of the meeting is the consideration of transition services for the student. For all students who are sixteen years of age or older, one of the purposes of the annual meeting will always be the planning of transition services, since transition services are a required component of the individual education plan for these students.

For a student younger than age sixteen, if transition services are initially discussed at a meeting that does not include the student, the district is responsible for ensuring that, before a decision about transition services for the student is made, a subsequent individual education plan meeting is conducted for that purpose, and the student is invited to the meeting.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-466 Initial educational placement—Notice—Consent.** (1) Each school district shall provide written notice of a student's proposed, initial special education placement, or of the district's inability or refusal to make a special education placement, at the initial meeting or within ten calendar days after the initial meeting provided for in WAC 392-171-456. The notice shall comply with the notice requirements of WAC 392-171-526. Provided that ~~((pupils))~~ students admitted to state residential schools shall be enrolled in an educational program within ten school days of admission.

(2) The written consent of the parent(s) (or adult student) shall be requested if special education placement is proposed.

(3) The student's proposed special education placement shall commence when either:

- (a) Written consent has been given by the parent(s) (or the adult student); or
- (b) The refusal of a student's parent(s) (or adult student) to grant consent has been overridden by the school district pursuant to a hearing (or appeal) conducted in accordance with WAC 392-171-521 et seq.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-471 Least restrictive environment.** The state shall ensure that each public agency establishes and implements procedures which meet the least restrictive environment requirements of this chapter, and that the various alternative placements included under this chapter are available to the extent necessary to implement the IEP for each student with a disability. The placement and provision of services to each ~~((handicapped))~~ student with disabilities shall be in his or her least restrictive environment as follows:

(1) Educational setting—Each ~~((handicapped))~~ student with disabilities shall be placed:

(a) In the regular educational environment with ~~((nonhandicapped))~~ students without disabilities to the maximum extent appropriate to his or her needs, unless it can be demonstrated by the school district that the nature or severity of the student's disability is such that his or her education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

(b) In the school which he or she would attend if not ~~((handicapped))~~ disabled, unless his or her individualized education program requires some other arrangement. If some other arrangement is required, the student shall be placed in the appropriate educational program that is as close to the student's home as is reasonably possible.

(2) Nonacademic settings—Each ~~((handicapped))~~ student with disabilities shall be provided nonacademic and extracurricular services and activities conducted by the school district (e.g., meals, recess, recreation, athletics, counseling, transportation, student club activities, etc.) with ~~((nonhandicapped))~~ students without disabilities to the maximum extent appropriate to the needs of the student.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-476 Continuum of alternative placements.** A continuum of alternative placement options shall be made available as is necessary to meet the needs of the district's ~~((handicapped))~~ students with disabilities for special education and related services.

The option shall include instruction in regular classes, special classes, special schools, home instruction, ~~((and))~~ instruction in hospitals and institutions, and instruction in other settings, and shall provide for supplementary services such as resource room or itinerant instruction in conjunction with regular class placement.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-481 Placement options—Selection—Required considerations.** (1) The placement of each ~~((handicapped))~~ student with disabilities shall be determined at least annually at a meeting conducted pursuant to WAC 392-171-456.

(2) The selection of the appropriate placement option or options for each ~~((handicapped))~~ student with disabilities shall be based upon:

- (a) The student's individualized education program;
- (b) The least restrictive environment requirements of WAC 392-171-471;
- (c) The option or combination of options that provides a reasonably high probability of assisting the student to attain his or her annual goals; and
- (d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs.

(3) In interpreting evaluation data gathered through the assessment and eligibility process in this chapter and in making placement decisions, each public agency shall:

- (a) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, parental input, physical condition, social or cultural background, and adaptive behavior;
- (b) Ensure that information obtained from all of these sources is documented and carefully considered; and
- (c) Ensure that the placement decision is made in conformity with the least restrictive environment rules in this chapter.

NEW SECTION

**WAC 392-171-504 Implementation by state.** In implementing the private school provisions of this chapter, the state shall:

- (1) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a student with a disability; and
- (2) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

NEW SECTION

**WAC 392-171-507 Placement of students by parents.** If a student with a disability has a free appropriate public education available and the parents choose to place the student in a private school or facility, the public agency is not required by this part to pay for the student's education at the private school or facility. However, the public agency shall make services available to the student as provided under this chapter.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures of this chapter.

NEW SECTION

**WAC 392-171-508 Students in public or private institutions.** The state shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to ensure that the least restrictive environment provisions in this chapter are effectively implemented.

NEW SECTION

**WAC 392-171-509 Technical assistance training and monitoring activities.** (1) The state shall carry out activities to ensure that teachers and administrators in all public agencies:

- (a) Are fully informed about their responsibilities for implementing the least restrictive environment requirements; and
  - (b) Are provided with technical assistance and training necessary to assist them in this effort.
- (2) The state shall carry out activities to ensure that the least restrictive environment requirements are implemented by each public agency.

If there is evidence that a public agency makes placements that are inconsistent with the least restrictive environment requirements, the state shall:

- (a) Review the public agency's justification for its actions; and
- (b) Assist in planning and implementing any necessary corrective action.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-511 Annual review of placement and student progress—Program improvement.** (1) Annual placement review—The educational placement of each ~~((handicapped))~~ student with disabilities shall be evaluated and redetermined at least annually at a meeting conducted pursuant to WAC 392-171-456.

(2) Program evaluation—Each school district shall establish a simple and reliable system of evaluating the program established for each ~~((handicapped))~~ student with disabilities. Program evaluations shall be based upon a ~~((handicapped))~~ student's progress toward the accomplishment of the goals and objectives set forth in the student's individualized education program and/or upon the teacher/manager efforts to facilitate change. Specific methods of

evaluating and displaying program results shall be determined in accordance with the district's policies and procedures and the student's individualized education program.

(3) The program evaluation system shall assure that the performance measurement is recorded and reported at both in-process and final-result stages, and the results of the evaluation shall be reported to the parent(s) (or the adult student) consistent with policies and procedures of the school district.

(4) Program evaluations shall serve two purposes:

(a) To compare a student's measured performance with established goals and objectives; and

(b) To attempt to identify causal factors that account for significant differences between actual and predicted performance.

(5) Each school district shall develop, in its own format, alternatives designed to improve methods and results that are based upon the performance evaluation of the student. Evaluation of progress shall be continuing and completed at least annually in order to allow assessment personnel to adjust aims, programs, etc., if the goals and objectives are not met.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-512 Reassessment—Requirement.**

Each identified student having a (~~handicapping~~) disabling condition shall be reassessed in accordance with the assessment procedures specified in WAC 392-171-351 through 392-171-366 by the multidisciplinary team provided for in WAC 392-171-351 as follows:

(1) At a minimum, once every three years or more frequently if (~~required by this chapter~~) conditions warrant.

(2) Upon request of the student's parent (or adult student), teacher, or individualized education program committee.

NEW SECTION

**WAC 392-171-522 General responsibility of public agencies.** The state shall ensure that each public agency establishes and implements procedural safeguards that meet the requirements of 34 CFR 300.500-300.515.

NEW SECTION

**WAC 392-171-524 Parent consent.** Parental consent must be obtained in writing before:

(1) Conducting a preplacement assessment; and

(2) Initial placement of a student with a disability in a program providing special education and related services.

A public agency shall not require written parental consent as a condition for receiving any other benefit, service, or activity to the parent or to the student.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-526 Contents of notice.** (1) The notice required by WAC 392-171-521 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent (or the adult student) that are set forth

in (~~this chapter~~) 34 CFR 300.500, 300.502 through 515, and 300.562 through 569;

(b) A description of the action proposed or refused by the school district, an explanation of why the district proposes or refuses to take the action, and a description of any options the district considered and the reasons why those options were rejected;

(c) A description of each assessment procedure, test, record, or report the district used as a basis for the proposal or refusal; and

(d) A description of any other factors which are relevant to the district's proposal or refusal.

(2) The notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent (or adult student) or other mode of communication used by the parent (or adult student), unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent (or adult student) is not a written language, the district shall take steps to assure that:

(a) The notice is translated orally or by other means to the parent (or adult student) in his or her native language or other mode of communication;

(b) The parent (or adult student) understands the content of the notice; and

(c) There is written evidence that the requirements in subparagraphs (a) and (b) of this subsection have been met.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-531 Right to initiate—Purposes.** (1)

Hearings conducted in accordance with WAC 392-171-521 through 392-171-556 may be initiated in the following cases for the purposes stated:

(a) The parent(s) of a student (or an adult student) or a school district may initiate a hearing to challenge or to show (as the case may be) the appropriateness of a proposal by the school district to initiate or change:

(i) The identification of the student;

(ii) The assessment of the student;

(iii) The educational placement of the student; or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(b) The parent(s) of a student (or an adult student) or a school district may initiate a hearing to challenge or to show (as the case may be) the appropriateness of the school district's refusal of the parent(s) (or adult student's) request to initiate or change:

(i) The identification of the student;

(ii) The assessment of the student;

(iii) The educational placement of the student; or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(c) A school district may initiate a hearing to show that its assessment of a student is appropriate if the student's parent(s) (or adult student) disagrees with the assessment results.

(2) A request by a student's parent(s) (or adult student) for a hearing pursuant to this section shall:

- (a) Be in writing;
- (b) Be mailed or provided directly to the superintendent of the school district; and
- (c) Explain the complaint of the parent(s) (or adult student) in general or specific terms.

(3) A request by a school district for a hearing pursuant to this section shall:

- (a) Be in writing;
- (b) Be mailed or provided directly to Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504. A copy of such request, including required attachments shall be transmitted to the student's parent(s) (or adult student);
- (c) Have attached to such request a copy of the notice to parent(s) (or adult student) as required by WAC 392-171-521. If the hearing request by the district is in response to a request for an independent educational assessment pursuant to WAC 392-171-371, the district's written request for a hearing also shall have attached a copy of the written notice to the district required by WAC 392-171-371(2).

(4) A notice of a hearing requested by a student's parent(s) (or adult student) or initiated by a school district pursuant to this section shall be provided by the hearing officer and shall include, but not necessarily be limited to:

- (a) The date, time, and place of the hearing;
- (b) The issues to be addressed at the hearing to the extent the issues have been identified at the time of the notice;
- (c) The rights, procedures, and other matters set forth in WAC 392-171-536 through 392-171-576; and
- (d) The right of the parent(s) (or adult student) to seek an independent assessment at public expense pursuant to WAC 392-171-371.

(5) The forty-five day timeline for completing the hearing process shall begin on the day the superintendent of the school district receives the parent's written request for a due process hearing.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-536 Hearing officers—Selection and expenses of—Parent assistance.** (1) If a hearing is initiated pursuant to WAC 392-171-531:

- (a) The hearing shall be conducted by and at the expense of the superintendent of public instruction.
- (b) The superintendent of public instruction shall provide for a court reporter's stenographic record of all testimony and other oral hearing proceedings at the expense of the superintendent of public instruction: *Provided*, That a court reporter's stenographic record need not be transcribed for any purpose except as provided or required in WAC 392-171-551(e).
- (c) The superintendent of public instruction shall inform the parent(s) (or adult student) of any free or low-cost legal and other relevant services available in the area if:

- (i) The parent (or adult student) requests the information; or
- (ii) The school district or the parent (or adult student) initiates a hearing;
- (d) The hearing shall be conducted by a qualified person selected and appointed by the chief administrative law judge in the office of administrative hearings pursuant to chapter 10-08 WAC and shall be a person who:

- (i) Is not an employee of a ~~((school district))~~ public agency which is involved in the education or care of the student; and
- (ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing;

(2) The hearing shall be conducted in accordance with the provisions of WAC 392-101-005 unless modified by this chapter.

(3) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(ii) The school district or the parent (or adult student) initiates a hearing;

(d) The hearing shall be conducted by a qualified person selected and appointed by the chief administrative law judge in the office of administrative hearings pursuant to chapter 10-08 WAC and shall be a person who:

- (i) Is not an employee of a ~~((school district))~~ public agency which is involved in the education or care of the student; and
- (ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing;

(2) The hearing shall be conducted in accordance with the provisions of WAC 392-101-005 unless modified by this chapter.

(3) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-551 Hearing rights.** (1) Any party to a hearing initiated pursuant to WAC 392-171-531 has the right to:

- (a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of ~~((handicapped))~~ students with disabilities;
- (b) Be advised and/or represented by an attorney;
- (c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of witnesses;
- (d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- (e) Obtain a written or electronic verbatim record of the hearing at ~~((a))~~ no cost ~~((no greater than the fee charged by the court reporter for transcribing his or her record of the))~~ to any party to a hearing: Provided, That in the event of an appeal to a court of law by the school district, such district shall bear the cost of transcribing the record for appeal purposes and shall make a copy available to the other party at a cost, if any, which is no greater than the school district's cost of copying the original; and
- (f) Obtain written findings of fact, conclusions of law and judgments. The state, after deleting any personally identifiable information, shall:

- (i) Transmit those findings and decisions to the state advisory panel established under this chapter; and
- (ii) Make those findings and decisions available to the public.

(2) Parents who are a party to a hearing have the right to have the ~~((child))~~ student who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

(i) Transmit those findings and decisions to the state advisory panel established under this chapter; and

(ii) Make those findings and decisions available to the public.

(2) Parents who are a party to a hearing have the right to have the ~~((child))~~ student who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-556 Timeline for hearing officer's decision—Time and place of hearing.** (1) Not later than forty-five days after the date of receipt of a request for a hearing pursuant to WAC 392-171-531:

(a) A final decision shall be reached based upon a preponderance of the evidence; and

(b) A copy of the decision consisting of the hearing officer's findings of fact, conclusions of law, and judgment shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the hearing officer, together with a certification of the date of mailing and the parties to whom it was mailed.

(2) The date of mailing or providing a decision to the parties shall be certified to on the first page of the decision by the person(s) who mails or provides the decision to the parties. The decision of the hearing officer shall be drafted in a manner which:

(a) Sets forth the findings of fact, conclusions of law and judgment separately, and numbers each findings of fact and conclusion; and

(b) Avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached. The surnames of students and their parents shall be indicated by use of their last initial and shall not be spelled out.

(3) A hearing officer may grant specific extensions of time beyond the period set forth in this section at the request of either party.

(4) Each hearing (~~involving oral arguments~~) shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-561 Final decision—Appeal to court of law.** A decision made in a hearing initiated pursuant to WAC 392-171-531 is final, unless modified or overturned by a court of law. Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under this chapter has the right to bring a civil action under section 615 (e)(2) of the Individuals with Disabilities Education Act. A civil action may be filed in either state or federal court.

NEW SECTION

**WAC 392-171-564 Attorneys' fees.** Each public agency shall inform parents that in any action or proceeding under section 615 of the Individuals with Disabilities Education Act, courts may award parents reasonable attorneys' fees under the circumstances described in section 615 (e)(4).

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-581 Surrogate parents.** (1) General. Each school district providing a special education program to a nonadult (~~handicapped~~) student with disabilities shall

assure that the rights of the nonadult student are protected when:

(a) No parent (as defined in WAC 392-171-310(4)) can be identified;

(b) The school district, after reasonable efforts, cannot discover the whereabouts of a parent; or

(c) The student is a ward of the state.

(2) Duty of school district. The duty of a school district under this section includes the assignment of a person to act as a surrogate for the parents. This duty includes the establishment of a method:

(a) For determining whether a nonadult student needs a surrogate parent; and

(b) For assigning a surrogate parent to the student.

(3) Criteria for selection of surrogates. Each school district shall assure that a person selected as a surrogate:

(a) Has no interest that conflicts with the interests of the student he or she represents; and

(b) Has knowledge and skills that assure adequate representation of the student.

(4) Nonemployee requirement—Compensation:

(a) A person assigned as a surrogate may not be an employee of a school district and/or other agency which is involved in the education or care of the student; and

(b) A person who otherwise qualifies as a surrogate parent pursuant to this section is not an "employee" of the school district and/or other agency solely because he or she is paid by the school district and/or agency to serve as a surrogate parent.

(5) Responsibilities. A surrogate parent may represent the student in all matters relating to:

(a) The identification, assessment, and educational placement of the student; and

(b) The provision of free special education and related services to the student.

NEW SECTION

**WAC 392-171-593 Notice to parents.** The state shall give notice that is adequate to fully inform parents about the requirements of this chapter including:

(1) A description of the extent that the notice is given in the native languages of the various populations groups in the state;

(2) A description of the students on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and students regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in part 99 of this title.

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both with circulation adequate to notify parents throughout the state of the activity.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-596 Access rights.** (1) Each school district shall permit parents of ~~((handicapped))~~ students with disabilities (or adult students) to inspect and review during school business hours any education records relating to their children or ward (or the adult student) which are collected, maintained, or used by the district under this chapter. The district shall comply with a request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student and in no case more than forty-five calendar days after the request has been made.

(2) The right to inspect and review education records under this section includes:

(a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school district provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent (or adult student) inspect and review records.

(3) A school district may presume that a parent has authority to inspect and review records relating to his or her child or ward unless the district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-646 Definition—"Private school ~~((handicapped))~~ student(s) with disabilities."** For the purpose of WAC 392-171-651 through 392-171-686 "private school ~~((handicapped))~~ student(s) with disabilities" means ~~((handicapped))~~ students with disabilities enrolled in private schools or agencies but not as the result of a contractual arrangement between a public school district and the private school or agency.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-651 School district responsibility for private school ~~((handicapped))~~ students with disabilities.** Subject to the provisions of WAC 392-171-656 through 392-171-686:

(1) Each school district shall provide special education and related services designed to meet the needs of private school handicapped students who reside in the school district.

(2) Each school district shall provide private school handicapped students with genuine opportunities to participate in special education and related services consistent with the number of those students and their needs.

NEW SECTION

**WAC 392-171-688 State responsibility.** The state shall ensure that to the extent consistent with their number and location in the state, provision is made for the participation of private school students with disabilities in the program assisted or carried out under this chapter by providing them with special education and related services.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-691 Annual applications—Contents.** As a condition to the receipt and expenditure of federal special education funds, a school district shall annually submit an application to the superintendent of public instruction or his or her designee on or before such date is announced and conduct its special education and related services program in compliance therewith. The applications shall be made pursuant to forms developed and distributed by the superintendent or his or her designee. Application forms shall include, but not necessarily be limited to, the following assurance(s) and types of information:

(1) An assurance that:

(a) The school district is in compliance with the provisions of this chapter and the rules implementing PL 94-142 (34 CFR 300.1 et seq.) that may supplement this chapter;

(b) That the district shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) That the funds applied for shall be expended in compliance with the application, this chapter, and any such supplemental federal rules;

(2) The information and assurances required by 34 CFR 300.220 through 34 CFR 300.240 and any other pertinent federal rules;

(3) Identification of the local district designee responsible for child identification activities and confidentiality of information;

(4) A description of the procedures and/or activities to be implemented or continued to provide for:

(a) Identification, location and evaluation of ~~((handicapped children))~~ students with disabilities not currently receiving special education and related services;

(b) Assurance of confidentiality of personally identifiable information;

(c) Implementation of a system for personnel development;

(d) Involvement of parents of ~~((handicapped children))~~ students with disabilities;

(e) Participation of ~~((handicapped))~~ students with disabilities with ~~((nonhandicapped))~~ students without disabilities;

(f) Placement of ~~((handicapped))~~ students with disabilities in the least restrictive environment;

(g) Development of individualized education programs for each eligible ~~((handicapped))~~ student with disabilities;

(h) Availability of career development and vocational education programs for ~~((handicapped))~~ students with disabilities;

(i) A description of the numbers and types of ~~((handicapped))~~ students with disabilities receiving special education

and related services by placement option within the district's continuum of alternative placements;

(j) A description of the kind of and number of facilities, personnel, and services necessary to meet the district's full educational opportunity goal, including a detailed timetable for reaching that goal; and

(k) A description of the use of funds received under PL 94-142 (34 CFR 300.1 et seq.).

(5) Any other pertinent information requested by the superintendent of public instruction which is necessary for the management of the special education program.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-696 Denial of applications—Opportunity for hearing.** (1) In the event the superintendent of public instruction or his or her designee proposes to deny, in whole or part, the annual application of a district for federal special education funds, the district shall be provided notice pursuant to RCW 34.04.090 of:

(a) Intent to deny the application of the district; and

(b) The district's opportunity for a hearing before the superintendent of public instruction or his or her designee prior to a denial of the application.

(2) The district's application may be denied, in whole or part, in the event the district fails to request a hearing or the hearing decision upholds the proposed basis for denial.

(3) The superintendent of public instruction shall provide an opportunity for a hearing before the agency disapproves the application in accordance with the following procedures:

(a) The applicant shall request the hearing within thirty days of the action of the superintendent of public instruction.

(b) Within thirty days after it receives a request, the superintendent of public instruction shall hold a hearing on the record and shall review its action.

(c) No later than ten days after the hearing the agency shall issue its written ruling, including findings of fact and reasons for the ruling.

(d) If the agency determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the agency shall rescind its action.

(e) If the superintendent of public instruction does not rescind its final action after a review, the applicant may appeal to the United States Secretary of Education. The applicant shall file a notice of the appeal with the United States Secretary of Education within twenty days after the applicant has been notified by the superintendent of public instruction of the results of the agency's review. If supported by substantial evidence, findings of fact of the superintendent of public instruction are final.

(f) The superintendent of public instruction shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section, including records of other applicants.

#### NEW SECTION

**WAC 392-171-728 Interagency agreements.** The superintendent of public instruction shall develop and implement interagency agreements with all other state and local agencies that provide or pay for services required under this chapter for students with disabilities: *Provided*, That consideration shall be given to preserving existing arrangements between school districts and other agencies which are consistent with this chapter. These agreements shall:

(1) Describe the role that each agency plays in providing or paying for required services;

(2) Define the financial responsibility of each agency for providing students with disabilities with a free appropriate public education;

(3) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

(4) Establish procedures under which school districts may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements.

**AMENDATORY SECTION** (Amending Order 15, filed 11/2/89, effective 12/3/89)

**WAC 392-171-736 Definition of "unlawfully received or expended funds."** For the purpose of WAC 392-171-741 through 392-171-756, "unlawfully received or expended funds" shall mean any state or federal special education funds received and held or expended by a school district in a manner or for a purpose that is in violation of any provision of:

(1) State statute or rule, including this chapter; or

(2) Any federal rule or condition to funding that may now or hereafter supplement this chapter including:

The recovery of funds based on inaccurate child count information under Individuals with Disabilities Education Act.

(3) In addition to meeting the other requirements of this chapter, the superintendent of public instruction shall:

(a) Establish procedures to be used by school districts and other educational institutions in counting the number of students with disabilities receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the superintendent of public instruction to ensure that the state complies with federal requirements;

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required by the United States Department of Education; and

(e) Ensure that documentation is maintained that enables the state and the United States Secretary of Education to audit the accuracy of the count.



NEW SECTION**WAC 392-171-835 Transition to preschool program.**

Each local school district shall develop policies and procedures for the smooth transition of children participating in the early intervention program under Part H of the Individuals with Disabilities Education Act (IDEA) who are eligible for participation in preschool programs under Part B of the IDEA.

Each district's policies and procedures must include:

- (1) A description of how the families will be included in the transitional plans;
- (2) Procedures for ensuring that the district, the agency in which the child is being served, and the family are notified of the need for transitional planning;
- (3) Procedures for convening, with the approval of the family, a conference between the agency, family, and district;
- (4) A timeline of convening the above conference at least ninety days before such child is eligible for the preschool program under Part B of IDEA;
- (5) Procedures for reviewing a child's program options, for the period commencing on the day a child turns three running through the remainder of the school year, and establishing a transition plan; and
- (6) Procedures for ensuring that if the child will participate in the district's preschool program under Part B of IDEA at age 3, an individual education program consistent with this chapter is developed and implemented by the child's third birthday. The district must provide the family with information on the eligibility and evaluation requirements under Part B of IDEA, including the parent's and district's rights regarding procedural safeguards.

NEW SECTION

**WAC 392-171-900 Comprehensive system of personnel development.** The superintendent of public instruction shall establish and implement procedures for developing and conducting a comprehensive system of personnel development which includes:

- (1) The continuing education of general and special education instructional and related services personnel;
- (2) Detailed procedures to assure that all personnel necessary to carry out the purposes of the Individuals with Disabilities Education Act (IDEA), P.L. 102-119, 34 CFR 300.1, as of October 1, 1992, are appropriately and adequately prepared;
- (3) Provisions consistent with 34 CFR 300.153, 300.380-383, and 303.360;
- (4) Effective procedures for acquiring and disseminating significant information derived from educational research, demonstration and similar projects; and
- (5) The adoption, where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

NEW SECTION

**WAC 392-171-901 Definitions.** The following definitions apply to this chapter:

- (1) "Appropriate professional requirements," those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services and that establish the qualifications for personnel providing special education and related services under chapters 392-168, 392-171, and 392-173 WAC to children and youth with disabilities who are served by state, local, and private agencies;
- (2) "Highest requirements in the state applicable to a specific profession or discipline," the highest entry-level academic degree needed for any state-approved or -recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;
- (3) "Profession or discipline," a specific occupational category that provides special education and related services to children and youth with disabilities under chapters 392-168, 392-171, and 392-173 WAC, has been established or designated by the state, and has a required scope of responsibility and degree of supervision; and
- (4) "Qualified" means that a person, in accordance with the provisions contained in 34 CFR 300.153 of the Individuals with Disabilities Education Act (IDEA), has met superintendent of public instruction approved or recognized certification, licensing, registration, or other comparable requirements for the profession or discipline in which the person is providing special education and related services.

NEW SECTION

**WAC 392-171-905 Scope of system.** Through the superintendent of public instruction, the state of Washington shall develop and implement a comprehensive system of personnel development which:

- (1) Meets all federal requirements contained in 34 CFR 300.153, 300.381-300.383 and 303.360 of the IDEA;
- (2) Addresses current and projected special education and related services personnel needs, including the needs of leadership personnel; and
- (3) Coordinates and facilitates efforts among state and local educational agencies, institutions of higher education, professional and other associations to recruit, prepare and retain qualified personnel necessary to serve children and youth (birth through twenty-one), including leadership personnel, personnel from minority backgrounds, and personnel with disabilities.

NEW SECTION

**WAC 392-171-910 Establishment of a comprehensive system of personnel development advisory subcommittee.** Consistent with procedures established at the discretion of the superintendent of public instruction, the superintendent shall appoint members of the council to serve on a comprehensive system of personnel development advisory committee. The comprehensive system personnel development advisory committee shall include at least one representative each from: An institution of higher education,

the office of the superintendent of public instruction, an educational service district, a local educational agency, a special education-related professional organization, and a parent or other advocacy organization. It shall be the responsibility of the comprehensive system personnel development advisory subcommittee to:

(1) Advise the superintendent of public instruction, through the advisory council, of unmet personnel needs with respect to the provision of special education and related services to children and youth (ages birth through twenty-one years);

(2) Comment publicly on the state plan and rules and other policy documents proposed for issuance by the state which have an impact on such personnel; and

(3) Assist the superintendent of public instruction in developing and reporting such information and evaluations as may be required to assist the secretary of the department of education in the performance of his or her responsibilities under the IDEA and other activities as determined necessary by the superintendent.

#### NEW SECTION

**WAC 392-171-915 Annual needs assessment.** Each year, the special education section of the office of the superintendent of public instruction, with the assistance of the state's educational services districts, shall administer a state-wide needs assessment to determine the current and projected special education and related services personnel needs, including the need for leadership personnel.

#### NEW SECTION

**WAC 392-171-925 Data system on personnel and personnel development.** Annually, the superintendent of public instruction, with the assistance of the state's educational service districts, shall collect the following information:

(1) The number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(2) The number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate state certification, licensure, or other credentials comparable to certification or licensure in that profession or discipline;

(3) The number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the number of those personnel that will be needed in five years, based on projections of individuals to be served, retirement, and other departures of personnel from the field and other relevant factors; and

(4) Content areas in which continuing education is needed, identified by profession or discipline, including leadership personnel. Information collected on personnel which meets the requirements of subsections (1) through (3) of this section must include: Audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, orientation and mobility specialists, parents, physical education teachers, physical

therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teachers, teacher aides (i.e., instructional assistants), recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators, and other instructional and non-instructional staff. Additionally, data on leadership personnel required under subsections (1) through (3) of this section must include administrators and supervisors of state and local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of the Individuals with Disabilities Education Act, Parts B and H.

#### NEW SECTION

**WAC 392-171-930 Other sources of annual needs assessment data.** As required under 34 CFR 300.383, the superintendent of public instruction shall collect data from institutions of higher education to determine, on an annual basis:

(1) The numbers of students enrolled in programs for the preparation of special education and related services personnel administered by institutions in the state of Washington; and

(2) The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by Washington's institutions of higher education.

Prior to collecting data from institutions of higher education, the special education section of the office of the superintendent of public instruction shall determine annually the institutions of higher education within the state that are preparing special education and related services personnel, including leadership personnel, by area of specialization (consistent with the listing of personnel categories incorporated in WAC 392-171-925 (1) through (3)). This information, in written form, shall be made available annually to the comprehensive system of personnel development subcommittee of the special education state advisory council, to institutions of higher education in the state of Washington, and, upon request, to the public.

#### NEW SECTION

**WAC 392-171-935 Report of current and projected personnel needs.** Annually, the special education section shall:

(1) Review and analyze the information submitted by public agencies, institutions of higher education, and other sources; and

(2) Prepare a summary report of projected state-wide preservice and continuing education needs for the state of Washington. This document shall be submitted to the members of the comprehensive system of personnel development subcommittee for review, comment, and revision and shall be included in the annual report of the special education state advisory council. This information shall also be reported to the department of education as required under 34 CFR 300.383 of the IDEA.

NEW SECTION

**WAC 392-171-940 Administration of continuing education.** The personnel development plan for the state of Washington shall provide for the continuing education needs of regular and special education and related services personnel to enable these personnel to meet the needs of students with disabilities under this chapter. Educational service districts shall assume a central role in the provision and coordination of continuing education programming state-wide.

NEW SECTION

**WAC 392-171-945 Personnel development plan.** Each year, with the involvement of the state's educational service districts, the superintendent of public instruction will develop, update and implement a personnel development plan which addresses:

- (1) The process used for determining the continuing education and preservice training needs;
- (2) The need, by areas of specialization, for new personnel and the need for continuing education;
- (3) The content areas in which continuing education and preservice training is needed;
- (4) An assurance that ongoing continuing education (inservice training) programs are available to all personnel who are engaged in the education of children and youth with disabilities, including leadership personnel, and that these programs include the following:
  - (a) The use of incentives which ensure participation by personnel, such as release time, payment for participation, options for academic credit, certification renewal, or updating of professional skills; and
  - (b) The use of innovative training practices which have been found to be effective;
- (5) The involvement of the state's educational service districts in the planning, administration, and evaluation of continuing education;
- (6) The procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources;
- (7) Procedures for adopting, if appropriate, promising practices, materials, and technology, proven effective through research and demonstration; and where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

NEW SECTION

**WAC 392-171-950 Provision of technical assistance.** Consistent with the federal requirements contained in 34 CFR 300.380-383 and 34 CFR 300.555, the superintendent of public instruction shall provide, through superintendent of public instruction-initiatives and/or educational service district staff, technical assistance to local educational agencies and other agencies, institutions, organizations, or individuals responsible for implementing special education and related services. Technical assistance and related training shall be provided in response to:

- (1) Requests from agencies, institutions, organizations, and individuals;
- (2) The results of monitoring or application review; and/or
- (3) The targeting of specific training issues or concerns through the personnel development plan or superintendent of public instruction staff evaluation.

Technical assistance may be administered through on-site visitation, teleconference, correspondence, or any other means considered appropriate and effective by the superintendent of public instruction, in consultation with the educational service district, if providing technical assistance, and the receiving agency, institution, organization, or individual.

NEW SECTION

**WAC 392-171-955 Personnel standards.** In order to ensure that all personnel necessary to carry out the purposes of Part B the Individuals with Disabilities Education Act (IDEA-B) are appropriately and adequately prepared and trained, the superintendent of public instruction shall:

- (1) Establish and maintain standards for personnel providing special education and related services; and
- (2) Determine that all personnel providing special education and related services perform these functions under state-approved or state-recognized certification, licensure, or other comparable requirements that apply to the area in which the person is providing special education and related services.

NEW SECTION

**WAC 392-171-960 Professional standards review.** Before October 1st of each year, the special education section, on behalf of the superintendent of public instruction, shall review the professional requirements in the statutes necessary for the provision of special education and related services. This professional standards review must include the requirements of all statutes and the rules of all state agencies applicable to serving children and youth with disabilities, and shall include the standards of the superintendent of public instruction, the department of licensing, the division of vocational rehabilitation, the department of social and health services, and any other public agency responsible for the licensing or certification of personnel who provide special education or related services. In conducting this review, the superintendent of public instruction must:

- (1) Determine the highest standards applicable to each profession or discipline based upon the most current information available to the superintendent of public instruction;
- (2) Identify those professions or disciplines for which the highest requirements of the state do apply;
- (3) Identify those specific professions or disciplines for which the existing personnel standards for special education or related services, including standards for temporary or emergency certification are not based on the highest requirement in the state applicable to that specific profession or discipline; and
- (4) For those professions or disciplines for which the highest requirements of the state do not apply, detail the steps the superintendent of public instruction is taking (and

the procedures for notifying public agencies and personnel of those steps and the timelines it has established) for the retraining or hiring of personnel that meet the appropriate professional requirements in the state of Washington. In determining annually the status of personnel standards for each applicable profession or discipline in the state (as defined in WAC 392-171-955), the superintendent of public instruction's review and determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the state for that profession or discipline.

The results of the review conducted in accordance with the provision of this section shall be described in a report prepared for and submitted to the comprehensive system of personnel development subcommittee of the special education state advisory committee. Each annual report and necessary supporting documentation must be maintained in the files of the superintendent of public instruction's special education section and must be available to the public. Each report shall be incorporated in the appropriate state plan for Part B of the Individuals with Disabilities Education Act submitted to the department of education.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 392-171-384 Distinction between developmentally handicapped and communication disorder—  
Reassessment of developmentally delayed upon entry to first grade.

**WSR 93-15-086  
PROPOSED RULES  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT**

[Filed July 20, 1993, 1:47 p.m.]

Original Notice.

Title of Rule: Chapter 365-24 WAC, Uniform relocation assistance and real property acquisition.

Purpose: To implement provisions of chapter 8.26 RCW, Relocation assistance—Real property acquisition policy.

Statutory Authority for Adoption: Chapter 43.63A RCW.

Statute Being Implemented: Chapter 8.26 RCW.

Summary: Responsibility for implementation of chapter 8.26 RCW was transferred to the Washington State Department of Transportation by legislative action, and the Department of Transportation has adopted its own rules under chapter 468-100 WAC. This rule is obsolete.

Name of Agency Personnel Responsible for Drafting: Cathie Halpin, 906 Columbia Street S.W., Olympia, (206) 586-1310.

Name of Proponent: Washington State Department of Community Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This chapter is being repealed in its entirety. The Washington State Department of Transportation is responsible for implementation of chapter 8.26 RCW and has adopted its own rules.

Proposal Changes the Following Existing Rules: This action repeals chapter 365-24 WAC.

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

Hearing Location: Department of Community Development, 906 Columbia Street Southwest, 2nd Floor, Olympia, WA, on August 26, 1993, at 11 a.m.

Submit Written Comments to: Cathie Halpin, Rules Coordinator, Department of Community Development, P.O. Box 48300, Olympia, WA 98504-8300, by August 26, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993  
Gene Canque Liddell  
Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 365-24-010 General purpose and coverage.
- WAC 365-24-020 General responsibilities of relocating entities.
- WAC 365-24-030 State agencies and local public bodies policies and procedures.
- WAC 365-24-040 Review of activities for compliance with chapter 8.26 RCW.
- WAC 365-24-050 Public information.
- WAC 365-24-060 Payments not considered income or resource.
- WAC 365-24-100 Interpretation of definitions.
- WAC 365-24-110 Specific definitions.
- WAC 365-24-210 Determination or assurance of availability of housing.
- WAC 365-24-220 Data support for determination or assurance.
- WAC 365-24-230 Waiver of assurances.
- WAC 365-24-240 Housing provided as a last resort.
- WAC 365-24-310 Relocation assistance advisory program.
- WAC 365-24-312 Other advisory services.
- WAC 365-24-320 Contracting for relocation services.
- WAC 365-24-330 Coordination of planned relocation activities.
- WAC 365-24-410 Eligibility.
- WAC 365-24-420 Allowable moving expenses for displaced persons.
- WAC 365-24-430 Limitations on allowable moving expenses for displaced persons.
- WAC 365-24-440 Nonallowable moving expenses and losses of displaced persons.

- WAC 365-24-450 Allowable expenses in searching for replacement business or farms.
- WAC 365-24-460 Limitations on allowable expenses in searching for replacement business or farms.
- WAC 365-24-510 For displacement from a dwelling.
- WAC 365-24-520 For displacement from a business.
- WAC 365-24-530 For displacement from a farm operation.
- WAC 365-24-540 Amount of business fixed payment.
- WAC 365-24-610 Eligibility.
- WAC 365-24-620 Computation of replacement housing payment.
- WAC 365-24-710 Eligibility.
- WAC 365-24-720 Computation of replacement housing payments for displaced tenants.
- WAC 365-24-730 Computation of replacement housing payment for certain others.
- WAC 365-24-810 Right of review.
- WAC 365-24-820 Initiation of appeal—Notice and statement.
- WAC 365-24-822 Form of statement.
- WAC 365-24-824 Correction or amendment of notice.
- WAC 365-24-830 Preliminary review authorized.
- WAC 365-24-832 Notice and time limitation on preliminary review.
- WAC 365-24-834 Effect of preliminary review.
- WAC 365-24-840 Applicability of Administrative Procedure Act.
- WAC 365-24-850 Appointment of hearing officer.
- WAC 365-24-852 Hearing officer powers and duties.
- WAC 365-24-854 Time and place of hearing.
- WAC 365-24-856 Evidence.
- WAC 365-24-858 Submission of proposed decision and orders.
- WAC 365-24-860 Exceptions—Time for filing.
- WAC 365-24-862 Reply to exceptions.
- WAC 365-24-870 Submission or record and issuance of final decision.
- WAC 365-24-880 Petitions for rule making.
- WAC 365-24-882 Requisites.
- WAC 365-24-884 Notice of disposition.
- WAC 365-24-910 Acquisition procedures.
- WAC 365-24-920 Statement furnished to owner upon initiation of negotiations for acquisition of real property.
- WAC 365-24-930 Relocation costs and awards not to be considered in making appraisals.
- WAC 365-24-940 Consideration of relocation costs of outdoor advertising displays in making appraisals.
- WAC 365-24-950 Acquisition of mobile homes.

WAC 365-24-960 Appraisal standards.

**WSR 93-15-087**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

[Filed July 20, 1993, 1:50 p.m.]

Original Notice.

Title of Rule: Emergency worker program.

Purpose: The purpose of this chapter is to adopt rules pertaining to the registration, use, classes, scope and conditions of duty, and training of emergency workers and compensation of emergency workers' claims.

Statutory Authority for Adoption: Chapter 38.52 RCW.

Statute Being Implemented: RCW 38.52.310.

Summary: These rules delineate the responsibilities of authorized officials and emergency workers before, during, and after emergencies, disasters, and other specific missions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Christopher F. Long, 4220 East Martin Way, Olympia, WA, (206) 923-4928.

Name of Proponent: Department of Community Development, 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 chapter is to adopt rules pertaining to the registration, use, classes, scope and conditions of duty, and training of emergency workers, and compensation of emergency workers' claims. This chapter is applicable for emergency activities as outlined in chapter 38.52 RCW for emergencies, disasters, and related incidents that are determined by appropriate state or local authorities to require the use of emergency workers and that are authorized by the issuance of an Emergency Management Division mission number; search and rescue missions, including urban search and rescue and evidence search missions, that are conducted under the authority of local law enforcement officers and that are authorized by issuance of an Emergency Management Division mission number; and training events authorized by issuance of an Emergency Management Division training number.

Proposal Changes the Following Existing Rules: This proposal more clearly delineates the responsibilities of authorized officials and emergency workers before, during and after emergencies, disasters and other specific missions than do the existing rules.

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

Hearing Location: Department of Natural Resources, Southeast Region, 713 East Bowers Road, Ellensburg, WA 98926, on August 27 and 28, 1993, at 1:00 p.m.

Submit Written Comments to: Department of Community Development, Emergency Management Division, P.O. Box 48346, Olympia, WA 98504-8346, by August 26, 1993.

Date of Intended Adoption: September 10, 1993.

July 20, 1993  
 Gene C. Liddell  
 Director

**Chapter 118-04 WAC  
EMERGENCY WORKER PROGRAM**

**NEW SECTION**

**WAC 118-04-020 Purpose and intent.** The purpose of this chapter is to adopt rules pertaining to the use, classes, scope, conditions of duty and training of emergency workers and compensation of emergency workers' claims.

The intent of these rules is to clearly delineate the responsibilities of authorized officials and emergency workers before, during, and after emergencies, disasters, and other specific missions.

**NEW SECTION**

**WAC 118-04-040 Scope.** This chapter is applicable for emergency activities as outlined in chapter 38.52 RCW for:

(1) Emergencies, disasters, and related incidents that are determined by appropriate state or local authorities to require the use of emergency workers and that are authorized by the issuance of an emergency management division mission number.

(2) Search and rescue missions, including urban search and rescue and evidence search missions, that are conducted under the authority of local law enforcement officers and that are authorized by issuance of an emergency management division mission number.

(3) Training events authorized by issuance of an emergency management division training event number.

**NEW SECTION**

**WAC 118-04-060 Definitions.** (1) "Authorized official" means director of the department of community development or designee, assistant director of the emergency management division or designee, the director or designee of a local emergency management agency or the chief law enforcement officer or designee of a political subdivision.

(2) "Authorized organization" means the department of community development, the emergency management division, local emergency management agencies, and law enforcement agencies of political subdivisions.

(3) "Claimant" means the person making a claim or their legal representative.

(4) "Emergency management division" means Washington state department of community development, emergency management division.

(5) "Engineer" means any person registered under chapter 38.52 RCW as an emergency worker who is an architect registered under chapter 18.08 RCW and/or a professional engineer registered under chapter 18.43 RCW.

(6) "Evidence search" means an unscheduled, nonemergency training activity utilizing emergency worker skills to look for evidentiary material resulting from criminal activity.

(7) "Incident" means an occurrence or event, either human-caused or natural phenomena, that requires action by emergency services personnel to prevent or minimize loss of life or damage to property and/or the environment.

(8) "Local emergency management agency" means the emergency management or emergency services organization of a political subdivision of the state established in accordance with RCW 38.52.070.

(9) "Local director" means the director or designee of a local emergency management agency.

(10) "Mission" means a distinct assignment of personnel and equipment to achieve a set of tasks related to an incident, emergency, disaster, or search and rescue operation that occurs under the direction and control of a local authorized official.

(11) "Training event" means a planned, nonemergency activity for the development, maintenance, or upgrading of emergency worker skills.

(12) "Urban search and rescue (US&R)" means locating, extricating and providing for the immediate medical treatment of victims trapped in collapsed or damaged structures.

**NEW SECTION**

**WAC 118-04-080 Registration.** Registration is a prerequisite for eligibility of emergency workers for benefits and legal protection under chapter 38.52 RCW.

(1) Emergency workers shall register in their jurisdiction of residence or in the jurisdiction where their volunteer organization is headquartered by completing and filing an emergency worker registration card, Form DEM-024 or equivalent, with the local emergency management agency.

(a) The information provided during registration may be used by local authorized officials to conduct criminal history and driving record background checks.

(b) Failure to truthfully respond to statements set forth on the registration form may result in the denial of registration, revocation of registration as an emergency worker, or denial of compensation for claims or damage.

(c) Registration and subsequent issuance of an emergency worker identification card, Form DEM-025 or equivalent, shall be at the discretion of the local emergency management agency director. Denial of registration shall only be made for cause.

(d) Each emergency worker shall be assigned to an emergency worker class as listed in WAC 118-04-100 in accordance with their skills, abilities, licenses, and qualifications.

(2) An employee of the state or of a political subdivision of the state who is required to perform emergency duties as a normal part of their job shall be considered as registered with the local emergency management agency in the jurisdiction in which they reside.

(a) When such individuals are outside the jurisdiction of their employment during a disaster or emergency, except when acting under the provisions of a mutual aid agreement, they should report to the on-scene authorized official and announce their capabilities and willingness to serve as a volunteer during the emergency or disaster. These individuals will be afforded the same protection as all other emergency workers.

(b) Such individuals, including volunteer fire fighters enrolled under chapter 41.24 RCW, shall not be eligible for compensation as emergency workers when, during an emergency or disaster, they are performing their normal

duties in the geographic area they are normally assigned to work or in another geographic area under the provisions of a mutual aid agreement.

(3) Temporary registration.

(a) Temporary registration may be authorized:

(i) In those emergency situations requiring immediate or on-scene recruiting of volunteers to assist in time-critical or life-threatening situations.

(ii) In those training or exercise situations where certain duties can be performed by persons who have no permanent and specific emergency worker assignments and who are not registered emergency workers but whose participation may be essential or necessary for the conduct of the training or exercise activity such as persons serving as disaster victims during a medical exercise.

(b) Persons shall be temporarily registered during the period of service if they have filled out a temporary registration card which includes name, date of birth, and address, as well as information describing the emergency, training, or exercise function they participated in, and the date and time they were involved in these activities, are issued a temporary identification card, and have reported to and are under the control and supervision of an authorized official operating under the provisions of chapter 38.52 RCW.

(c) When the lack of available time or resources precludes the completion of separate temporary registration and identification cards for each person, entry of the person's name, assignment, date and times of work, total hours worked, and miles driven (if applicable) on an emergency worker daily activity report, Form DEM-078 or equivalent, shall suffice until such time as the required forms can be completed. In these cases, the emergency worker's date of birth shall be used in lieu of an emergency worker identification card number in the appropriate block on the Form DEM-078.

(d) Period of service:

(i) The period of service for persons temporarily registered shall commence no earlier than the date and time of issuance of an emergency management division mission, evidence search mission, or training event number.

(ii) The period of service for persons temporarily registered shall terminate no later than the termination date and time of the emergency management division mission, evidence search mission, or training event number.

(4) Any citizen commandeered for service in accordance with RCW 38.52.110 shall be entitled, during the period of this service, to all privileges, benefits and immunities provided by state law and state or federal regulations for registered emergency workers so long as that citizen remains under the direction and control of an authorized official. Such persons should complete temporary registration at the scene in order to facilitate the processing of any claim that may result from that service.

(5) Animals, such as dogs and horses used in search and rescue and other disaster response may be registered with the local emergency management agency.

(a) The purpose of this provision is to support those instances where a search dog or other animal must be transported on commercial aircraft. Registration as an emergency search and rescue animal will aid the airline in determining the proper method of transporting the animal.

(b) Registration of an animal will also facilitate the processing claims for that animal should it become injured or killed during a training event or mission.

#### NEW SECTION

#### **WAC 118-04-100 Classes of emergency workers.**

The following classes of emergency workers and the scope of duties of each class are hereby established.

(1) Administration includes, but is not limited to, technical, administrative, and clerical services and may involve recruiting, coordinating, and directing any emergency support activities.

(2) Aviation includes duties performed by pilots licensed by the Federal Aviation Administration, operating Federal Aviation Administration approved aircraft, in support of emergency management activities. No compensation will be provided under chapter 38.52 RCW for those activities of air search which are the statutory responsibility of the Washington state department of transportation, aeronautics division.

(3) Communications includes, but is not limited to, any emergency communications activities carried out in accordance with approved state or local emergency operations and communications plans.

(4) Engineering includes, but is not limited to, structural, lifeline, electrical, civil, or mechanical engineering activities, inspection services, structural stability evaluation, and other emergency engineering-related activities such as construction, closure, demolition, repair, and maintenance of highways, roads, streets, bridges, as well as all types of buildings and facilities.

(5) Fire service includes, but is not limited to, assisting fire fighting forces or agencies in both urban and rural areas, rescuing persons or protecting property, instructing residents regarding fire prevention, providing emergency information to individual citizens about methods of detecting fires and precautions to be observed to reduce fire hazards. This class does not include volunteer fire fighters enrolled under and while in the performance of duty under chapter 41.24 RCW.

(6) General includes, but is not limited to, duties which can be performed by persons without permanent specific emergency assignment. These emergency workers may include personnel who are not ordinarily a part of an emergency response organization and who do not have any specific training or qualifications, but whose participation is essential to a specific emergency operation such as conducting sandbagging operations during a flood. These persons may be necessary for training or exercise activities such as serving as disaster casualties. These personnel shall register as temporary emergency workers for the period of time they are participating in emergency activities.

(7) Hazardous materials includes, but is not limited to, hazardous materials incident response duties, such as planning and coordination of response resources conducted in accordance with approved state or local emergency operations and hazardous materials plans.

(8) Law enforcement includes, but is not limited to, securing compliance with local, state, and federal laws, in a manner consistent with chapter 38.52 RCW, and assisting law enforcement officers with administrative and nonenforce-



ment functions for the purpose of relieving commissioned personnel to carry out their enforcement duties.

(9) Mass care includes, but is not limited to, the provision of food, clothing, and lodging in mass care centers for persons whose homes have been destroyed or have been made temporarily uninhabitable by emergency or disaster, evacuation service for other than medical cases, registration and information, health and welfare inquiries, provision of temporary housing, counseling performed by qualified counselors, and other necessary assistance to disaster victims. It includes all duties required by current shelter management guidelines and procedures published in approved state or local emergency operations and shelter plans.

(10) Medical includes, but is not limited to, medical and surgical field teams, triage, general emergency and mobile hospitals, nursing service, first aid and ambulance service, sanitation, mortuary and laboratory service, medical-related radiological monitoring, precautionary measures for biological or chemical incidents, identification of sick and injured, and other medical and health services. This class also includes critical incident stress debriefing teams.

(11) Public education includes, but is not limited to, duties involving public education and informational activities necessary to keep the public informed during an emergency or disaster as well as activities designed to prevent persons from becoming lost or injured during wilderness or other outdoor activities.

(12) Radiological includes, but is not limited to, radiological monitoring, gathering and evaluating radiological data, providing technical guidance concerning radiological decontamination operations, reporting, and planning duties that are in accordance with approved state or local emergency operations and radiological emergency plans.

(13) Search and rescue includes, but is not limited to, duties involving searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, man-caused, or technological disaster. These duties include instances involving searches for downed aircraft when ground personnel are used. This class includes urban search and rescue activities.

(14) Supply includes, but is not limited to, procurement, warehousing, staging, sorting, and release of supplies, equipment, and materials required during a mission, emergency, or disaster.

(15) Training includes, but is not limited to, all activities, public and private, relating to the education process and proficiency skill building for the enhancement of emergency preparedness under the concept of comprehensive emergency management, including but not limited to, specific courses, workshops, seminars, exercises, volunteer training activities, which includes the administration, reporting, and maintaining of appropriate records.

(16) Transportation includes, but is not limited to, the planning, organizing, maintaining, operating, and coordinating available means of transportation for the movement of supplies, evacuees, personnel, service animals, livestock, and equipment.

(17) Underwater diving includes, but is not limited to, the duties of underwater diving on any mission or training event. Workers serving in this capacity shall be certified in

accordance with recognized national standards and shall provide proof of this certification to the local authorized official prior to conducting the task assigned.

(18) Utilities includes, but is not limited to, assisting utility personnel in the repair of water, gas, electric, telephone, telegraph, steam, sewer, and other utility facilities.

#### NEW SECTION

**WAC 118-04-120 Classes and qualifications of search and rescue emergency workers.** There are three classes of search and rescue emergency workers: Novice, support personnel, and field personnel. The basic qualifications listed below define each of the three classes. Local requirements may include more extensive and detailed qualifications to meet local needs. Authorized officials may also require search and rescue emergency workers to demonstrate proficiency in the skills required to carry out their assignments.

Emergency workers who are not qualified for specific search and rescue duties shall not be assigned to such duties unless specifically directed by an authorized official and then only when under the direct supervision and control of personnel who are qualified for that specific assignment.

(1) The following are basic qualifications for novice search and rescue emergency workers without specific duties including those personnel in a training status. Novice personnel shall:

(a) Be physically and mentally fit for the position assigned.

(b) Possess sufficient knowledge of search and rescue skills and techniques to fulfill their emergency assignment.

(2) The following are basic qualifications for support search and rescue emergency workers. Support-qualified personnel shall:

(a) Be physically and mentally fit for the position assigned.

(b) Possess knowledge of the skills required of field search and rescue emergency workers but are not required to have the field tested experience nor the physical capabilities of field-qualified personnel.

(c) Possess knowledge in first aid for the control of bleeding, cardiopulmonary resuscitation, bone immobilization, and protection from the elements.

(d) Possess basic knowledge of helicopter operations. Successful completion of a helicopter operations basic course approved by the emergency management division satisfies this requirement.

(e) If duties require involvement in helicopter operations, possess demonstrated knowledge and proficiency in helicopter operations. Successful completion of a helicopter operations intermediate and, as applicable, advanced course, approved by the emergency management division satisfies this requirement.

(3) The following are basic qualifications for field search and rescue emergency workers. Field-qualified personnel shall:

(a) Be physically and mentally fit for the position assigned.

(b) Possess knowledge of and demonstrated proficiency in survival techniques and outdoor living.



(c) Possess knowledge in first aid for the control of bleeding, cardiopulmonary resuscitation, bone immobilization, and protection from the elements.

(d) Possess knowledge in wilderness navigation including map, compass, and other navigation methods as appropriate.

(e) Possess basic knowledge of helicopter operations. Successful completion of the helicopter operations basic course approved by the emergency management division will satisfy this requirement.

(f) Possess knowledge of search and rescue techniques.

(g) Possess knowledge of crime scene recognition, evidence recognition, human remains recognition and the provisions of RCW 68.50.010, 68.50.020, and 68.50.050.

(h) If duties require involvement in helicopter operations, possess demonstrated knowledge and proficiency in helicopter operations. Successful completion of a helicopter operations intermediate, and, as applicable, advanced course approved by the emergency management division, satisfies this requirement.

#### NEW SECTION

##### **WAC 118-04-160 Establishment of state standards.**

When appropriate, state standards may be established for classes of individual emergency workers. The emergency management division may also establish state standards for search and rescue specialties. Upon establishment of a state standard, state training programs will, at a minimum, comply with that standard.

#### NEW SECTION

##### **WAC 118-04-180 Responsibilities of authorized officials registering and using emergency workers.**

(1) Authorized officials registering emergency workers have the responsibility to ensure those emergency workers meet basic qualifications as stated in these rules. Authorized officials organizing and using emergency workers are responsible for assembling the proper combination of emergency workers with the skills and abilities to accomplish the mission being undertaken. It is acknowledged that authorized officials must use judgment and experience in assessing the scene and the requirements for the mission. Authorized officials shall ensure each team has, among its members, the skills and expertise necessary to safely accomplish the mission.

(2) Local requirements may include more extensive and detailed criteria than are specified in this rule to meet local needs. Authorized officials may also require emergency workers to demonstrate proficiency in the skills required to carry out their assignments.

(3) Authorized officials shall ensure that all emergency workers are aware of their duty to comply with the personal responsibilities contained in WAC 118-04-200. This shall be reemphasized to the emergency worker at periodic intervals.

(4) The state recognizes that many situations to which emergency workers are asked to respond are inherently hazardous. It is incumbent upon authorized officials utilizing emergency workers to ensure that the workers are not needlessly endangered in mission activities or training events.

(a) Authorized officials utilizing emergency workers for actual missions or during training events or evidence search activities shall not place emergency workers nor shall they allow emergency workers to be placed in unnecessarily hazardous situations.

(b) All prudent and reasonable safety procedures, techniques, equipment, and expertise shall be used to ensure the safety of emergency workers at all times while going to, preparing for, performing, recovering from, and returning from, missions or training events.

#### NEW SECTION

##### **WAC 118-04-200 Personal responsibilities of emergency workers.**

(1) Emergency workers shall be responsible to certify to the authorized officials registering them and using their services that they are aware of and will comply with all applicable responsibilities and requirements set forth in these rules.

(a) Participation in any mission, training event, or other authorized activity by emergency workers who have been using any medical prescription or other drug that has the potential to render them unfit or unable to carry out their emergency assignment is prohibited.

(b) Participation by emergency workers in any mission, training event, or other authorized activity while under the influence of or while using narcotics or any illegal controlled substance is prohibited.

(c) Participation by emergency workers in any mission, training event, or other authorized activity while under the influence of alcohol is prohibited.

(d) Emergency workers participating in any mission, training event, or other authorized activity shall possess a valid operator's license if they are assigned to operate vehicles, vessels, or aircraft during the mission unless specifically directed otherwise by an authorized official in accordance with RCW 38.52.180. All emergency workers driving vehicles to or from a mission must possess a valid driver's license and required insurance.

(e) Use of private vehicles, vessels, boats, or aircraft by emergency workers in any mission, training event, or other authorized activity without liability insurance required by chapter 46.29 RCW is prohibited unless specifically directed otherwise by an authorized official in accordance with RCW 38.52.180.

(f) Emergency workers shall adhere to all applicable traffic regulations during any mission, training event, or other authorized activity. This provision does not apply to individuals who have completed the emergency vehicle operator course or the emergency vehicle accident prevention course and who are duly authorized under state law to use special driving skills and equipment and who do so at the direction of an authorized official.

(2) Emergency workers have the responsibility to comply with all other requirements as determined by the authorized official using their services.

(3) When reporting to the scene, emergency workers have the responsibility to inform the on-scene authorized official whether they are mentally and physically fit for their assigned duties. Emergency workers reporting as not fit for

currently assigned duties may request a less demanding assignment that is appropriate to their current capabilities.

(4) Emergency workers have the responsibility to check in with the appropriate on-scene official and to complete all required recordkeeping and reporting.

#### NEW SECTION

##### **WAC 118-04-220 Emergency worker duty status.**

Emergency workers are considered to be on duty when they are performing their duties during a mission, evidence search mission, or training event authorized by the emergency management division and they are under the direction and control of an authorized official.

In no event shall a public agency, other than an authorized organization as defined in these rules, use the services, including for training, of an emergency worker unless the agency has received the prior approval of the emergency management division assistant director. Emergency management division approval shall set forth the time and purpose of the activity and the proposed use of the emergency worker.

#### NEW SECTION

**WAC 118-04-240 Mission numbers—Requests and requirements.** (1) The emergency management division shall assign a mission number to approved missions or other emergency activities. The local authorized official shall notify emergency management division as soon as practical of all missions or other emergency activities under their jurisdiction and request the assignment of a mission number.

(2) The mission number assigned shall be a reference for the dispatch of resources to assist in the mission, recordkeeping, and reimbursement of any emergency worker compensation claims filed in connection with that mission.

(3) If additional resources from a different jurisdiction are needed to respond to an authorized mission, the local authorized official should make the request through the emergency management division duty officer.

(4) Requests from jurisdictions outside the state of Washington for the assistance of Washington state-based emergency workers should be coordinated through the requesting state, province or nation and the emergency management division duty officer. Compensation under chapter 38.52 RCW will only be available to individuals responding to missions outside of the state of Washington when the emergency management division duty officer has assigned a mission number, is coordinating the mission with the requesting state, province, or nation, and where an interstate mutual aid or similar agreement governs the mission.

(5) Upon notification by an authorized official to report to duty at a specific time and place, emergency workers are entitled to the benefits and provisions under chapter 38.52 RCW when acting in compliance with such notification and these rules. Eligibility for compensation shall be limited to the time and distance necessary to travel to the duty station, performance of services, and reasonable time to return to the point of origin.

(6) Mission numbers shall not be applied for or assigned, nor shall compensation be provided for activities

which directly involve the search for, apprehension of, detention, or arrest of suspects or persons in the act of committing or having committed a crime.

(7) Emergency worker daily activity report, Form DEM-078 or the equivalent, shall be used as a part of the administrative record for each mission.

#### NEW SECTION

**WAC 118-04-260 Evidence search mission numbers—Requests and requirements.** (1) The purpose of this section is to provide additional training opportunities for emergency workers. Since the skills and techniques used to search for evidence relating to criminal activity are substantially the same as those used in the search for clues relating to lost or injured persons, search and rescue emergency workers can receive training benefit by participating in such evidence searches.

(2) An evidence search mission number shall be issued by the emergency management division for the utilization of emergency workers to search for evidence when the provisions of this section have been complied with.

(a) The requesting law enforcement agency shall send a hardcopy message requesting the evidence search mission number via the law enforcement teletype system (ACCESS, address code BK), by facsimile, or by other suitable means to the emergency management division. During nonbusiness hours, the request shall be sent to the Washington state patrol dispatch in Olympia (ACCESS address code BN).

(b) The hard copy message shall be addressed "please relay to emergency management division duty officer immediately" and shall include the following items:

(i) Jurisdiction and law enforcement agency requesting the evidence search mission number.

(ii) Name of the officer in charge on-scene and call-back telephone number.

(iii) Description of specific location of the evidence search.

(iv) The approximate number of emergency workers being utilized and a list of participating units.

(v) A statement of the activity to be undertaken and training benefits to be derived by the emergency workers participating in the mission.

(vi) A statement certifying that the emergency workers will be utilized within the scope of their normal emergency worker assignment.

(vii) A statement certifying, verbatim, that: "This activity does not involve the search for, apprehension of, detention, or arrest of suspects or persons in the act of committing or having committed a crime."

(3) After the hard copy is sent via access, facsimile, or other suitable means, the local authorized official shall call the emergency management division duty officer and coordinate the details of the mission. During nonbusiness hours the Washington state patrol dispatcher will call the emergency management division duty officer regarding the ACCESS message. Upon receipt of such notice, the emergency management division duty officer shall call the local authorized official who requested the mission.

(4) Upon receipt of the hard copy information, the request shall be reviewed to determine if the mission is in

compliance with WAC 118-04-260. Upon approval, an evidence search mission number shall be assigned.

(5) Emergency worker daily activity report, Form DEM-078 or equivalent, shall be used as a part of the administrative record for each evidence search mission.

#### NEW SECTION

**WAC 118-04-280 Training event numbers—Requests and requirements.** (1) The emergency management division shall establish a procedure for local emergency management agency directors to assign a training event number to routine, approved search and rescue and other emergency-related training activities consistent with chapter 38.52 RCW.

(2) A request for a training event number for the purpose of developing, maintaining, or upgrading emergency worker skills for all types of emergency management activities shall be forwarded in writing using Form DEM-079, training mission request or equivalent, for approval by the emergency management division.

(a) All requests for training event numbers shall be signed by the local emergency management agency director or designee of the jurisdiction where the organization sponsoring the training activity is located.

(b) The Form DEM-079, training mission request or equivalent, shall be forwarded to the emergency management division so as to arrive ten working days prior to the scheduled date of the training activity.

(c) For training events that come to the attention of the local emergency management agency director less than ten working days prior to the scheduled date of the training activity, approval may be requested from the emergency management division by facsimile, telephone, or other method. Such requests shall be considered by the emergency management division on a case-by-case basis.

(3) All training shall conform to local comprehensive emergency management plans. The request for training event number shall cite those portions of the plans, annexes, appendices, and tabs which specifically address the activities for which emergency workers are being trained.

(4) A training course curriculum, plan of instruction, or course outline shall accompany the training event approval request. If that particular curriculum, plan of instruction, or course outline will be used as a standard, recurring course of instruction, then the requesting local emergency management agency may number and title that curriculum, plan of instruction, or outline, keep it on file with the state, and refer to that number and title when requesting a training event approval for the same training in the future. Blocks of training event numbers may be issued for such courses at the discretion of the emergency management division.

(5) Upon approval of the training event, the emergency management division shall issue a training event number. The training event number assigned shall provide a reference for the local, state, or federal organization taking part in the training activity. Administrative records and reimbursement of eligible emergency worker compensation claims, filed as a result of activities on a training event shall include the training event number.

(6) The training event number issued is for the specified training activity at the specified date, time, and location. Any change in the training activity, location, or date or a significant change in the specified time (e.g., from daylight hours to after dark) shall be reported to the emergency management division as soon as possible.

(7) If additional organizations other than those originally listed on Form DEM-079 request to participate in the training event and are approved by the sponsoring emergency management agency director, they shall provide appropriate information (the organization's name and address, names of participating personnel and emergency worker registration numbers) to the sponsoring local emergency management agency director for inclusion in the training event report prior to submittal to the emergency management division.

(8) Upon notification that the emergency management division has issued a training event number for a training event at a specific date, time, and place, emergency workers will be eligible for benefits and compensation under the provisions of chapter 38.52 RCW when acting in compliance with the notification and these rules.

(9) Compensation will be limited to medical services, property loss or damage, and liability under chapter 38.52 RCW during the time necessary to travel to the training site, performance of the training activity, and reasonable time to return to the point of origin.

(10) Authorized officials shall ensure that emergency workers participating in a training event or exercise are not placed in unnecessarily hazardous situations.

(11) Authorized officials shall ensure that emergency workers have successfully completed applicable helicopter operations training course(s), approved by emergency management division, prior to being transported by aircraft during a training event.

(12) Emergency worker daily activity report, Form DEM-078 or equivalent, shall be used as a part of the administrative record for each training event.

(13) Training event numbers shall not be assigned for any activities which involve the search for, apprehension of, detention, or arrest of suspects or persons in the act of committing or having committed a crime.

(14) Training event numbers shall not be assigned for training activities which involve the use of aircraft of any type without specific, prior approval of the emergency management division. The state shall not assume any liability for any accidents or incidents resulting from the unauthorized use of aircraft.

#### NEW SECTION

**WAC 118-04-300 Compensation eligibility and compensation board.** (1) Compensation shall be authorized when emergency worker eligibility has been established and all appropriate regulations and statutes are complied with.

(2) Emergency workers are eligible for compensation when they are participating in a mission, evidence search mission, or training event authorized by the emergency management division and are under the direction and control of an authorized official.

(3) No eligibility or protection offered under chapter 38.52 RCW will replace other state mandated insurance coverage required for vehicles, vessels, boats, or aircraft.

(4) The assistant director, emergency management division may deny any claim under the amount set by statute requiring a compensation board on the basis of inadequate documentation, failure to follow prescribed reporting procedures, or when lack of compliance with these rules is sufficient to raise doubt as to the circumstances, extent of injury, damage, loss, or expense related to the claim. For claims over the amount set by statute, the provisions of RCW 38.52.240 shall apply.

(5) A compensation board shall be convened for claims over the amount set by statute (RCW 38.52.220).

(6) Compensation board hearing, procedural records, and claim preparations are the responsibility of the local emergency management agency director in the jurisdiction in which loss or injury occurred (RCW 38.52.210).

(7) Department of labor and industries workers' compensation forms shall not be used, nor shall medical expenses claims be submitted to the department of labor and industries for a claim made pursuant to chapter 38.52 RCW.

#### NEW SECTION

**WAC 118-04-320 Eligibility requirements and procedures for filing personal injury claims.** (1) The injured person shall have been a registered emergency worker, activated by an authorized official for an authorized activity under the provisions of chapter 38.52 RCW, and shall have reported to or been in the process of reporting to the authorized on-scene official.

(2) The emergency management division shall provide forms for personal injury claims (Form DEM-084, medical expenses claim), parts of which must be completed by the local emergency management agency, the claimant, and the attending physician. This form shall be submitted with documentation to the local emergency management agency.

(3) For missions occurring outside an injured person's jurisdiction of residence, the claimant may file the claim with the local agency in the jurisdiction of residence, provided that the local emergency management agency director in the injured person's jurisdiction of residence coordinates the claim with the local emergency management agency director in the jurisdiction where the mission occurred.

(4) In the event of injury to an emergency worker, the responsible agency's on-scene authorized official shall be notified as soon as possible.

(5) The on-scene authorized official shall advise the local emergency management agency director of any injuries, as soon as possible, and shall provide appropriate and timely documentation. The local emergency management agency director shall notify the emergency management division of any injuries as soon as possible. The emergency management division shall assist the local emergency management agency director in processing claims.

(6) Labor and industries workers' compensation forms shall not be used, nor shall medical expense claims be submitted to the department of labor and industries for a claim made pursuant to chapter 38.52 RCW.

(7) Documentation shall include any reports, mission logs, ambulance and hospital bills, receipts, medical reports, or other information helpful in describing the extent of the injury, the circumstances under which the injury occurred, and the costs that were incurred as a result of the injury.

(8) The injury, disability, or death shall not have been caused by the willful misconduct, gross negligence, or bad faith of the claimant.

(9) Compensation for injury, disability, death, and related claims shall be adjusted and paid in accordance with department of labor and industries workers' compensation schedules.

(10) For claims in excess of the amount set by RCW 38.52.220, a compensation board shall convene to review the claim under RCW 38.52.210, 38.52.220, 38.52.230, 38.52.240, and 38.52.250.

(a) The local emergency management agency shall notify the emergency management division of any pending claim in excess of the amount set by statute.

(b) The claimant shall be notified of date, time, and place of the compensation board hearing by the local emergency management agency director by personal service or registered mail.

(c) The compensation board established under chapter 38.52 RCW may request that the claimant appear before the board.

(d) The local emergency management agency director shall transmit the findings and recommendations of the compensation board to the emergency management division for disposition.

(11) In accordance with RCW 51.28.050, no claim for injury shall be valid unless filed within one year after the day upon which the injury occurred or the rights of dependents or beneficiaries accrued except as provided in RCW 51.28.055.

#### NEW SECTION

**WAC 118-04-340 Eligibility requirements and procedures for filing property loss and damage claims.**

(1) The person seeking reimbursement shall have been a registered emergency worker, activated by an authorized official for an authorized activity under the provisions of chapter 38.52 RCW, and shall have reported to or been in the process of reporting to the authorized on-scene official.

(2) The emergency management division will provide forms (Form DEM-086, property loss or damage claim) for reimbursement of property loss or damage claims as authorized by chapter 38.52 RCW. All claims must include receipts and documentation and be submitted to the local emergency management agency.

(3) For missions occurring outside the person's jurisdiction of residence, the claimant may file the claim with the jurisdiction of residence, provided that the local emergency management agency director in the jurisdiction of residence coordinates the claim with the local emergency management agency director in the jurisdiction where the mission occurred.

(4) The original of the claim shall be sent to the department of general administration, division of risk management who will register the claim and forward it to

the emergency management division. A copy of the claim should be sent to the emergency management division.

(5) In the event of property loss or damage, the on-scene authorized official shall be notified as soon as possible.

(6) The on-scene authorized official shall advise the local emergency management agency director of any significant property loss or damage and shall provide appropriate and timely documentation. The local emergency management agency director shall notify the emergency management division of any significant property loss or damage. The emergency management division shall assist the local emergency management agency director in processing claims.

(7) Loss or damage shall not have been caused by the willful misconduct, gross negligence, or bad faith of the claimant.

(8) Only property that is deemed necessary and reasonable for the mission activity shall be considered for compensation, if lost or damaged.

(9) Loss or damage to personal property caused by normal wear and tear, mechanical or electrical breakdown, or any inconvenience consequent to such loss or damage that was not the result of the mission activity shall not be eligible for compensation.

(10) Compensation for the loss or theft of property left unsecured or for damage which could have been prevented through reasonable care may be denied.

(11) Animals such as dogs and horses, used in an official capacity on missions are considered personal property. Claims for the injury or loss of animals during either an authorized training event or mission shall be submitted on the property loss or damage claim form (Form DEM-086). Evaluation of the claim shall consider, at a minimum, replacement cost of the animal, special training required, and other costs for preparing the animal for the mission or duty.

(12) For claims in excess of the amount set by RCW 38.52.220, a compensation board shall meet to review the claim under RCW 38.52.210, 38.52.220, 38.52.230, 38.52.240, and 38.52.250.

(a) The local emergency management agency director shall notify the emergency management division of any pending claim in excess of the amount set by statute.

(b) The claimant shall be notified of the date, time, and place of the compensation board hearing by the local emergency management agency director by personal service or registered mail.

(c) The compensation board established under chapter 38.52 RCW may request that the claimant appear before the board.

(d) The local emergency management agency director shall transmit the findings and recommendations of the compensation board to the emergency management division for disposition.

(13) As provided in RCW 4.16.080, claims for property damage or loss shall be filed within three years after the date of the occurrence.

#### NEW SECTION

**WAC 118-04-360 Eligibility requirements and procedures for filing fuel, toll, and ferry expense reimbursement claims.** (1) The person seeking reimbursement shall have been a registered emergency worker, activated by an authorized official for an authorized activity under the provisions of chapter 38.52 RCW, and shall have reported to or been in the process of reporting to the authorized on-scene official. For individuals representing a volunteer organization, the organization must be a locally recognized emergency worker volunteer organization activated by an authorized official for an authorized activity under the provisions of chapter 38.52 RCW, and a responsible unit official shall have reported to the authorized on-scene official.

(2) The emergency management division will provide forms (Form DEM-036, fuel, toll & ferry reimbursable expenses claim) for reimbursement of fuel, toll, and ferry expenses as authorized by chapter 38.52 RCW. All claims must include receipts and documentation and be submitted through the local emergency management agency to the emergency management division.

(3) For claims arising outside of the person's jurisdiction of residence, the claimant may file the claim with the jurisdiction of residence, provided that the local emergency management agency director in the jurisdiction of residence coordinates the claim with the local emergency management agency director in the jurisdiction where the mission occurred.

(4) Fuel, toll, and ferry reimbursable expense claims shall be considered for both individual emergency workers and for emergency workers representing volunteer organizations when missions:

(a) Occur outside a participating emergency worker's/volunteer organization's county of residence; or

(b) In which an emergency worker/volunteer organization has participated for more than twenty-four hours; or

(c) Occurring within an emergency worker's/volunteer organization's county of residence and lasting less than twenty-four hours, when:

(i) The mission required an emergency worker/volunteer organization to drive a vehicle more than fifty miles one-way; or

(ii) Authorized officials required an emergency workers/volunteer organization to drive a vehicle more than one hundred miles during the course of the mission.

(5) Fuel, toll, and ferry expenses resulting from training events shall not be eligible for reimbursement.

#### NEW SECTION

**WAC 118-04-380 Eligibility requirements and procedures for filing extraordinary expense claims.** (1) Local authorized officials may submit extraordinary expense claims on behalf of emergency workers if the expenses were necessary to directly support emergency worker activity under an emergency management division mission number and the expenses represent extraordinary, expendable obligations such as feeding or lodging of emergency workers.

(2) Individual emergency workers submitting claims shall have been a registered emergency worker, activated by an authorized official for an authorized activity under the provisions of chapter 38.52 RCW, and shall have reported to or been in the process of reporting to the authorized on-scene official.

(3) The emergency management division shall provide forms (Form DEM-089, extraordinary expense claim) for use by local authorized officials and emergency workers for reimbursement of extraordinary expenses for missions as authorized by chapter 38.52 RCW. All claims must include receipts and documentation and be submitted through the local emergency management agency to the emergency management division.

(4) All lodging and feeding claims shall be paid in accordance with current state per diem rates.

(5) Extraordinary expenses resulting from training events shall not be eligible for reimbursement.

**NEW SECTION**

**WAC 118-04-400 After action reporting.** (1) The emergency management division shall provide forms for use by local emergency management agency directors in providing after action information. After action reports shall be filed for:

(a) Search and rescue missions (Form DEM-077, search and rescue mission data sheet). The required information includes data on the subject, location of incident, response, weather conditions, results, subject behavior, and resources used.

(b) Training events. The required information includes data on the training activities conducted, resources used, problems noted, corrective actions assigned, and other information of a training nature. Form DEM-105L, incident report data sheet may be used.

(c) Other missions, including evidence search missions (Form DEM-105L, incident report data sheet). The required information includes location and other data on the incident, response, weather conditions, results, and resources used.

(2) All mission, evidence search mission, and training event after action reports shall include information from the participating emergency workers, including individual daily activity reports (DEM-078, or equivalent), other reports, rosters, mission event and communications logs, lost person information forms, training event logs, plans of instruction, instructor lists, and any other information that may be helpful in a descriptive reconstruction of the mission or training event.

(3) The local emergency management agency director shall forward all mission, evidence search mission, and training event after action reports to the emergency management division within twenty working days from the termination or suspension of the activity.

**NEW SECTION**

**WAC 188-04-420 Severability.** If any provision of this chapter is held invalid, the remainder of the rule is not affected.

**Reviser's note:** The section above was filed by the agency as WAC 188-04-420. However, the other rules for the Department of Community Development (Divisions of Emergency Management) are found in Title 118. The section above appears to be WAC 118-04-420, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 118-04-010	Purpose.
WAC 118-04-030	Scope.
WAC 118-04-050	Definitions.
WAC 118-04-070	Registration.
WAC 118-04-090	Scope of emergency duties.
WAC 118-04-110	Classes of emergency workers.
WAC 118-04-130	Emergency worker criteria and standards.
WAC 118-04-140	Search and rescue emergency worker guidelines.
WAC 118-04-150	Department of emergency services mission number.
WAC 118-04-170	Evidence search training mission number.
WAC 118-04-190	Eligibility and responsibility.
WAC 118-04-210	Eligibility requirements and procedures for filing personal injury claims by emergency workers.
WAC 118-04-230	Eligibility requirements and procedures for filing property loss/damage claims by emergency workers.
WAC 118-04-250	Fuel and toll claims.
WAC 118-04-270	Extraordinary expense claims.
WAC 118-04-290	After action reports—Search and rescue.

**WSR 93-15-089  
PROPOSED RULES  
PUBLIC WORKS BOARD**  
[Filed July 20, 1993, 1:53 p.m.]

Original Notice.

Title of Rule: WAC 399-10-010 Organization and operation of the Public Works Board, 399-10-020 Board meeting, and 399-10-030 Communication with the board.

Purpose: To update address of board and to provide gender-neutral language.

Statutory Authority for Adoption: RCW 43.155.040(4).

Statute Being Implemented: Chapter 43.155 RCW.

Summary: This proposed rule change updates the WAC to current standards.

Reasons Supporting Proposal: Proposed changes are necessary to provide public with accurate information.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: P. A. Butkus, 906 Columbia Street S.W., Olympia, (206) 586-7186.

Name of Proponent: Public Works Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule change will update board mailing address to reflect current address; and make two WAC sections gender-neutral to reflect state policy.

Proposal Changes the Following Existing Rules: See above.

There is no small business impact to these proposed rule changes.

Hearing Location: SeaTac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, on September 7, 1993, at 8:30 a.m.

Submit Written Comments to: Denise Van Housen, P.O. Box 48319, Olympia, WA 98504-8319, by September 3, 1993, 5:00 p.m.

Date of Intended Adoption: September 7, 1993.

July 16, 1993

Pete A. Butkus

Public Works Manager

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

**WAC 399-10-010 Organization and operation of the public works board.** (1) The public works board, hereinafter referred to as the board, is a thirteen-member board appointed by the governor and created pursuant to RCW 43.155.030.

(2) The governor shall appoint one of the general public members of the board as chair. The board may elect such other officers for such terms as it may from time to time deem necessary in accordance with the board's bylaws.

(3) The board's staff support and office space is provided by the department of community development, whose main office is located (~~in the Ninth & Columbia Building, Olympia, Washington, 98504~~) at 906 Columbia Street S.W., P.O. Box 48319, Olympia, Washington 98504-8319; phone (AC 206) 753-2200.

(4) The purpose of the board is to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects.

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

**WAC 399-10-020 Board meeting.** (1) Notice of the times and places of the regular meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the board.

(2) Special meetings of the board may be called at any time by the (~~chairman~~) chair of the board or by a majority of the board members. Notice of such meetings will be as provided by law.

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

**WAC 399-10-030 Communications with the board.**

Any and all written communications with the board, including but not limited to requests for information or copies of agency records, or submittals of any nature, shall be addressed to the public works board, in care of the (~~chairman~~) chair, at the address which appears in WAC 399-10-010(3). Telephonic communications may be initiated by calling the phone number also listed in WAC 399-10-010(3).

**WSR 93-15-090**

**PROPOSED RULES**

**PUBLIC WORKS BOARD**

[Filed July 20, 1993, 1:55 p.m.]

Original Notice.

Title of Rule: WAC 399-30-040 Application evaluation procedure and board deliberations.

Purpose: To update references to reflect the 1994 loan application and to provide clarity on acceptance of oral testimony.

Statutory Authority for Adoption: RCW 43.155.040(4).

Statute Being Implemented: Chapter 43.155 RCW.

Summary: This proposed rule change updates the WAC to current standards.

Reasons Supporting Proposal: To provide the public with accurate information.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: P. A. Butkus, 906 Columbia Street S.W., Olympia, (206) 586-7186.

Name of Proponent: Public Works Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule change will update evaluation procedure to reflect questions in the 1994 loan application; and clarify purpose on limitations of oral testimony.

Proposal Changes the Following Existing Rules: See above.

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

There is no small business impact to these proposed rule changes.

Hearing Location: SeaTac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, on September 7, 1993, at 8:30 a.m.

Submit Written Comments to: Denise Van Housen, P.O. Box 48319, Olympia, WA 98504-8319, by July 3, 1993, 5:00 p.m.

Date of Intended Adoption: September 7, 1993.

July 16, 1993

Pete A. Butkus

Public Works Manager

AMENDATORY SECTION (Amending WSR 92-03-052, filed 1/13/92, effective 2/13/92)

**WAC 399-30-040 Application evaluation procedure and board deliberations.** (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) Up to ~~((thirty-six))~~ forty points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions ~~((2.01, 2.03, 2.04, and 2.07))~~ 3.04, 4.01, 4.021, 4.03, 4.04, and 4.05 will be evaluated to determine this score.

~~((ii) (Up to two points may be awarded in the evaluation of coordinated projects provided in applicant responses to question 2.04.~~

~~((iii) Up to two points may be awarded in the evaluation of projects which increase the potential for local economic activities in communities that have low economic growth (question 2.05).~~

~~((iv))~~ Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration ~~((that it is making reasonable))~~ of local management effort ~~((s to meet its public works needs))~~. Responses to questions ~~((4.01 through 4.16+))~~ 5.01 through 5.141 will be evaluated to determine this score.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure fair treatment to all applicants, the board will not accept oral testimony from any applicant while deliberating loan priorities, other than information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

**WSR 93-15-091**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed July 20, 1993, 1:58 p.m.]

Original Notice.

Title of Rule: Implementation of nonsupplanting requirements associated with the appropriation of funds to local health departments.

Purpose: Establish standards to ensure that state public health service account funds are not used to supplant local support for public health programs.

Statutory Authority for Adoption: RCW 43.70.020.

Statute Being Implemented: Chapter 24, Laws of 1993 1st sp. sess.

Summary: The secretary of the Department of Health will not allocate funds unless the authorized agent of the local health department provides assurance that state funds will not be used to supplant local support for public health programs.

Reasons Supporting Proposal: The state operating budget requires the department to develop rules to ensure that supplanting does not occur.

Name of Agency Personnel Responsible for Drafting: Kris Van Gorkom, 1112 Quince, Olympia, 586-7297; Implementation and Enforcement: Jone Borhek, Airdustrial Park, P.O. Box 47892, Olympia, 753-5858.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule requires the authorized agents of local health departments to assure that state funds, received pursuant to chapter 24, Laws of 1993 1st sp. sess. are used solely to expand and complement, but not supplant, local support for public health programs.

Proposal does not change existing rules.

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

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on August 24, 1993, at 1 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47902, Olympia, WA 98504-7902, by August 23, 1993.

Date of Intended Adoption: August 24, 1993.

July 14, 1993  
 Bobbie Berkowitz  
 Deputy Secretary



NEW SECTION

**WAC 246-05-001 Purpose.** The purpose of this chapter is to ensure that the appropriations to local health departments, described in ESSB 5968, Sec. 225(9), will not be used to replace current local support for public health programs.

NEW SECTION

**WAC 246-05-010 Definitions.** "Department" means that department of health.

"Secretary" means the secretary of health, or the secretary's designee.

"Local health department" means the city, town, county or district which provides public health services to persons within the area.

NEW SECTION

**WAC 246-05-030 Assurance of nonsupplanting.** Funds shall not be allocated by the secretary unless the authorized agent of the local health department provides assurance of compliance to the secretary that, "State funds received pursuant to C24 L93 E1 (SSB 5968, Section 225(9)) shall be used solely to expand and complement, but not supplant, local support for public health programs."

**WSR 93-15-092  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Filed July 20, 1993, 2:55 p.m.]

Original Notice.

Title of Rule: Participating provider contracts—Standards.

Purpose: Provide uniform standards to be used in the negotiation and drafting of contracts between providers and health care service contractors.

Other Identifying Information: Insurance Commissioner Matter No. R 93-3.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.44.070.

Statute Being Implemented: RCW 48.44.070.

Summary: Requires filing and publication of general criteria for selection and termination of participating providers; requires participating provider contracts issued on or after January 1, 1994, to include provisions for dispute resolution; prohibits use of termination without cause provisions in participating provider contracts issued on or after January 1, 1994; requires all participating provider contracts issued before January 1, 1994, to be brought into compliance on the earlier of the next regularly occurring renewal date or July 1, 1994; rules adopted pursuant to chapter 492, Laws of 1993 will supersede this regulation.

Reasons Supporting Proposal: Lack of contracting standards has resulted in numerous conflicts between providers and health care service contractors (HCSC). Those conflicts result in an adverse economic impact on the HCSC. Those impacts also unfavorably impact consumers who are

denied access to the provider of their choice, or denied benefits due to a lack of participating providers, because of contracting conflicts between the provider and the HCSC. Provider - HCSC contracting conflicts also require that significant amounts of resources available to the commissioner must be allocated away from functions more directly related to consumer issues. It is anticipated that the implementation of this rule will reduce the conflicts between providers and HCSCs, and not only reduce costs for all parties, but also afford consumers more choice and continuity in the use of selected providers. Section 431, chapter 492, Laws of 1993 "Health Care Reform Act", requires the adoption, for certified health plans (CHPs), of rules which require the disclosure of the CHP's general criteria for selection and termination of providers and for the resolution of disputes between providers and CHPs. This proposed rule adopts the intent of the Legislature, as expressed in section 431, and applies that intent to HCSCs and their current provider contracting practices in order to extend the consumer protections of section 431, on a current basis, to consumers of HCSCs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James T. Odiorne, Insurance Building, Olympia, Washington, (206) 586-5590.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule requires HCSCs to make public the general criteria for selecting and terminating participating providers. This rule also includes the requirement that all participating provider contracts include a provision for the resolution of conflicts arising under the contract between the provider and the HCSC, and the further provision for an appeal of that resolution process. The insurance commissioner will not be an arbiter or mediator of disputes between providers and HCSCs. "Without cause" provisions may no longer be used by either party to a participating provider contract. All participating provider contracts must be in compliance with this regulation no later than July 1, 1994. This rule will be secondary to and superseded by chapter 492, Laws of 1993, and the regulations adopted pursuant thereto.

The purpose of this rule is to reduce the inconvenience and hardship experienced by consumers when, through a conflict between a provider and a HCSC the consumer is denied access to the consumer's provider of choice, or denied benefits because a nonparticipating provider has been used. It is expected that this rule should reduce the HCSC's administrative expense directly related to attempting to resolve conflicts with providers. The Office of Insurance Commissioner will benefit from this rule through a reduced number of consumer and provider complaints received based on conflicts between providers and HCSCs.

Proposal does not change existing rules.

Small Business Economic Impact Statement: This rule will impact all HCSCs, some of which may qualify as small businesses. The impact will be primarily in the development of general criteria for the selection and termination of participating providers. In theory, those criteria have

previously been developed and it will only be necessary for the HCSC to document the criteria. Some impact will be noted in the drafting of new participating provider contracts. It is impossible to quantify the gross dollar amount of those impacts. There is no data currently available by which to relate the impact to the number of employees, number of hours worked, or the premium income of the HCSC. Some of the providers impacted by this rule may be small businesses. The expected impact will be to lessen the resources currently devoted to negotiating participating provider contracts and terminations of those contracts. This should be a positive impact for the providers. There is no data available and no basis upon which to quantify the impact or to relate it meaningfully to a provider's number of employees, number of hours worked, or revenue.

Hearing Location: John L. O'Brien Building, Hearing Room E, State Capitol Campus, Olympia, Washington, on August 25, 1993, at 9:30 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 25, 1993.

Date of Intended Adoption: August 31, 1993.

July 19, 1993  
Deborah Senn  
Insurance Commissioner

#### NEW SECTION

**WAC 284-44-241 Participating provider contracts—Standards.** (1) Before January 1, 1994, each health care service contractor shall develop, publish and file with the insurance commissioner its general criteria for the selection or termination of participating providers.

(2) All participating provider contracts issued by health care service contractors on or after January 1, 1994, must contain specific provisions for the resolution of disputes arising out of the contract, including but not limited to the termination of the contract. Such provisions must provide for dispute resolution, and reasonable means of appealing resolution decisions, by way of arbitration, mediation, or the civil courts. The insurance commissioner will not be an arbiter or mediator of disputes between participating providers and a health care service contractor arising under, or by reason of, a participating provider contract or its termination.

(3) No participating provider contracts issued by health care service contractors on or after January 1, 1994, may contain a provision allowing either party to terminate the contract prior to its stated termination date without cause.

(4) All participating provider contracts issued by health care service contractors before January 1, 1994, must be amended to conform to this regulation on the earlier of the contract's next regularly occurring renewal date or July 1, 1994.

(5) This regulation will not be effective in any situation in which it would be in conflict with any regulation adopted by the Washington health services commission or the Washington attorney general pursuant to the authority of chapter 492, Laws of 1993.

**WSR 93-15-093  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSION**

[Filed July 20, 1993, 2:57 p.m.]

Original Notice.

Title of Rule: Participating provider contracts—Standards.

Purpose: Provide uniform standards to be used in the negotiation and drafting of contracts between providers and health maintenance organizations.

Other Identifying Information: Insurance Commissioner Matter No. R 93.4.

Statutory Authority for Adoption: RCW 48.02.060, 48.46.200, and 48.46.243.

Statute Being Implemented: RCW 48.46.243.

Summary: Requires filing and publication of general criteria for selection and termination of participating providers; requires participating provider contracts issued on or after January 1, 1994, to include provisions for dispute resolution; prohibits use of termination without cause provisions in participating provider contracts issued on or after January 1, 1994; requires all participating provider contracts issued before January 1, 1994, to be brought into compliance on the earlier of the next regularly occurring renewal date or July 1, 1994; rules adopted pursuant to chapter 492, Laws of 1993 will supersede this regulation; this regulation will be secondary to 42 USC 300e and regulations adopted pursuant thereto.

Reasons Supporting Proposal: Lack of contracting standards has resulted in numerous conflicts between providers and health maintenance organizations (HMO). Those conflicts result in an adverse economic impact on the HMO. Those impacts also unfavorably impact consumers who are denied access to the provider of their choice, or denied benefits due to a lack of participating providers, because of contracting conflicts between the provider and the HMO. Provider - HMO contracting conflicts also require that significant amounts of resources available to the commissioner must be allocated away from functions more directly related to consumer issues. It is anticipated that the implementation of this rule will reduce the conflicts between providers and HMOs, and not only reduce costs for all parties, but also afford consumers more choice and continuity in the use of selected providers. Section 431, chapter 492, Laws of 1993 (Health Care Reform Act), requires the adoption, for certified health plans (CHPs), of rules which require the disclosure of the CHP's general criteria for selection and termination of providers and for the resolution of disputes between providers and CHPs. This proposed rule adopts the intent of the Legislature, as expressed in section 431, and applies that intent to HMOs and their current provider contracting practices in order to extend the consumer protections of section 431, on a current basis, to consumers of HMOs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James T. Odiorne, Insurance Building, Olympia, Washington, (206) 586-5590.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule requires HMOs to make public the general criteria for selecting and terminating participating providers. This rule also includes the requirement that all participating provider contracts include a provision for the resolution of conflicts arising under the contract between the provider and the HMO, and the further provision for an appeal of that resolution process. The insurance commissioner will not be an arbiter or mediator of disputes between providers and HMOs. "Without cause" provisions may no longer be used by either party to a participating provider contract. All participating provider contracts must be in compliance with this regulation no later than July 1, 1994. This rule will be secondary to and superseded by chapter 492, Laws of 1993 and by 42 USC 300e and the regulations adopted pursuant thereto. The purpose of this rule is to reduce the inconvenience and hardship experienced by consumers when, through a conflict between a provider and a HMO the consumer is denied access to the consumer's provider of choice, or denied benefits because a nonparticipating provider has been used. It is expected that this rule should reduce the HMO's administrative expense directly related to attempting to resolve conflicts with providers. The Office of Insurance Commissioner will benefit from this rule through a reduced number of consumer and provider complaints received based on conflicts between providers and HMOs.

Proposal does not change existing rules.

**Small Business Economic Impact Statement:** This rule will impact all HMOs, some of which may qualify as small businesses. The impact will be primarily in the development of general criteria for the selection and termination of participating providers. In theory, those criteria have previously been developed and it will only be necessary for the HMO to document the criteria. Some impact will be noted in the drafting of new participating provider contracts. It is impossible to quantify the gross dollar amount of those impacts. There is no data currently available by which to relate the impact to the number of employees, number of hours worked, or the premium income of the HMO. Some of the providers impacted by this rule may be small businesses. The expected impact will be to lessen the resources currently devoted to negotiating participating provider contracts and terminations of those contracts. This should be a positive impact for the providers. There is no data available and no basis upon which to quantify the impact or to relate it meaningfully to a provider's number of employees, number of hours worked, or revenue.

**Hearing Location:** John L. O'Brien Building, Hearing Room E, State Capitol Campus, Olympia, Washington, on August 25, 1993, at 9:30 a.m.

**Submit Written Comments to:** Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 25, 1993.

**Date of Intended Adoption:** August 31, 1993.

July 19, 1993

Deborah Senn

Insurance Commissioner

## NEW SECTION

**WAC 284-46-576 Participating provider contracts—Standards.** (1) Before January 1, 1994, each health maintenance organization shall develop, publish and file with the insurance commissioner its general criteria for the selection or termination of participating providers.

(2) All participating provider contracts issued by health maintenance organizations on or after January 1, 1994, must contain specific provisions for the resolution of disputes arising out of the contract, including but not limited to the termination of the contract. Such provisions must provide for dispute resolution, and reasonable means of appealing resolution decisions, by way of arbitration, mediation, or the civil courts. The insurance commissioner will not be an arbiter or mediator of disputes between participating providers and a health maintenance organization arising under, or by reason of, a participating provider contract or its termination.

(3) No participating provider contracts issued by health maintenance organizations on or after January 1, 1994, may contain a provision allowing either party to terminate the contract prior to its stated termination date without cause.

(4) All participating provider contracts issued by health maintenance organizations before January 1, 1994, must be amended to conform to this regulation on the earlier of the contract's next regularly occurring renewal date or July 1, 1994.

(5) This regulation will not be effective in any situation in which it would be in conflict with any regulation adopted by the Washington health services commission or the Washington attorney general pursuant to the authority of chapter 492, Laws of 1993.

(6) Nothing contained in this regulation shall be construed to require a health maintenance organization to allow or continue the participation of a provider if the health maintenance organization is a federally qualified health maintenance organization and the participation of the provider or providers would prevent the health maintenance organization from operating as a health maintenance organization in accordance with 42 U.S.C. sec. 300e.

**WSR 93-15-099**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed July 21, 1993, 8:00 a.m.]

Original Notice.

Title of Rule: Apiary inspection fees.

Purpose: To change current WAC 16-602-020 to make the rule reflect current costs of conducting inspections.

Statutory Authority for Adoption: Chapter 15.60 RCW.

Statute Being Implemented: Chapter 15.60 RCW.

Summary: The proposal raises the hourly fee from \$18.00 to \$28.00, and adds per diem rates as established by the state Office of Financial Management.

Reasons Supporting Proposal: The hourly rates have not have been raised since 1988. References to charging per diem occur in statute and should be described in rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James C. Bach, 1111 Washington Street, Olympia, WA, (206) 902-2068.

Name of Proponent: Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The fee increase will reflect current costs of conducting apiary inspections.

Proposal Changes the Following Existing Rules: Raises inspection hourly rate from \$18.00 to \$28.00 per hour and adds per diem charges to the rule.

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

Hearing Location: Washington State Department of Agriculture Conference Room, 2015 South 1st Street, Yakima, WA 98903, on August 25, 1993, at 7:00 p.m.; and at the Natural Resources Building, Room 259, 1111 Washington Street, Olympia, WA 98504, on August 26, 1993, at 7:00 p.m.

Submit Written Comments to: James C. Bach, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by August 25, 1993.

Date of Intended Adoption: September 15, 1993.

July 20, 1993

K. Diane Dolstad  
Assistant Director

[AMENDATORY SECTION (Amending Order 1967, filed 3/7/88)]

**WAC 16-602-020 Apiary inspection fees.** Fees for inspection of honeybees are as follows:

(1) Certification of honeybees for out-of-state movement - ~~\$(18.00)~~ 28.00 per hour.

(2) Colony strength inspection - ~~\$(18.00)~~ 28.00 per hour.

(3) All other inspections or services requested by persons or those performed by the department as required by chapter 15.60 RCW - ~~\$(18.00)~~ 28.00 per hour.

(4) For all inspection services performed after 5:00 p.m. or on Saturdays, or Sundays, or state legal holidays, an hourly rate (~~equivalent~~) of ~~\$(27.00)~~ 42.00 per hour for actual hours spent in performance of duties shall be charged by the department.

(5) (~~The following s~~) State legal holidays will be observed: (~~New Year's Day, Veterans Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following Thanksgiving Day, Christmas Day, President's Day, and Martin Luther King, Jr.'s Birthday.~~) however, NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Years Day, beginning at 5:00 p.m. on the previous day.

(6) Mileage(~~-~~) and per diem shall be charged at the rate established by the state office of financial management.

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 93-15-100**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed July 21, 1993, 8:03 a.m.]

Original Notice.

Title of Rule: Apiary marking.

Purpose: Marking of apiaries will enhance communication within the agricultural community by making it easier to contact the owner of an apiary.

Statutory Authority for Adoption: Chapter 15.60 RCW, Apiaries.

Statute Being Implemented: Chapter 15.60 RCW, Apiaries.

Summary: The proposal directs beekeepers to mark their apiaries with their state issued apiarist identification number and their phone number.

Reasons Supporting Proposal: This makes it possible to determine the apiary owner, protect the public health, and enhance communications within the agricultural community.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James C. Bach, 1111 Washington Street, Olympia, WA, (206) 902-2068.

Name of Proponent: Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the proposal is to require identification on hives. Identification will enhance communication within the agricultural community.

Proposal Changes the Following Existing Rules: The proposal adds the marking requirement.

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

Hearing Location: Washington State Department of Agriculture Conference Room, 2015 South 1st Street, Yakima, WA 98903, on August 25, 1993, at 7:30 p.m.; and at the Natural Resources Building, Room 259, 1111 Washington Street, Olympia, WA 98504, on August 26, 1993, at 7:30 p.m.

Submit Written Comments to: James C. Bach, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by August 25, 1993.

Date of Intended Adoption: September 15, 1993.

July 20, 1993

K. Diane Dolstad  
Assistant Director

NEW SECTION

**WAC 16-602-040 Apiary marking.** Each person owning or having bees in their possession shall identify their apiary(ies) by placing a sign so it is visible to passersby. Sign lettering shall be a minimum of two inches in height and shall include the name, apiarist's identification number

and telephone number. Sign shall be placed in a manner to make them conspicuous to anyone approaching the apiary location. In lieu of signing, hives may be identified by displaying the assigned apiarist identification number and telephone number in at least two-inch characters on the side and top of some colonies in each apiary. The identification shall be in a color which contrasts with the color of the hive. This identification shall be in a manner to make it conspicuous to anyone approaching the apiary location.

Apiaries located at the bee keepers residence are exempt from the marking requirements.

**WSR 93-15-101**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**  
[Filed July 21, 1993, 9:28 a.m.]

Original Notice.

Title of Rule: WAC 390-12-170 Public Disclosure Commission—Organization and structure—Officers—Terms.

Purpose: Outlines offices and terms held by commissioners.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: For administrative, officers are elected for a term of one year.

Reasons Supporting Proposal: Changing chairman to chair brings rule more in line with current language usage.

Name of Agency Personnel Responsible for Drafting, 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: This rule spells out what offices the commissioners will hold. The language is being changed from chairman to chair to reflect current practices.

Proposal does not change existing rules.

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

Hearing Location: 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, on August 24, 1993, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by August 10, 1993.

Date of Intended Adoption: August 24, 1993.

July 16, 1993  
Graham E. Johnson  
Executive Director

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

**WAC 390-12-170 Public disclosure commission—Organization and structure—Officers—Terms.** The officers of the public disclosure commission for administrative purposes shall be chair((man)), vice chair((man)) and

secretary. Their terms shall be one year or until a successor is elected.

**WSR 93-15-102**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed July 21, 1993, 9:34 a.m.]

Original Notice.

Title of Rule: Retrospective rating—Enrollment (allowing for staggered group enrollment).

Purpose: To expand the opportunity for group membership into the retrospective rating program.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.16.035.

Statute Being Implemented: RCW 51.16.035.

Summary: Group enrollment into the retrospective rating program is allowed yearly for each group. All members must enroll at the same time. This rule will allow groups to enroll members on each quarter throughout the year. Thereby allowing more members the opportunity to enroll on a staggered basis.

Reasons Supporting Proposal: This change is based on customer input and a recommendation by the Retrospective Rating Advisory Committee.

Name of Agency Personnel Responsible for Drafting and Implementation: Kathy Kimbel, Tumwater-4180, 956-4835; and Enforcement: Kathy Kimbel and Janet Morris, Tumwater-4180, 956-4835.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amend rules applicable to the administration of retrospective rating plans and group insurance plans (chapter 296-17 WAC) for workers compensation insurance underwritten by the Department of Labor and Industries and offered to employers on an optional basis. The proposed rule change provides employers interested in enrolling in a group retro plan the opportunity to enroll in any quarter, within the coverage period.

Proposal Changes the Following Existing Rules: Amend rules to allow employer authorization for release of information and group membership application for each employer account to be enrolled by the 15th day of the month preceding the start of any quarter within the coverage period. This changes from a specific quarter to any quarter.

The department has considered whether this rule amendment is subject to the Regulatory Fairness Act and has determined that it is not according to RCW 19.85.030 and [19.85.]060 because the rule will not have an economic impact on more than 20% of all industries or more than 10% of any one industry.

Hearing Location: Auditorium, Department of Labor and Industries, Tumwater, Washington, on August 25, 1993, at 11:00-12:00.

Submit Written Comments to: Department of Labor and Industries, P.O. Box 44198, Olympia, WA 98504-4198, by August 29, 1993.

Date of Intended Adoption: August 31, 1993.

July 21, 1993  
Mark O. Brown  
Director

AMENDATORY SECTION (Amending Order 86-18, filed 2/25/86)

**WAC 296-17-911 Group dividends.** Group dividends will be calculated provided:

(1) Employers qualify as a group as defined by WAC 296-17-910.

(2) Group submits a satisfactorily completed:

(a) Application for group dividend plan no later than:

(i) April 30 for the coverage period beginning the following July 1;

(ii) July 31 for the coverage period beginning the following October 1;

(iii) October 31 for the coverage period beginning the following January 1;

(iv) January 31 for the coverage period beginning the following April 1.

(b) Employer's authorization for release of insurance data and group membership enrollment application for each employer account to be enrolled by the 15th day of the month preceding the start of any quarter within the coverage period;

(c) Group dividend agreement by the 15th day of the month preceding the start of the coverage period.

(3) A dividend is declared under provisions of WAC 296-17-905.

Employers associated with the group at any time during the term of the group dividend agreement will remain parties to the group dividend agreement for the balance of its term.

Members of the organization or association which do not elect to participate in the group dividend at the inception of the agreement (~~shall not~~) may become participating members in the group any quarter during the term of the agreement.

Each employer included as a group member in the group dividend agreement will maintain an individual account with the department and will continue to pay quarterly premiums based on assigned risk classification(s) and individual experience rating.

The department may withhold any member's pro rata share from the group's dividend and credit the employer's industrial insurance account when premiums, penalties, or assessments are owing the department.

Dividends will be calculated in accordance with WAC 296-17-905 and are subject to WAC 296-17-907 and 296-17-915.

The payment of the group dividend will be made by the department to the association and shall be distributed to the individual group members by the association.

AMENDATORY SECTION (Amending Order 87-17, filed 5/29/87)

**WAC 296-17-917 Qualifications for employer group participation in retrospective rating plan.** The department may enroll interested groups in the retrospective rating plan provided:

(1) Employers qualify as a group as defined by WAC 296-17-910.

(2) Employers have industrial insurance accounts in good standing with the department such that at the time the agreement is processed no outstanding premium, penalties, or assessments are due and quarterly reporting of payroll has been made in accordance with WAC 296-17-310.

(3) Group submits a satisfactorily completed:

(a) Application for group retrospective rating plan no later than:

(i) April 30 for the coverage period beginning the following July 1;

(ii) July 31 for the coverage period beginning the following October 1;

(iii) October 31 for the coverage period beginning the following January 1;

(iv) January 31 for the coverage period beginning the following April 1.

(b) Employer's authorization for release of insurance data and group membership enrollment application for each employer account to be enrolled by the 15th day of the month preceding the start of any quarter within the coverage period;

(c) Group retrospective rating plan agreement by the 15th day of the month preceding the start of the coverage period.

(4) The group may be required to post a surety bond or other security deposit separate from the individual employer's cash deposits required for establishing industrial insurance accounts with the department:

(a) The group's surety bond must be on the prescribed forms authorized by the department;

(b) The group's surety bond shall be secured in one thousand dollar increments provided further that if the group's estimated maximum premium due falls within two increment ranges, a surety bond at the higher level increment shall be obtained;

(c) The group's surety bond shall remain in force and effect for the period required retrospective premium calculations are made.

The amount of such surety bond or other security deposit, if required, may be fixed by the department in any amount equal to or less than the difference between the group's estimated standard premium and the maximum premium due under the retrospective rating plan. Past reporting data and current rate levels will be used to determine the estimated standard premium and maximum percentage retrospective premium due under the plan.

Each employer included as a group member in the group retrospective rating plan agreement will maintain an individual account with the department and will continue to pay quarterly premiums based on assigned risk classification(s) and individual experience rating.

Employers associated with the group at any time during the term of the group retrospective rating plan agreement will remain parties to the agreement for the balance of its term.

Members of the organization or association which do not elect to participate in the group retrospective rating plan at the inception of the agreement (~~shall not~~) may become participating members in the group any quarter during the term of the agreement.

(5) The group maintains any existing retrospective rating account in good standing with the department with no outstanding additional premium assessment or interest therein due at the time the agreement is processed. The department may at its discretion, determine that a group is in good standing if the group and the department agree upon a payment schedule or other arrangements satisfactory to the department for payment of additional premium assessments or interest due. Said payment schedule or other established satisfactory arrangements shall be made prior to the time the agreement is processed.

Final determination of an employer's eligibility to participate in a group plan under this section rests with the department subject to review under chapter 51.52 RCW.

The payment of the group retrospective premium adjustment will be made to or collected from the association. The distribution to the individual group members or collection from the individual group members will be done by the association.

Group retrospective premium adjustment will be calculated according to WAC 296-17-914 and is subject to WAC 296-17-915 and 296-17-916.

**WSR 93-15-103  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:44 a.m.]

Original Notice.

Title of Rule: Settlements by Washington Insurance Guaranty Association.

Purpose: Facilitate settlements of claims by the Washington Insurance Guaranty Association.

Other Identifying Information: Insurance Commissioner Matter No. R 93-5.

Statutory Authority for Adoption: RCW 48.02.060 and 48.32.070.

Statute Being Implemented: RCW 48.32.070.

Summary: Permits settlements of first-party claims up to \$300,000 with the approval of two members of the board of directors.

Reasons Supporting Proposal: This will facilitate settlements, benefiting claimants and reducing the transaction costs of the association.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This permits first-party claims to be settled with the approval of any two members of the association's board, up to \$300,000. This also makes a grammatical change.

Proposal Changes the Following Existing Rules: Permit certain settlements with the consent of two members of the board of directors rather than the entire board.

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

This rule changes the settlement procedure for the Washington Insurance Guaranty Association. It does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-2, filed 2/4/88)

WAC 284-32-140 Claim settlements of (~~(\$150,000)~~ one hundred fifty thousand dollars or more. The board shall review, and approve by majority vote, claim settlements to be made by the association or its agents of one hundred (~~and~~) fifty thousand dollars or more; except settlement of claims for first party property damage up to three hundred thousand dollars, which may be approved by any two members of the board.

**WSR 93-15-104  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:45 a.m.]

Original Notice.

Title of Rule: Credit for reinsurance.

Purpose: Implement RCW 48.12.160; specify procedures for reinsurance eligible for credit on annual statements; part of accreditation project.

Other Identifying Information: Insurance Commissioner Matter No. R 93-6.

Statutory Authority for Adoption: RCW 48.02.060 and 48.12.160.

Statute Being Implemented: RCW 48.12.160, 48.05.250, and 48.05.400.

**Summary:** Identifies reinsurers and certain conditions for reinsurance to qualify as a credit offsetting certain liabilities.

**Reasons Supporting Proposal:** Assure credit is taken only when the reinsurer or the transaction meets minimum standards.

**Name of Agency Personnel Responsible for Drafting:** George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; **Implementation and Enforcement:** John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

**Name of Proponent:** Deborah Senn, Insurance Commissioner, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Credit is allowed only if the reinsurer has a Washington certificate of authority, or maintains a trust fund meeting certain requirements, or maintains certain other types of security.

Proposal does not change existing rules.

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

This rule sets forth the policy and procedures under which the commissioner will allow credit for reinsurance ceded by a domestic insurer. It does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact. The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the other member states of the NAIC.

**Hearing Location:** Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

**Submit Written Comments to:** Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

**Date of Intended Adoption:** September 1, 1993.

July 20, 1993

Deborah Senn  
Insurance Commissioner

#### NEW SECTION

**WAC 284-13-500 Purpose.** The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of RCW 48.12.160. The actions and information required by this regulation are hereby declared to be neces-

sary and appropriate in the public interest and for the protection of the ceding insurers in this state.

#### NEW SECTION

**WAC 284-13-510 Credit for reinsurance—Reinsurer holding certificate of authority in this state.** Pursuant to RCW 48.12.160, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers that held a certificate of authority to transact that kind of insurance in this state as of the date of the ceding insurer's statutory financial statement.

#### NEW SECTION

**WAC 284-13-520 Credit for reinsurance—Certain reinsurer maintaining trust funds.** (1) Pursuant to RCW 48.12.160 (1)(a), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer described in subsection (2) of this section which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed below in a qualified United States bank as provided in RCW 48.12.160, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) The trust fund for a group of insurers that includes individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the commissioner annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

(3) The trust under RCW 48.12.160 (1)(a) or (b)(i) shall be established in a form approved by the commissioner and complying with that statute and this section. The trust instrument shall provide that:

(a) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of any court of competent jurisdiction in the United States.

(b) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.

(c) The trust shall be subject to examination as determined by the commissioner.

(d) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.

(e) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing



setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(f) No amendment to the trust shall be effective unless reviewed and approved in advance by the commissioner.

#### NEW SECTION

**WAC 284-13-540 Credit for reinsurance ceded to an assuming insurer that does not have a certificate of authority.** Pursuant to RCW 48.12.160 (1)(b), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of RCW 48.12.160 (1)(a) in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds or other assets that are of the types and amounts that are authorized under chapter 48.13 RCW, held subject to withdrawal by and under the control of the ceding insurer, including funds or other such assets held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in RCW 48.12.160 (1)(b)(ii). This security may be in the form of:

(1) Deposits or funds that are assets of the types and amounts that are authorized under chapter 48.13 RCW; or

(2) Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in RCW 48.12.160 (1)(b)(ii), effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of WAC 284-13-550 or 284-13-560 are met.

#### NEW SECTION

**WAC 284-13-550 Trust agreements qualified under WAC 284-13-540.** (1) As used in this section:

(a) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(b) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the assuming insurer not holding a certificate of authority for that kind of business.

(c) "Obligations," as used in subsection (3)(k) of this section, means:

(i) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

(ii) Reserves for reinsured losses reported and outstanding;

(iii) Reserves for reinsured losses incurred but not reported; and

(iv) Reserves for allocated reinsured loss expenses and unearned premiums.

(2) Required conditions.

(a) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in RCW 48.12.160 (1)(b).

(b) The trust agreement shall create a trust account into which assets shall be deposited.

(c) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in (d)(i) of this subsection must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

(d) The trust agreement shall provide that:

(i) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

(ii) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

(iii) It is not subject to any conditions or qualifications outside of the trust agreement; and

(iv) It shall not contain references to any other agreements or documents except as provided for under (k) of this subsection.

(e) The trust agreement shall be established for the sole benefit of the beneficiary.

(f) The trust agreement shall require the trustee to:

(i) Receive assets and hold all assets in a safe place;

(ii) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

(iii) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

(iv) Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;

(v) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

(vi) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(g) The trust agreement shall provide that at least thirty days, but not more than forty-five days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(h) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(i) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(j) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct, or lack of good faith.

(k) Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this regulation, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(ii) To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(iii) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in RCW 48.12.160(2) apart from its general assets, in trust for such uses and purposes specified in (k)(i) and (ii) of this subsection as may remain executory after such withdrawal and for any period after the termination date.

(l) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (4)(a)(ii) of this section, so long as these required conditions are included in the trust agreement.

(3) Permitted conditions.

(a) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(c) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (4)(a)(ii) of this section.

(d) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(e) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(4) Additional conditions applicable to reinsurance agreements.

(a) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

(i) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

(ii) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by Title 48 RCW or any combination of the above, provided that such investments are issued by an

institution that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, then the trust agreement may contain the provisions described by this paragraph in lieu of including such provisions in the reinsurance agreement;

(iii) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

(iv) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(v) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(B) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and

(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(b) The reinsurance agreement may also contain provisions that:

(i) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(A) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(B) After withdrawal and transfer, the market value of the trust account is no less than one hundred two percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

(ii) Provide for:

(A) The return of any amount withdrawn in excess of the actual amounts required for (a)(v)(A), (B), and (C) of this subsection or in the case of (a)(v)(D) of this subsection any amounts that are subsequently determined not to be due; and

(B) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to (a)(v)(C) of this subsection.

(iii) Permit the award by any arbitration panel or court of competent jurisdiction of:

(A) Interest at a rate different from that provided in (b)(ii)(B) of this subsection;

(B) Court or arbitration costs;

(C) Attorney's fees; and

(D) Any other reasonable expenses.

(c) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(d) Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to December 31, 1993, will continue to be acceptable until December 30, 1994, at which time the agreements will have to be in full compliance with this regulation for the trust agreement to be acceptable.

(e) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (1)(a) of this section shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

#### NEW SECTION

**WAC 284-13-560 Letters of credit qualified under WAC 284-13-540.** (1) The letter of credit must be clean, irrevocable, and unconditional and issued or confirmed by a qualified United States financial institution as defined in RCW 48.12.160 (1)(b)(i). The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in subsec-

tion (8)(a)(ii)(A) of this section. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(2) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(3) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty days' notice prior to expiry date or nonrenewal.

(5) The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

(7) The letter of credit shall be issued by a qualified United States financial institution authorized to issue letters of credit, pursuant to RCW 48.12.160 (1)(b)(ii).

(8) Reinsurance agreement provisions.

(a) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

(i) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

(ii) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(A) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(B) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by

the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

(C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred, and unearned premium reserves); and

(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(iii) All of the foregoing provisions of (a) of this subsection should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained in (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

(i) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to (a)(ii)(C) of this subsection; and

(ii) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of (a)(ii)(D) of this subsection, any amounts that are subsequently determined not to be due.

(c) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of (a)(ii) of this subsection, require that the parties enter into a "trust agreement" which may be incorporated into the reinsurance agreement or be a separate document.

(9) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

#### NEW SECTION

**WAC 284-13-570 Other security.** A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

#### NEW SECTION

**WAC 284-13-580 Reinsurance contract.** Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of this regulation or otherwise in compliance with RCW 48.12.160 after the adoption of this regulation unless the reinsurance agreement:

(1) Includes a proper insolvency clause pursuant to RCW 48.12.160(2); and

(2) Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the

jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

#### NEW SECTION

**WAC 284-13-590 Contracts affected.** All new and renewal reinsurance transactions entered into after December 1, 1993, shall conform to the requirements of this regulation if credit is to be given to the ceding insurer for such reinsurance.

**WSR 93-15-105**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
[Filed July 21, 1993, 9:46 a.m.]

Original Notice.

Title of Rule: Statements on diskette.

Purpose: Require insurers to file financial reports in electronic form; part of accreditation project.

Other Identifying Information: Insurance Commissioner Matter No. R 93-7.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.05.250 and 48.05.400.

Summary: Financial statements must be filed on diskette, or other electronic form as directed by the commissioner, as well as on paper.

Reasons Supporting Proposal: Required for accreditation. Permits easier computer analysis of information and easier transmittal.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This requires insurers to file quarterly, annual, and other reports in electronic form. Until otherwise directed, "electronic form" will mean, on a diskette. This will permit easier input of the data into computer programs and easier forwarding of the data to other regulators who may need it.

Proposal does not change existing rules.

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

This rule requires that annual statements of a domestic insurer be filed in electronic form, that is, on a diskette, as well as on paper as is now the case. However, until directed otherwise, a domestic insurer that operates only in Washington need not comply with the diskette requirement. The rule will have a minor or negligible economic impact. The rule

is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the other member states of the NAIC.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

#### NEW SECTION

**WAC 284-07-070 Statements to be filed in electronic form.** (1) Annual statements, quarterly statements, and other financial reports filed by an insurer with the commissioner shall be filed in electronic form as well as on paper.

(2) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, "electronic form" means, on a diskette.

(3) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, companies that operate only in Washington need not comply with subsection (1) of this section.

**WSR 93-15-106**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
[Filed July 21, 1993, 9:47 a.m.]

Original Notice.

Title of Rule: Definition of "earned surplus."

Purpose: clarify and expand the definition of this term; implement "accreditation bill."

Other Identifying Information: Insurance Commissioner Matter No. R 93-8.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.250, and 48.05.400.

Statute Being Implemented: RCW 48.08.030, 48.05.250, and 48.05.400.

Summary: "Earned surplus" means that part of surplus that is profit, excluding unrealized gains, etc.

Reasons Supporting Proposal: The statutory definition could be open to disputes about the amounts to be included as "earned surplus."

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-2406; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: "Earned surplus" is net earnings, gains, or profits, less losses, and distributions to shareholders, and certain other transfers. It does not include unrealized appreciation or assets, unrealized capital gains, or reevaluation of assets. It can be determined from annual statement "unassigned funds" figures less unrealized gains.

Proposal does not change existing rules.

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

This rule clarifies the definition of "earned surplus" in the statute and connects the definition to the already-required annual statement forms. It does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

**NEW SECTION**

**WAC 284-13-160 Definition of "earned surplus."**

(1) As used in RCW 48.08.030(1), "earned surplus" means that part of surplus that represents net earnings, gains, or profits, after deduction of all losses, that have not been distributed to shareholders as dividends or transferred to stated capital or capital surplus or lawfully applied to other purposes. It does not include unrealized appreciation of assets, unrealized capital gains, or reevaluation of assets.

(2) Earned surplus can be determined from the annual statement. On the 1992 convention blank, (a) for stock life companies, earned surplus is Unassigned Funds (page 3, line 34) less any unrealized gains included in that figure; and (b) for property and casualty stock companies, earned surplus is Unassigned Funds (page 3, line 25B), less any unrealized gains included in that figure. On convention blanks for other years, the determination is adjusted to allow for changes in the form.

**WSR 93-15-107  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:48 a.m.]

Original Notice.

Title of Rule: Insurer holding company system regulation with reporting forms and instructions.

Purpose: Implement the new Insurer Holding Company Act; required for NAIC accreditation.

Other Identifying Information: Insurance Commissioner Matter No. R 93-9 NAIC model regulation.

Statutory Authority for Adoption: RCW 48.02.060 and section 9, chapter 462, Laws of 1993.

Statute Being Implemented: Sections 1-15, chapter 462, Laws of 1993.

Summary: Establish requirements for reporting or seeking the commissioner's consent for certain acquisitions and certain intra-holding-company transactions, and for registering holding company systems.

Reasons Supporting Proposal: This regulation is needed to implement the statute and to meet NAIC accreditation requirements.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Prescribes and gives instructions for the forms for seeking consent to acquire a domestic insurer, registering a holding company system, notifying or seeking consent for dividend and certain planned transactions.

Proposal Changes the Following Existing Rules: Complete rewriting of the regulation to conform to current NAIC model.

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

This rule only states policy and procedure, and sets forth the information to be included in the forms required to be filed with the commissioner by chapter 48.00 RCW, sections 1-15, chapter 462, Laws of 1993, modifies forms already required to be filed with the commissioner and does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact. The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject

to the standards of the NAIC either by reason of Washington requirements or those of the other member states of the NAIC.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

#### NEW SECTION

##### **WAC 284-18-300 Forms—General requirements.**

(1) Forms A, B, C, and D are intended to be guides in the preparation of the statements required by sections 4, 6, and 7, chapter 462, Laws of 1993. They are not intended to be blank forms which are to be filled in. These statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(2) Two complete copies of Form A, and one copy of Forms B, C, and D, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Insurance Building, Post Office Box 40255, Olympia, Washington 98504-0255, Attention: Company Supervision. One complete copy of Form A shall also be filed with the commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Seattle, Washington 981—, Attention: Chief Examiner. A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the commissioner of that state has notified the insurer of its request in writing, in which case the insurer has ten days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(3) Statements should be prepared on paper 8 1/2" x 11" (or 8 1/2" x 14") in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall

be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

#### NEW SECTION

**WAC 284-18-310 Forms—Incorporation by reference, summaries, and omissions.** (1) Information required by any item of Form A, Form B, or Form D may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, or Form D provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

#### NEW SECTION

**WAC 284-18-320 Forms—Information unknown or unavailable and extension of time to furnish.** (1) Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(a) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(b) The person filing shall include a statement either showing that unreasonable effort or expense would be



involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(2) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner a separate document:

(a) Identifying the information, document, or report in question;

(b) Stating why the filing thereof at the time required is impractical; and

(c) Requesting an extension of time for filing the information, document, or report to a specified date. The request for extension shall be deemed granted unless the commissioner within sixty days after receipt thereof enters an order denying the request.

NEW SECTION

**WAC 284-18-330 Forms—Additional information and exhibits.** In addition to the information expressly required to be included in Form A, Form B, Form C, and Form D, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, or D shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

NEW SECTION

**WAC 284-18-340 Definitions.** (1) "The act" means the Insurer Holding Company Act, sections 1 through 15, chapter 462, Laws of 1993.

(2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

(3) "Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

(4) "Ultimate controlling person" means that person which is not controlled by any other person.

(5) Unless the context otherwise requires, other terms found in these regulations and in section 2, chapter 462, Laws of 1993, are used as defined in that section 2, chapter 462, Laws of 1993. Other nomenclature or terminology is according to Title 48 RCW, or industry usage if not defined by Title 48 RCW.

NEW SECTION

**WAC 284-18-350 Subsidiaries of domestic insurers.** The authority to invest in subsidiaries under the act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of Title 48 RCW.

NEW SECTION

**WAC 284-18-360 Acquisition of control—Statement filing.** A person required to file a statement pursuant to section 4, chapter 462, Laws of 1993, shall furnish the required information on Form A, hereby made a part of this regulation.

NEW SECTION

**WAC 284-18-370 Amendments to Form A.** The applicant shall promptly advise the commissioner of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

NEW SECTION

**WAC 284-18-380 Acquisition of section 4(1), chapter 462, Laws of 1993, insurers.** (1) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of the second paragraph of section (4)(1), chapter 462, Laws of 1993, the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) Where such an insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

NEW SECTION

**WAC 284-18-390 Annual registration of insurers—Statement filing.** An insurer required to file an annual registration statement pursuant to section 6, chapter 462, Laws of 1993, shall furnish the required information on Form B, hereby made a part of these regulations.

NEW SECTION

**WAC 284-18-400 Summary of registration—Statement filing.** An insurer required to file an annual registration statement pursuant to section 6, chapter 462, Laws of 1993, is also required to furnish information required on Form C, hereby made a part of this regulation. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.

NEW SECTION

**WAC 284-18-410 Amendments to Form B.** (1) An amendment to Form B shall be filed within fifteen days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) Amendments shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)" and shall indicate the date of the change and not the date of the original filings.



NEW SECTION

**WAC 284-18-420 Alternative and consolidated registrations.** (1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under section 6, chapter 462, Laws of 1993. A registration statement may include information not required by the act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

(a) The statement or report contains substantially similar information required to be furnished on Form B; and

(b) The filing insurer is the principal insurance company in the insurance holding company system.

(2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (1) of this section.

(4) Any insurer may take advantage of the provisions of section 6 (8) or (9), chapter 462, Laws of 1993, without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration, or the public good.

NEW SECTION

**WAC 284-18-430 Disclaimers and termination of registration.** (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(a) The number of authorized, issued, and outstanding voting securities of the subject;

(b) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

(d) A statement explaining why such person should not be considered to control the subject.

(2) A request for termination of registration shall be deemed to have been granted unless the commissioner, within thirty days after he or she receives the request, notifies the registrant otherwise.

NEW SECTION

**WAC 284-18-440 Transactions subject to prior notice—Notice filing.** An insurer required to give notice of a proposed transaction pursuant to section 7, chapter 462, Laws of 1993, shall furnish the required information on Form D, hereby made a part of these regulations.

NEW SECTION

**WAC 284-18-450 Extraordinary dividends and other distributions.** (1) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(a) The amount of the proposed dividend;

(b) The date established for payment of the dividend;

(c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(d) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(i) The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;

(iii) If the insurer is a life insurer, the net gain from operations for the twelve-month period ending the 31st day of December next preceding;

(iv) If the insurer is not a life insurer, the net income for the twelve-month period ending the 31st day of December next preceding and the two preceding twelve-month periods; and

(v) If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.

(e) A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(f) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(2) Each registered insurer shall report to the commissioner all other dividends and other distributions to shareholders within five business days following the declaration thereof, and at least fifteen days before payment, including the same information required by subsection (1)(a) and (d)(i) through (v) of this section.

**NEW SECTION**

**WAC 284-18-460 Adequacy of surplus.** The factors set forth in section 7(3), chapter 462, Laws of 1993, are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

**NEW SECTION**

**WAC 284-18-910 Form A.**

**FORM A**

**STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER**

\_\_\_\_\_  
Name of Domestic Insurer

BY

\_\_\_\_\_  
Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

\_\_\_\_\_  
(State of domicile of insurer being acquired)

Dated: \_\_\_\_\_, 19\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. INSURER AND METHOD OF ACQUISITION**

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

**ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT**

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business

intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT**

State the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of ten percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

**ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the

relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he or she must specifically request that the identity be kept confidential.

#### **ITEM 5. FUTURE PLANS OF INSURER**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

#### **ITEM 6. VOTING SECURITIES TO BE ACQUIRED**

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

#### **ITEM 7. OWNERSHIP OF VOTING SECURITIES**

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

#### **ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

#### **ITEM 9. RECENT PURCHASES OF VOTING SECURITIES**

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

#### **ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE**

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement.

#### **ITEM 11. AGREEMENTS WITH BROKER-DEALERS**

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

#### **ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the annual statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or WAC 284-18-300 or 284-18-320.

#### **ITEM 13. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:  
SIGNATURE

Pursuant to the requirements of section 4, chapter 462, Laws of 1993 \_\_\_\_\_ has caused this application to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Applicant

BY \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached application dated \_\_\_\_\_, 19\_\_\_\_, for and on behalf of (Name of Applicant); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

**NEW SECTION**

**WAC 284-18-920 Form B.**

**FORM B**

**INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT**

Filed with the Insurance Department of the State of \_\_\_\_\_

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 19\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. IDENTITY AND CONTROL OF REGISTRANT**

Furnish the exact name of each insurer registering or being registered (hereinafter called "the registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

**ITEM 2. ORGANIZATIONAL CHART**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding ten million dollars. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

**ITEM 3. THE ULTIMATE CONTROLLING PERSON**

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The name and address of any person who holds or owns ten percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

**ITEM 4. BIOGRAPHICAL INFORMATION**

Furnish the following information for the directors and executive officers of the ultimate controlling person: The individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

**ITEM 5. TRANSACTIONS AND AGREEMENTS**

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred

during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the registrant or of the registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the registrant's stock or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of section 6, chapter 462, Laws of 1993.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of one percent or less of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material. (Note: Commissioner may by rule, regulation, or order provide otherwise.)

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: The nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the registrant.

#### **ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS**

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding

company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

#### **ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS**

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

#### **ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the annual statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or WAC 284-18-300 and 284-18-320.

#### **ITEM 9. FORM C REQUIRED**

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

#### **ITEM 10. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of section 6, chapter 462, Laws of 1993, the registrant has caused this annual registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL) \_\_\_\_\_

Name of Registrant

BY \_\_\_\_\_

(Name) (Title)

Attest:

\_\_\_\_\_

(Signature of Officer)

\_\_\_\_\_

(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated \_\_\_\_\_, 19\_\_\_\_, for and on behalf of (Name of Company); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

**NEW SECTION**

**WAC 284-18-930 Form C.**

**FORM C**

**SUMMARY OF REGISTRATION STATEMENT**

Filed with the Insurance Department of the State of \_\_\_\_\_

By

\_\_\_\_\_

Name of Registrant

On Behalf of Following Insurance Companies

Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 19\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of ten percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: An individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

**SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of section 6, chapter 462, Laws of 1993, the registrant has caused this summary of registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL) \_\_\_\_\_

Name of Registrant

By \_\_\_\_\_

(Name) (Title)

Attest:

\_\_\_\_\_

(Signature of Officer)

\_\_\_\_\_

(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated \_\_\_\_\_, 19\_\_\_\_, for and on behalf of \_\_\_\_\_; that (s)he is the \_\_\_\_\_

\_\_\_\_\_ (Name of Company)  
 \_\_\_\_\_ of such company and that (s)he is  
 authorized  
 (Title of Officer)  
 to execute and file such instrument. Deponent further says  
 that (s)he is familiar with such instrument and the contents  
 thereof, and that the facts therein set forth are true to the  
 best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

**NEW SECTION**

**WAC 284-18-940 Form D.**

**FORM D**

**PRIOR NOTICE OF A TRANSACTION**

Filed with the Insurance Department of the State of—  
 \_\_\_\_\_

By

\_\_\_\_\_  
 Name of Registrant

On Behalf of Following Insurance Companies

Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 19—

Name, Title, Address, and Telephone Number of Individual  
 to Whom Notices and Correspondence Concerning This  
 Statement Should Be Addressed:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**ITEM 1. IDENTITY OF PARTIES TO TRANSACTION**

Furnish the following information for each of the parties  
 to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e., corporation,  
 partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business  
 operations.
- (f) Relationship, if any, of other parties to the transac-  
 tion to the insurer filing the notice, including any ownership  
 or debtor/creditor interest by any other parties to the transac-  
 tion in the insurer seeking approval, or by the insurer filing  
 the notice in the affiliated parties.

(g) Where the transaction is with a nonaffiliate, the  
 name(s) of the affiliate(s) which will receive, in whole or in  
 substantial part, the proceeds of the transaction.

**ITEM 2. DESCRIPTION OF THE TRANSACTION**

Furnish the following information for each transaction  
 for which notice is being given:

- (a) A statement as to whether notice is being given  
 under section 7 (1)(b)(i), (ii), (iii), (iv), or (v), chapter 462,  
 Laws of 1993.
- (b) A statement of the nature of the transaction.
- (c) The proposed effective date of the transaction.

**ITEM 3. SALES, PURCHASES, EXCHANGES,  
 LOANS, EXTENSIONS OF CREDIT, GUARANTEES,  
 OR INVESTMENTS**

Furnish a brief description of the amount and source of  
 funds, securities, property or other consideration for the sale,  
 purchase, exchange, loan, extension of credit, guarantee, or  
 investment, whether any provision exists for purchase by the  
 insurer filing notice, by any party to the transaction, or by  
 any affiliate of the insurer filing notice, a description of the  
 terms of any securities being received, if any, and a descrip-  
 tion of any other agreements relating to the transaction such  
 as contracts or agreements for services, consulting agree-  
 ments and the like. If the transaction involves other than  
 cash, furnish a description of the consideration, its cost and  
 its fair market value, together with an explanation of the  
 basis for evaluation.

If the transaction involves a loan, extension of credit or  
 a guarantee, furnish a description of the maximum amount  
 which the insurer will be obligated to make available under  
 such loan, extension of credit or guarantee, the date on  
 which the credit or guarantee will terminate, and any  
 provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or  
 other arrangement, state the time period during which the  
 investment, guarantee or other arrangement will remain in  
 effect, together with any provisions for extensions or  
 renewals of such investments, guarantees or arrangements.  
 Furnish a brief statement as to the effect of the transaction  
 upon the insurer's surplus.

No notice need be given if the maximum amount which  
 can at any time be outstanding or for which the insurer can  
 be legally obligated under the loan, extension of credit or  
 guarantee is less than, (a) in the case of nonlife insurers, the  
 lesser of three percent of the insurer's admitted assets or  
 twenty-five percent of surplus as regards policyholders or,  
 (b) in the case of life insurers, three percent of the insurer's  
 admitted assets, each as of the 31st day of December next  
 preceding.

**ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO  
 A NON-AFFILIATE**

If the transaction involves a loan or extension of credit  
 to any person who is not an affiliate, furnish a brief descrip-  
 tion of the agreement or understanding whereby the proceeds  
 of the proposed transaction, in whole or in substantial part,

are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets, of or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders or, with respect to life insurers, three percent of the insurer's admitted assets, each as of the 31st day of December next preceding.

**ITEM 5. REINSURANCE**

If the transaction is a reinsurance agreement or modification thereto, as described by section 7 (1)(b)(iii), chapter 462, Laws of 1993, furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification thereto is less than five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding.

**ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS.**

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed.
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement.
- (b) A description of the period of time during which the agreement is to be in effect.
- (c) A brief description of each party's expenses or costs covered by the agreement.

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

**ITEM 7. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of section 7, chapter 462, Laws of 1993, \_\_\_\_\_ has caused this notice to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Applicant

By \_\_\_\_\_  
(Name) (Title)

Attest:  
\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached notice dated \_\_\_\_\_, 19\_\_\_\_, for and on behalf of \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of such

(Name of Applicant) (Title of Officer)  
company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 284-18-010 Title and purpose.
- WAC 284-18-020 Definitions.
- WAC 284-18-030 Control acquisition of domestic insurer.
- WAC 284-18-040 Registration of insurers.
- WAC 284-18-050 Alternative and consolidated registrations.
- WAC 284-18-060 Exemptions.
- WAC 284-18-070 Disclaimers and termination of registration.
- WAC 284-18-080 Extraordinary dividends and other distributions.
- WAC 284-18-090 Additional information may be required.
- WAC 284-18-100 Forms.
- WAC 284-18-110 Instructions for use of Forms A and B.



WAC 284-18-120 Effective date.  
 WAC 284-18-990 Form A—Statement regarding the acquisition of control of or merger with a domestic insurer.  
 WAC 284-18-99001 Form B—Insurance holding company system registration statement.

July 20, 1993  
 Deborah Senn  
 Insurance Commissioner

**Chapter 284-92 WAC  
 LIABILITY RISK RETENTION**

**GENERAL**

**WSR 93-15-108  
 PROPOSED RULES  
 OFFICE OF  
 INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:49 a.m.]

Original Notice.

Title of Rule: Liability risk retention.

Purpose: Establish procedures and implement chapter 48.92 RCW (including amendments in chapter 462, Laws of 1993, the "accreditation bill").

Other Identifying Information: Insurance Commissioner Matter No. R 93-10.

Statutory Authority for Adoption: RCW 48.02.060 and 48.92.140.

Statute Being Implemented: Chapter 48.92 RCW.

Summary: Specify procedures and requirements for purchasing groups and risk retention groups.

Reasons Supporting Proposal: This regulation is needed to implement the statute.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Specifies requirements for registration, reports, and disclosures for purchasing groups and risk retention groups. Also describes use of agents and insurers, form and rate approval, and revocation of registrations.

Proposal does not change existing rules.

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

This rule only states policy and procedure, and sets forth the information to be included in the forms required to be filed with the commissioner by chapter 48.92 RCW, and as amended by sections 91-103, chapter 462, Laws of 1993, and does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

NEW SECTION

**WAC 284-92-010 Definitions.** The definitions in chapter 48.92 RCW apply in this regulation unless otherwise specified or unless the context clearly requires otherwise.

(1) "Domestic purchasing group" means a purchasing group formed under the laws of this state.

(2) "Domestic risk retention group" means a risk retention group formed under the laws of this state.

(3) "State" includes any state of the United States or the District of Columbia.

NEW SECTION

**WAC 284-92-020 Preexisting registrations.** Registrations of purchasing groups and risk retention groups effected before the date this regulation becomes effective are cancelled as of 11:59 p.m. on December 31, 1993. This date may be extended by the commissioner in a particular case or class of cases for good cause shown. After that date, or after the extended date, no group is registered unless registered after the effective date of this regulation.

**PURCHASING GROUPS**

NEW SECTION

**WAC 284-92-210 Registration required.** No purchasing group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in Washington or with respect to Washington residents, until it is registered.

NEW SECTION

**WAC 284-92-220 Registration effective upon notice by commissioner.** No purchasing group is registered until it has been notified by the commissioner that it is registered. There is no "deemer."

NEW SECTION

**WAC 284-92-230 Appointment for service of process.** (1) Except as provided by RCW 48.92.080, the request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a purchasing group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment is effective whether or not an explicit appointment was made or was valid or effective. This automatic appointment does not apply to a purchasing group

not required so to appoint the commissioner under RCW 48.92.080.

#### NEW SECTION

**WAC 284-92-240 Suspension and revocation of registration.** The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. The registration of a purchasing group may be suspended or revoked:

(1) If any basis exists on which, if the purchasing group were an insurer, agent, or broker, its certificate of authority or its license could be suspended or revoked.

(2) If any insurer issuing policies for the purchasing group is subject, or would be subject if it were an authorized insurer, to suspension or revocation of its certificate of authority under RCW 48.05.140.

(3) If any insurer issuing policies for or to the purchasing group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official).

(4) If the purchasing group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by a person not licensed in Washington as an insurance agent or broker; or does or permits any other act, by a person not licensed as an agent or broker, if that act may be performed only by one so licensed.

(5) If the purchasing group fails to reply fully, accurately, and in writing to an inquiry of the commissioner.

#### NEW SECTION

**WAC 284-92-250 Insurers and agents.** (1) Insurance for a purchasing group may be provided only by one or more of the following: An insurer holding a certificate of authority to transact the relevant line of business in Washington; a risk retention group registered in Washington; or an insurer acting lawfully in accordance with chapter 48.15 RCW and the regulations thereunder (except as provided in chapter 48.92 RCW or this regulation). Insurance for a domestic purchasing group may be provided only by an insurer holding a Washington certificate of authority to transact that type of insurance.

(2) Chapters 48.15 and 48.17 RCW require that certain acts and functions be performed only by a person licensed thereunder. Those requirements apply equally to transactions involving purchasing groups, except as provided in RCW 48.92.120(3) and WAC 284-15-100.

#### NEW SECTION

**WAC 284-92-260 Forms.** (1) The requirements for filing and approval of policy rates and forms apply to forms issued to or in connection with purchasing groups to the same extent as they apply in other situations.

(2) Notwithstanding subsection (1) of this section, forms that have been properly issued in Washington before the effective date of this regulation may continue to be issued or renewed until February 1, 1994, or such later date as the

commissioner approves. After that date, those forms are subject to subsection (1) of this section.

#### NEW SECTION

**WAC 284-92-270 Disclosure that there is no guaranty association coverage and that some laws may not apply.** (1) Under RCW 48.92.050 (3) and (4), in some situations there is no coverage by the Washington Insurance Guaranty Association for some insurance obtained by a purchasing group. Under RCW 48.92.090(2), the purchasing group must inform its members of the lack of that protection and that the insurer or risk retention group may not be subject to all insurance laws and regulations of this state. In any such situation, the disclosure must be in writing. It must be given when the application is taken. The disclosure must be reasonably calculated to make the individual aware of the lack of guaranty coverage and the inapplicability of some laws and regulations. The lack of coverage and that inapplicability may not be presented as an advantage or as a technical oddity, nor may it be downplayed by references to the solvency of the insurer or otherwise.

(2) If the insurance is to be issued by a risk retention group, compliance with WAC 284-92-700 and RCW 48.92.040(7) is sufficient compliance with this rule and with RCW 48.92.090(2).

(3) The insurer, for a domestic purchasing group on risks located in Washington, must be an insurer holding a Washington certificate of authority for that type of insurance, or a registered risk retention group.

#### NEW SECTION

**WAC 284-92-280 Notice of changes.** If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be notified within ten days of the change or the discovery of the inaccuracy.

#### NEW SECTION

**WAC 284-92-290 Domestic purchasing groups.** (1) No domestic purchasing group will be registered unless the purchasing group has and maintains in Washington the records applicable to its business, including records as to insured persons, financial matters, and the like. There must also be resident in Washington an officer of the purchasing group who is able and qualified to present, interpret, and explain those records to the commissioner or the commissioner's representative on demand.

(2) Each domestic purchasing group shall submit an annual report to the commissioner. That report shall state the number of policies, amount of insurance coverage, and amount of premium provided, the number and types of insured persons, and such other matters as the commissioner shall direct. The report shall be submitted for each calendar year, and shall be submitted no later than January 31 of the following year unless the commissioner allows a later filing. Any other information requested by the commissioner shall be promptly provided.

**RISK RETENTION GROUPS**NEW SECTION

**WAC 284-92-410 Registration required.** No risk retention group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in Washington or with respect to Washington residents, until it is registered.

NEW SECTION

**WAC 284-92-420 Registration effective upon notice by commissioner.** No risk retention group is registered until it has been notified by the Commissioner that it is registered. There is no "deemer."

NEW SECTION

**WAC 284-92-430 Registration—Appointment for service of process.** (1) The request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a risk retention group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment operates in all cases, whether or not an explicit appointment was made or was valid or effective.

NEW SECTION

**WAC 284-92-440 Suspension and revocation of registration.** The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. In addition, a domestic risk retention group is subject to the same sanctions, on the same grounds, as a domestic insurer, including revocation of its certificate of authority. The registration of a risk retention group may be suspended or revoked if:

(1) Any basis exists on which, if the risk retention group were an authorized insurer, its certificate of authority could be suspended or revoked, under chapter 48.05 RCW or otherwise.

(2) If the risk retention group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official); or any such court or official finds that the risk retention group is in a hazardous financial or financially impaired condition.

(3) If the risk retention group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by anyone not appropriately licensed as an agent or broker; or does or permits any other act by a person not appropriately licensed as an agent or broker, if that act may be performed only by one so licensed.

(4) An order is entered by a court enjoining the risk retention group from soliciting or selling insurance, or operating.

(5) If the risk retention group fails to respond fully, accurately, and in writing to an inquiry of the commissioner.

NEW SECTION

**WAC 284-92-450 Agents.** Only appropriately licensed agents or brokers may solicit or accept applications for insurance to be issued by a risk retention group.

NEW SECTION

**WAC 284-92-460 Tax.** The premium tax under chapter 48.14 applies to insurance issued by risk retention groups. Failure to pay the tax when due is grounds for suspension or revocation of the registration of the risk retention group, in addition to other fines, penalties, interest, and other consequences provided by law or regulation.

NEW SECTION

**WAC 284-92-470 Notice of changes.** If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be notified within ten days of the change or the discovery of the inaccuracy.

NEW SECTION

**WAC 284-92-480 Reports.** Each registered risk retention group shall submit to the commissioner copies of any annual statements or reports, or other reports on operations and financial results or condition, that are filed by it with the insurance regulatory official of its state of domicile or with the National Association of Insurance Commissioners. Quarterly and other reports are not required and should not be submitted unless requested by the commissioner. See WAC 284-92-710 as to reports required of domestic risk retention groups. Reports shall be on disk as well as in paper form. These reports are in addition to those required by RCW 48.92.030(2).

NEW SECTION

**WAC 284-92-490 Required disclosure "notice."** The "notice" requirement of RCW 48.92.040(7) is to be applied as follows:

(1) On an application form, the notice must appear on the first page. On a policy, the notice must appear both on the first page and on the declaration page; if the declaration page is the first page, one appearance of the notice suffices.

(2) The notice or a similar disclosure may be repeated elsewhere.

(3) The disclosure and the information in it may not be presented as an advantage or as a technical oddity, nor downplayed by references to the solvency of the insurer or otherwise.

NEW SECTION

**WAC 284-92-500 Domestic risk retention groups—Formation.** A domestic risk retention group must be formed in compliance with chapter 48.06 RCW. It must meet the capital and surplus requirements applicable under RCW 48.05.340 to insurers transacting the kind or kinds of insurance that the domestic risk retention group proposes to

transact. It must comply with the other requirements for domestic insurers and with chapter 48.92 RCW.

NEW SECTION

**WAC 284-92-510 Domestic risk retention groups—Reports.** Domestic risk retention groups shall file the reports required by RCW 48.92.030. In addition, domestic risk retention groups shall file quarterly financial reports and any other statements or reports required by the commissioner for such groups in general or for any one or more such groups. The commissioner may require any reports from any one or more risk retention groups, at any time and from time to time. Reports shall be both on paper and on diskette.

**WSR 93-15-109  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**  
(Filed July 21, 1993, 9:50 a.m.)

Original Notice.

Title of Rule: Valuation of investments.

Purpose: Specify the valuation methods of insurers' investments; implement "accreditation bill"; part of accreditation project.

Other Identifying Information: Insurance Commissioner Matter No. R 93-11.

Statutory Authority for Adoption: RCW 48.02.060, 48.12.180, [48.12.]190, and [48.12.]200.

Statute Being Implemented: RCW 48.12.180, [48.12.]190, and [48.12.]200.

Summary: Requires that assets be valued in accordance with NAIC standards or as directed by the commissioner.

Reasons Supporting Proposal: Avoid arbitrary, and especially avoid inflated, valuations. This is required by the statutes and required for NAIC accreditation.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Bonds are to be valued at par if purchased at par, otherwise at an amount to bring the value to par at maturity and yield the appropriate interest. Other securities are to be valued at market or appraised value or as directed by the commissioner. Stock in a subsidiary is to be valued at net value of assets that would be eligible under chapter 48.13 RCW. Valuations must be consistent with methods approved by the NAIC.

Proposal does not change existing rules.

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

This rule only states policy and procedure and does not require any forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact. The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the other member states of the NAIC.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

NEW SECTION

**WAC 284-13-210 Valuation of bonds.** All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage, or express charges paid in the acquisition of such bonds or other evidences of debt. No method of valuation shall be inconsistent with any applicable valuation or method used by insurers in general, or any such method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

NEW SECTION

**WAC 284-13-220 Valuation of other securities.** (1) Securities, other than those referred to in WAC 284-13-210, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by the commissioner as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and

in accordance with such method of valuation as he or she may approve.

(3) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under chapter 48.13 RCW for investment of the funds of the insurer directly.

(4) No valuations under this section shall be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

**WSR 93-15-110**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:51 a.m.]

Original Notice.

Title of Rule: Limited surplus lines broker.

Purpose: Establish a form of nonresident surplus lines broker in connection with purchasing groups; implement "accreditation bill."

Other Identifying Information: Insurance Commissioner Matter No. R 93-12.

Statutory Authority for Adoption: RCW 48.02.060 and 48.92.140.

Statute Being Implemented: RCW 48.92.120.

Summary: Allows nonresidents to be licensed as "limited" surplus lines brokers.

Reasons Supporting Proposal: Prior law and regulations require surplus lines brokers to be residents. RCW 48.92.120 as amended by section 101, chapter 462, Laws of 1993, requires a change.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: Shirley Polzin, Insurance Building, Olympia, Washington, (206) 753-7309.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

Rule is necessary because of federal law, 15 U.S.C. §3903(c).

Explanation of Rule, its Purpose, and Anticipated Effects: This permits a nonresident to be licensed as a "limited surplus lines broker" in order to permit compliance with amended RCW 48.92.120, which requires a surplus lines broker's license for certain activities but says the requirement of residency does not apply. This regulation therefore permits nonresidents to obtain the license, but requires that they meet all other requirements, including the Washington test.

Proposal does not change existing rules.

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

This rule only states policy and procedure and does not require any forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact. The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by

the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the other member states of the NAIC.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

NEW SECTION

**WAC 284-15-100 Surplus lines limited broker. (1)**

A person who is not a resident of Washington may be licensed as a limited surplus lines broker.

(2) A limited surplus lines broker may act in soliciting, negotiating, or procuring insurance, but only liability insurance and only on behalf of a purchasing group registered in accordance with RCW 48.92.080.

(3) To be licensed as a limited surplus lines broker, a person must meet all the same qualifications (other than residency) as any other person seeking to be licensed as a surplus lines broker under chapter 48.15 RCW and chapter 284-15 WAC (including passing the Washington examination), and has all the same responsibilities as any other surplus lines broker.

**WSR 93-15-111**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:52 a.m.]

Original Notice.

Title of Rule: Managing general agents.

Purpose: Clarify some points under the new Managing General Agents Act; implement "accreditation bill."

Other Identifying Information: Insurance Commissioner Matter No. R 93-13.

Statutory Authority for Adoption: RCW 48.02.060 and section 41, chapter 462, Laws of 1993.

Statute Being Implemented: Sections 34-42, chapter 462, Laws of 1993.

Summary: Defines certain terms, specifies some requirements.

Reasons Supporting Proposal: This is needed to clarify and expand some of the new statutory requirements.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303; and Enforcement: Shirley Polzin, Insurance Building, Olympia, Washington, (206) 753-7309.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Defines "operating in this state," "affiliates," "licensed in this state," and "employee." Also, this specifies requirements for appointments, financial statements, and claim thresholds.

Proposal does not change existing rules.

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

This rule only states policy and procedure, and sets forth the information to be included in the forms required to be filed with the commissioner by chapter 48. RCW, sections 34-42, chapter 462, Laws of 1993, and does not require any additional forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

NEW SECTION

**WAC 284-12-200 Operating in this state.** A managing general agent is "operating in this state" for purposes of the Managing General Agents Act (chapter 48.— RCW, sections 34-42, chapter 462, Laws of 1993) ("the act") section 38(5), chapter 462, Laws of 1993, if he or she does in Washington any act for which a license is required by the act or chapter 48.17, or does in Washington any activities listed in section 35 (3)(a)(i) or (ii), chapter 462, Laws of 1993.

NEW SECTION

**WAC 284-12-210 Affiliates.** "Affiliates" as used in section 35 (3)(a), chapter 462, Laws of 1993, has the meaning indicated in RCW 48.—.—, section 2, chapter 462, Laws of 1993.

NEW SECTION

**WAC 284-12-220 Licensed in this state.** A person is licensed in this state for purposes of section 36 (1) and (2), chapter 462, Laws of 1993, if he or she holds a resident or nonresident agent's license issued by the commissioner.

NEW SECTION

**WAC 284-12-230 Notification of appointment.**

When notifying the Commissioner of the appointment of a managing general agent under section 38(5), chapter 462, Laws of 1993, in addition to the information specified there, the insurer shall include the following information about the appointee:

- (1) Current address;
- (2) Other addresses in the past five years;
- (3) What licenses are held, and which states issued them;

(4) Whether any license has ever been revoked, suspended, or not renewed, and whether any disciplinary action has ever been taken or is now being considered by an insurance regulatory official or officer, and if so, give details.

NEW SECTION

**WAC 284-12-250 Employee.** Whether a person is an "employee" of the insurer for purposes of section 35 (3)(b)(i), chapter 462, Laws of 1993, depends on the facts and is not controlled by a mere labelling of the person as an employee in an agreement.

NEW SECTION

**WAC 284-12-260 Form of financial statements.** The independent audited financial statements required by section 38(1), chapter 462, Laws of 1993, shall be in such a form that they clearly show the results of operations, and the assets, liabilities, and equity of the managing general agent, and the income and expense attributable to acting as managing general agent for the insurer. Nothing in the act or this regulation (WAC 284-12-200 through 284-12-260) prevents the insurer from requiring additional information, more detail, or a specified format so long as that specified format at least meets the requirements of this section.

NEW SECTION

**WAC 284-12-270 Expiration and renewal of appointments.** Appointments of managing general agents shall be for one year. They expire unless timely renewed. They expire on the same date that agent appointments for the same insurer expire under WAC 284-17-410.

NEW SECTION

**WAC 284-12-280 Claim thresholds.** The claim threshold under sections 35 (3)(a)(i) and 37 (7)(b)(i) and (v), chapter 462, Laws of 1993, is twenty thousand dollars.

**WSR 93-15-112  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER  
[Filed July 21, 1993, 9:53 a.m.]**

Original Notice.  
Title of Rule: Real estate appraisals.

**Purpose:** Establish time limit for use of real estate appraisals; implement "accreditation bill."

**Other Identifying Information:** Insurance Commissioner Matter No. R 93-14.

**Statutory Authority for Adoption:** RCW 48.02.060.

**Statute Being Implemented:** RCW 48.13.120 and 48.13.140.

**Summary:** Appraisals may be used for up to a year, unless there is reason not to rely on them.

**Reasons Supporting Proposal:** This facilitates the healthy investment by insurers in the secondary mortgage market while protecting against reliance on stale or invalid appraisals.

**Name of Agency Personnel Responsible for Drafting:** George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; **Implementation and Enforcement:** John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

**Name of Proponent:** Deborah Senn, Insurance Commissioner, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Appraisals of real property may be relied on until they are one year old, unless the insurer knows or should know that the appraisal is not reliable.

Proposal does not change existing rules.

This rule only states policy and procedure and does not require any forms, fees, appearances, or other actions on the part of businesses and therefore has no economic impact.

**Hearing Location:** Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

**Submit Written Comments to:** Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

**Date of Intended Adoption:** September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

## NEW SECTION

**WAC 284-13-280 Real estate appraisals.** (1) Except as provided in subsection (2) of this section, for purposes of RCW 48.13.120(1) and 48.13.140, an insurer may rely on an appraisal that is less than one year old.

(2) An insurer may not rely on an appraisal if the insurer knows or should know that the appraisal is not reliable. An appraisal may be "not reliable" because it was incorrect when done, because conditions affecting the property have changed, or for other reasons.

**WSR 93-15-113**

**PROPOSED RULES**

**OFFICE OF**

**INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:54 a.m.]

Original Notice.

**Title of Rule:** Reinsurance intermediaries.

**Purpose:** Clarify some points under the new Reinsurance Intermediary Act; implement "accreditation bill."

**Other Identifying Information:** Insurance Commissioner Matter No. R 93-15.

**Statutory Authority for Adoption:** RCW 48.02.060 and section 33, chapter 462, Laws of 1993.

**Statute Being Implemented:** Sections 22-23, chapter 462, Laws of 1993.

**Summary:** Specifies definitions, licensing, financial statements, contract submission, and claim thresholds.

**Reasons Supporting Proposal:** The act is not entirely clear or calls for the commissioner to specify these matters.

**Name of Agency Personnel Responsible for Drafting:** George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; **Implementation and Enforcement:** John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

**Name of Proponent:** Deborah Senn, Insurance Commissioner, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Defines "employee" and "licensed in this state." Sets requirements for license application. Sets form for financial statements of reinsurance intermediary - manager. Sets requirements for submitting contract forms for approval. Sets minimum threshold for reporting claims.

Proposal does not change existing rules.

No small business economic impact statement required by chapter 19.85 RCW.

This rule does not impose any additional requirements than those imposed by chapter 48, RCW, sections 22-23, chapter 462, Laws of 1993; therefore it will have no economic impact.

**Hearing Location:** Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

**Submit Written Comments to:** Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

**Date of Intended Adoption:** September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

## NEW SECTION

**WAC 284-13-700 Definitions.** (1) Terms used in this regulation (WAC 284-13-700 through 284-13-740) that are defined in the Reinsurance Intermediary Act (chapter 48.—RCW, sections 22 through 33, chapter 462, Laws of 1993) ("the act") have the meaning stated there.

(2) Whether a person is an "employee" of the reinsurer for purposes of section 23 (7)(a), chapter 462, Laws of 1993, depends on the facts and is not controlled by a mere labeling of the person as an employee in an agreement.

(3) A reinsurer is "licensed in this state" for purposes of section 23(8), chapter 462, Laws of 1993, when it holds a certificate of authority to transact the relevant line of insurance.

NEW SECTION

**WAC 284-13-710 Applications for license.** An application for a license as a reinsurance intermediary by a firm or association may name the members and the designated employees to be authorized to act as reinsurance intermediaries under the license. If those persons are not named on the application or a supplement to it, then the application must be accompanied by a letter or other document identifying those persons and signed by an officer of the firm or association.

NEW SECTION

**WAC 284-13-720 Financial statement of reinsurance intermediary-manager.** A reinsurer shall obtain from each reinsurance intermediary-manager, and a reinsurance intermediary-manager shall give to the reinsurer, annual statements of financial condition prepared by an independent certified public accountant. The form of the statements shall be such that the statements clearly show the results of operations, and the assets, liabilities, and equity of the reinsurance intermediary-manager. Nothing in the act or this regulation (WAC 284-13-700 through 284-13-740) prevents a reinsurer from requiring additional information, more detail, or a specified format so long as that specified format at least meets the requirements of this section.

NEW SECTION

**WAC 284-13-730 Submission and approval of contracts between reinsurers and reinsurance intermediary—Managers.** Contracts filed for approval under section 28, chapter 462, Laws of 1993, must include the provisions required by that section. If those provisions are not in the order given in that section, or if any other provisions precede or separate any of those required provisions, then the submitted contract shall be accompanied by a statement showing where in the contract each required provision is.

NEW SECTION

**WAC 284-13-740 Reporting of claims.** The reporting threshold under section 28 (9)(b)(v), chapter 462, Laws of 1993, is the lesser of fifty thousand dollars or an amount set by the reinsurer.

Summary: Specifies levels of financial capital required for insurers. Specifies consequences for various degrees of failure to meet the standards. Applies only to life and disability companies.

Reasons Supporting Proposal: Required by new statute. Required for NAIC accreditation. This is an important measure to help monitor and protect the solvency and financial strength of insurers.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation and Enforcement: John B. Woodall, Insurance Building, Olympia, Washington, (206) 753-7303.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This defines terms related to risk-based capital for life and disability companies. It requires reporting of RBC information to the commissioner. It establishes various "events" of failure to meet desirable or essential levels. It sets consequences for each of those "events." It protects the confidentiality of the information on risk-based capital and it protects against misuse of the RBC figures. It specifies when it shall apply to foreign and alien insurers. It includes transition provisions.

Proposal does not change existing rules.

No small business economic impact statement required by chapter 19.85 RCW.

This rule sets forth the policy and procedures for specifying levels of financial capital required for insurers and the consequences for failure to meet the standards. Most domestic insurers already file the report required by this rule with the NAIC or the insurers are already in possession of the information needed to prepare and therefore the additional cost to file the report with the commissioner is negligible. The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including that imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the other members states of the NAIC.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Second Floor Conference Room, Olympia, Washington, on August 24, 1993, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by August 24, 1993.

Date of Intended Adoption: September 1, 1993.

July 20, 1993

Deborah Senn

Insurance Commissioner

**WSR 93-15-114  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Filed July 21, 1993, 9:55 a.m.]

Original Notice.

Title of Rule: Risk-based capital.

Purpose: Implement statutory requirement in "accreditation bill." Part of accreditation project.

Other Identifying Information: Insurance Commissioner Matter No. R 93-16. Based on NAIC model.

Statutory Authority for Adoption: RCW 48.02.060 and 48.05.340(4).

Statute Being Implemented: RCW 48.05.340(4).



NEW SECTION

**WAC 284-13-310 Definitions.** As used in this rule, these terms shall have the following meanings:

"Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with WAC 284-13-320(3).

"Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

"Domestic insurer" means any life or disability insurance company formed under the laws of this state.

"Foreign or alien insurer" means any life or disability insurance company which is authorized to do business in this state under chapter 48.05 RCW but is not domiciled in this state.

"NAIC" means the National Association of Insurance Commissioners.

"Negative trend" means a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in this section.

"RBC" means risk-based capital.

"RBC instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

"RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

"Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

"Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

"Mandatory control level RBC" means the product of .70 and the authorized control level RBC;

"Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

"RBC plan" means a comprehensive financial plan containing the elements specified in WAC 284-13-330(2). If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

"RBC report" means the report required in WAC 284-13-320.

"Total adjusted capital" means the sum of:

An insurer's statutory capital and surplus; and

Such other items, if any, as the RBC instructions may provide.

NEW SECTION

**WAC 284-13-320 RBC reports.** (1) Every domestic insurer shall, on or prior to each March 15 (the "filing date"), prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

(a) With the NAIC in accordance with the RBC instructions; and

(b) With the insurance commissioner in any state in which the insurer is authorized to do business, if the insurance commissioner has notified the insurer of its request in writing, in which case the insurer shall file its RBC report not later than the later of:

(i) Fifteen days from the receipt of notice to file its RBC report with that state; or

(ii) The filing date.

(2) An insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account (and may adjust for the covariance between):

(a) The risk with respect to the insurer's assets;

(b) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

(c) The interest rate risk with respect to the insurer's business; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions; determined in each case by applying the factors in the manner set forth in the RBC instructions.

(3) If a domestic insurer files an RBC report which in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report."

NEW SECTION

**WAC 284-13-330 Company action level event.** (1)

"Company action level event" means any of the following events:

(a) The filing of an RBC report by an insurer which indicates that:

(i) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or

(ii) The insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 2.5 and has a negative trend;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a)(i) or (ii) of this subsection (provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370); or

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a)(i) or (ii) of this subsection under WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the commissioner a comprehensive financial plan which shall:

(a) Identify the conditions in the insurer which contribute to the company action level event;

(b) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;

(c) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory financial position, results of operations, changes in cash flows, and significant statutory accounting policies. (The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component);

(d) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.

(3) The RBC plan shall be submitted:

(a) Within forty-five days of the company action level event; or

(b) If the insurer challenges an adjusted RBC report pursuant to WAC 284-13-370, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) Within sixty days after the submission by an insurer of an RBC plan to the commissioner, the commissioner shall notify the insurer whether the RBC plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five days after the notification from the commissioner; or

(b) If the insurer challenges the notification from the commissioner under WAC 284-13-370, within forty-five days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the commissioner to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under WAC 284-13-370, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic insurer that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(a) Such state has an RBC provision substantially similar to WAC 284-13-380(1); and

(b) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

#### NEW SECTION

**WAC 284-13-340 Regulatory action level event.** (1) "Regulatory action level event" means, with respect to any insurer, any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(b) The notification by the commissioner to an insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370;

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to file an RBC report by the filing date, unless the insurer has provided an explanation for such failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date;

(e) The failure of the insurer to submit an RBC plan to the commissioner within the time period set forth in WAC 284-13-330(3);

(f) Notification by the commissioner to the insurer that:

(i) The RBC plan or revised RBC plan submitted by the insurer is, in the judgment of the commissioner, unsatisfactory; and

(ii) Such notification constitutes a regulatory action level event with respect to the insurer, provided the insurer has not challenged the determination under WAC 284-13-370;

(g) If the insurer challenges a determination by the commissioner under (f) of this subsection pursuant to WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected such challenge;

(h) Notification by the commissioner to the insurer that the insurer has failed to adhere to its RBC plan or revised RBC plan, but only if such failure has a substantial adverse effect on the ability of the insurer to eliminate the regulatory action level event in accordance with its RBC plan or revised RBC plan and the commissioner has so stated in the notification, provided the insurer has not challenged the determination under WAC 284-13-370; or

(i) If the insurer challenges a determination by the commissioner under (h) of this subsection pursuant to WAC 284-13-370, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the challenge (unless the failure of the insurer to adhere to its RBC plan or revised RBC plan has no substantial adverse

effect on the ability of the insurer to eliminate the regulatory action level event with respect to the insurer).

(2) In the event of a regulatory action level event the commissioner shall:

(a) Require the insurer to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform such examination or analysis as the commissioner deems necessary of the assets, liabilities, and operations of the insurer including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the commissioner shall determine are required (a "corrective order").

(3) In determining corrective actions, the commissioner may take into account such factors as are deemed relevant with respect to the insurer based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within forty-five days after the occurrence of the regulatory action level event;

(b) If the insurer challenges an adjusted RBC report pursuant to WAC 284-13-370 and the challenge is not in the judgment of the commissioner frivolous, within forty-five days after the notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge; or

(c) If the insurer challenges a revised RBC plan under WAC 284-13-370, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the insurer's RBC plan or revised RBC plan, examine or analyze the assets, liabilities, and operations of the insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants shall be borne by the affected insurer or such other party as directed by the commissioner.

#### NEW SECTION

**WAC 284-13-350 Authorized control level event.** (1) "Authorized control level event" means any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection (provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370);

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to respond, in a manner satisfactory to the commissioner, to a corrective order (provided the insurer has not challenged the corrective order under WAC 284-13-370); or

(e) If the insurer has challenged a corrective order under WAC 284-13-370 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

(2) In the event of an authorized control level event with respect to an insurer, the commissioner shall:

(a) The commissioner shall take such actions as are required under WAC 284-13-340 regarding an insurer with respect to which a regulatory action level event has occurred; or

(b) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW 48.31.030(5). If the commissioner then finds the insurer to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public, and if the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, then the commissioner shall take such actions as are necessary to cause the insurer to be placed under regulatory control under chapter 48.31 RCW. In the event the commissioner takes such actions, the authorized control level event shall be deemed sufficient grounds for the commissioner to take action under chapter 48.31 RCW, and the commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in chapter 48.31 RCW. In the event the commissioner takes actions under this subsection (2)(b) pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of RCW 48.31.— (section 61, chapter 462, Laws of 1993) pertaining to summary proceedings.

#### NEW SECTION

**WAC 284-13-360 Mandatory control level event.** (1) "Mandatory control level event" means any of the following events:

(a) The filing of an RBC report which indicates that the insurer's total adjusted capital is less than its mandatory control level RBC;

(b) Notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under WAC 284-13-370; or

(c) If the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection under WAC 284-13-370, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW

48.31.030(5). The determination that a mandatory control level event has occurred constitutes a finding that the insurer is in such condition that further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public. Therefore, in the event of a mandatory control level event, the commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under chapter 48.31 RCW. In the event the commissioner takes actions pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of RCW 48.31.— (section 61, chapter 462, Laws of 1993) pertaining to summary proceedings. Notwithstanding any of the foregoing, the commissioner may forego action for up to ninety days after the mandatory control level event if he or she finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

#### NEW SECTION

##### **WAC 284-13-370 Hearings.** Upon:

- (1) Notification to an insurer by the commissioner of an adjusted RBC report; or
- (2) Notification to an insurer by the commissioner that:
  - (a) The insurer's RBC plan or revised RBC plan is unsatisfactory; and
  - (b) Such notification constitutes a regulatory action level event with respect to such insurer; or
- (3) Notification to any insurer by the commissioner that the insurer has failed to adhere to its RBC plan or revised RBC plan and that such failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event with respect to the insurer in accordance with its RBC plan or revised RBC plan; or
- (4) Notification to an insurer by the commissioner of a corrective order with respect to the insurer, the insurer shall have the right to a hearing, in accordance with chapters 48.04 and 34.05 RCW. The insurer shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under subsection (1), (2), (3), or (4) of this section.

#### NEW SECTION

**WAC 284-13-380 Confidentiality and prohibition on announcements.** (1) All RBC reports (to the extent the information therein is not required to be set forth in a publicly available annual statement schedule) and RBC plans (including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the commissioner pursuant to examination or analysis) with respect to any domestic insurer or foreign insurer which are filed with the commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to any provision of the insurance laws of this state.

(2) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required, under the provisions of this rule, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and an unfair method of competition and an unfair and deceptive practice and is therefore prohibited. If, however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels (or any of them) or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement or inappropriate comparison.

#### NEW SECTION

**WAC 284-13-390 Supplemental provisions.** The provisions of this rule are supplemental to any other provisions of the laws and rules of this state, and shall not preclude or limit any other powers or duties of the commissioner under such laws and rules including, but not limited to, chapter 48.31 RCW and WAC 284-16-300 through 284-16-320.

#### NEW SECTION

**WAC 284-13-400 Foreign and alien insurers.** (1) Any foreign or alien insurer shall, upon the written request of the commissioner, submit to the commissioner an RBC report as of the end of the calendar year just ended the later of:

- (a) The date an RBC report would be required to be filed by a domestic insurer under this rule; or
- (b) Fifteen days after the request is received by the foreign or alien insurer.

Any foreign or alien insurer shall, at the written request of the commissioner, promptly submit to the commissioner a copy of any RBC plan that is filed with the insurance commissioner of any other state.

(2) In the event of a company action level event or regulatory action level event with respect to any foreign or alien insurer as determined under the RBC statute or rule applicable in the state of domicile of the insurer (or, if no RBC provision is in force in that state, under the provisions of this rule), if the insurance commissioner of the state of

domicile of the foreign or alien insurer fails to require the foreign or alien insurer to file an RBC plan in the manner specified under the RBC statute or rule (or, if no RBC provision is in force in the state, under WAC 284-13-330), the commissioner may require the foreign or alien insurer to file an RBC plan with the commissioner. In such event, the failure of the foreign or alien insurer to file an RBC plan with the commissioner shall be grounds to order the insurer to cease and desist from writing new insurance business in this state.

(3) The commissioner's review of the RBC report, preparation of an adjusted RBC report if any, and consideration of any corrective order and any challenge to a corrective order constitute an examination for purposes of RCW 48.31.030(5). The determination that a mandatory control level event has occurred constitutes a finding that the insurer is in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public. Therefore, in the event of a mandatory control level event with respect to any foreign or alien insurer, if no domiciliary receiver has been appointed with respect to the foreign or alien insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign or alien insurer, the commissioner may make application to the circuit court for Thurston County permitted under chapter 48.31 RCW with respect to the liquidation of property of foreign or alien insurers found in this state, and the occurrence of the mandatory control level event is adequate grounds for the application.

#### NEW SECTION

**WAC 284-13-410 Notices.** All notices by the commissioner to an insurer which may result in regulatory action hereunder shall be effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission shall be effective upon the insurer's receipt of such notice.

#### NEW SECTION

**WAC 284-13-420 Phase-in provision.** For RBC reports required to be filed with respect to 1993, the following requirements shall apply in lieu of the provisions of WAC 284-13-330, 284-13-340, 284-13-350, and 284-13-360:

(1) In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder.

(2) In the event of an regulatory action level event under WAC 284-13-340 (1)(a), (b), or (c) the commissioner shall take the actions required under WAC 284-13-330.

(3) In the event of an regulatory action level event under WAC 284-13-340 (1)(d), (e), (f), (g), (h), or (i), or an authorized control level event, the commissioner shall take the actions required under WAC 284-13-340 with respect to the insurer.

(4) In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under WAC 284-13-350 with respect to the insurer.

#### WSR 93-15-115

#### PROPOSED RULES

#### EMPLOYMENT SECURITY DEPARTMENT

[Filed July 21, 1993, 9:58 a.m.]

Original Notice.

Title of Rule: Voluntary layoffs.

Purpose: To adopt a permanent new section to chapter 192-12 WAC, to clarify policy in adjudication where an individual volunteers to be laid off as part of a company reduction-in-force.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.20.050.

Summary: The department is proposing a new section be added to chapter 192-12 WAC to provide an interpretive regulation to define that individuals who voluntarily offer to be laid off when an employer is anticipating a reduction-in-force to not have their separation from employment considered to be a voluntary quit.

Reasons Supporting Proposal: The department desires to provide uniformity in adjudication in a large number of expected cases which do not fit existing precedents and policies.

Name of Agency Personnel Responsible for Drafting: Bob Wagner, 212 Maple Park, (206) 586-8486; Implementation and Enforcement: Marie Brillante, 212 Maple Park, (206) 753-5120.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To clarify policy in adjudication where an individual volunteers to be laid off as part of a company reduction-in-force. Current policy does not allow for an individual to be considered eligible for unemployment compensation benefits if their last separation is considered to be a voluntary layoff. In light of a number of companies considering [considering] mass layoffs due to the current economic situation, the department is adopting a rule to allow an individual to volunteer to be laid off if the employer is considering a layoff or reduction-in-force.

Proposal does not change existing rules.

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

Hearing Location: Yakima Job Service Center, Mariner's Conference Room, 306 Division Street, Yakima, WA 98902, on August 24, 1993, at 11:00 a.m. - 2:00 p.m.; and at the Employment Security Department, Training Annex Room 1, 202 Maple Park Drive, Olympia, WA 98504, on August 26, 1993, at 1:00 p.m. - 5:00 p.m.

Submit Written Comments to: Employment Security Department, Attn. John Nemes, Rules Coordinator, OMR, P.O. Box 9046, Olympia, WA 98507-9046, by August 26, 1993.

Date of Intended Adoption: August 30, 1993.

July 21, 1993  
Vernon E. Stoner  
Commissioner

**NEW SECTION**

**WAC 192-16-070 Interpretative regulations—Voluntary quit—RCW 50.20.050.** A layoff or reduction-in-force will not be considered to be a voluntary quit pursuant to RCW 50.20.050, if:

- (1) The employer has announced a layoff or reduction-in-force; and
- (2) The claimant volunteered to be one of the people included in the layoff or reduction-in-force; and
- (3) The employer determines which individuals are laid off or released through a reduction-in-force; and
- (3) The employer accordingly laid off or released the claimant due to a reduction-in-force.

**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 93-15-117  
PROPOSED RULES  
LIQUOR CONTROL BOARD**

[Filed July 21, 1993, 10:50 a.m.]

**Original Notice.**

**Title of Rule:** WAC 314-12-030 License to reflect true party of interest—Display of licenses. Requires certain persons/parties to be listed on liquor licenses.

**Purpose:** Identify the names that must appear on liquor licenses in order to reflect the true party in interest.

**Statutory Authority for Adoption:** RCW 66.08.030.

**Summary:** This rule was amended earlier this year and language requiring anyone with more than ten percent stock to be listed on the license was accidentally deleted. The proposed language actually restores the rule to the intended state.

**Reasons Supporting Proposal:** Return the rule to originally intended language as it had existed for many years. The accidental deletion was not the intention of the board.

**Name of Agency Personnel Responsible for Drafting:** David Goyette, 1025 East Union, Olympia, WA, 753-6274; **Implementation and Enforcement:** Gary Gilbert, 1025 East Union, Olympia, WA, 586-3052.

**Name of Proponent:** Washington State Liquor Control Board, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The proposed amendatory language restores original language requiring anyone having more than ten percent ownership of stock must be listed on the liquor license.

**Proposal Changes the Following Existing Rules:** Restores requirement of anyone holding more than ten percent of stock of a licensed business to be listed on the liquor license.

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

**Hearing Location:** Hearing Room "A", J. L. O'Brien Building, Olympia, Washington 98504, on August 25, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080, by August 24, 1993.

Date of Intended Adoption: August 25, 1993.

July 20, 1993  
Paula O'Connor  
Chairman

**AMENDATORY SECTION** (Amending WSR 93-10-092, filed 5/4/93, effective 6/4/93)

**WAC 314-12-030 License to reflect true party in interest—Display of licenses.** (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest.

(2) All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.

(3) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.

(4) For purposes of this section, "substantial interest" shall mean any of the following:

(a) Receipt of, or the right to receive, ten percent or more of the gross sales from the licensed business during any calendar or fiscal year of the licensed business. Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:

- Any rebates or refunds to customers;
- The licensee's cost of meals and beverage provided to employees;
- The amount of sales tax receipts or admission taxes;

(b) An investment in the licensed business of ten thousand dollars or more; or ~~((issued or outstanding stock on the licensed business.))~~

(c) Ownership of stock constituting more than ten percent of the issued or outstanding stock of the licensed business.

(5) For purposes of this section, "substantial interest" shall not mean:

(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;

(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;

(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;

(e) Payment of dividends to corporate stockholders.

**WSR 93-15-118  
PROPOSED RULES  
GREEN RIVER  
COMMUNITY COLLEGE**  
[Filed July 21, 1993, 11:16 a.m.]

Original Notice.

Title of Rule: WAC 132J-108-050 Brief adjudicative procedures.

Purpose: Specifies when the college uses brief adjudicative proceedings under the Administrative Procedure Act.  
Statutory Authority for Adoption: RCW 28B.50.140 and 34.05.482.

Statute Being Implemented: RCW 28B.50.140 and 34.05.482.

Summary: Clarifies applicability of brief adjudicative procedures regarding traffic matters.

Reasons Supporting Proposal: Updating rule.

Name of Agency Personnel Responsible for Drafting: Clark Townsend, Administration Building, 833-9111, ext. 428; Implementation and Enforcement: Rick Brumfield, Administration Building, 833-9111, ext. 275.

Name of Proponent: Green River Community College, with attorney general advice, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Specifies when the college uses brief adjudicative proceedings under the Administrative Procedure Act.

Proposal Changes the Following Existing Rules: Clarifies applicability of brief adjudicative procedures regarding traffic matters.

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

Hearing Location: Board Room, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002, on September 16, 1993, at 4 p.m.

Submit Written Comments to: Clark Townsend, Assistant to the President, Green River Community College, by September 7, 1993.

Date of Intended Adoption: September 16, 1993.  
July 21, 1993  
Clark Townsend  
Assistant to the President

[Chapter 132J-108—Practice and Procedure]

**AMENDATORY SECTION** (Amending Order [WSR 93-04-022], filed 1/27/93)

**WAC 132J-108-050 Brief adjudicative procedures.**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings, except as otherwise provided in another rule;
- (4) Parking and traffic violations, permits, fines, and penalties;
- (5) Outstanding debts owed by students or employees;

(6) Loss of eligibility for participation in institution sponsored athletic events;

(7) Refund of tuition and special fees under WAC 132J-160-010 through 132J-160-050.

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

**WSR 93-15-119  
PROPOSED RULES  
GREEN RIVER  
COMMUNITY COLLEGE**  
[Filed July 21, 1993, 11:18 a.m.]

Original Notice.

Title of Rule: Chapter 132J-116 WAC, Traffic and parking rules and regulations.

Purpose: Controls pedestrian and vehicular traffic on college property.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

Summary: Makes housekeeping changes to confirm consistency with current intent and practices regarding traffic regulation.

Reasons Supporting Proposal: Updating rules.

Name of Agency Personnel Responsible for Drafting: Clark Townsend, Administration Building, 833-9111, ext. 428; Implementation and Enforcement: Rick Brumfield, Administration Building, 833-9111, ext. 275.

Name of Proponent: Green River Community College, with attorney general advice, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Controls pedestrian and vehicular traffic on college property.

Proposal Changes the Following Existing Rules: Makes housekeeping changes to confirm consistency with current intent and practices regarding traffic regulation.

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

Hearing Location: Board Room, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002, on September 16, 1993, at 4 p.m.

Submit Written Comments to: Clark Townsend, Assistant to the President, Green River Community College, by September 7, 1993.

Date of Intended Adoption: September 16, 1993.  
July 21, 1993  
Clark Townsend  
Assistant to the President

[Chapter 132J-116 — Traffic and parking rules and regulations]

**AMENDATORY SECTION** (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-010 Purpose for adopting rules.**

Pursuant to ((the authority granted by)) RCW 28B.50.140(10), the board of trustees of Green River

PROPOSED

Community College, District 10, is granted authority to make rules and regulations for pedestrian and vehicular traffic on ~~((public lands devoted to, operated by;))~~ property owned, operated, or maintained by the college district. The rules and regulations contained in this chapter are ~~((established))~~ adopted under that authority for the following purposes:

- (1) To protect and control pedestrian and vehicular traffic; ~~((and))~~
- (2) To assure access at all times for emergency traffic; ~~((and))~~
- (3) To minimize traffic disturbance during class hours; and
- (4) To facilitate the operation of the community college ~~((of the district))~~ by assuring access for vehicles and ~~((to regulate))~~ regulating the use of parking spaces.

NEW SECTION

**WAC 132J-116-021 Definitions.** Used in this chapter;

- (1) "Board" shall mean the board of trustees of Green River Community College, District 10, state of Washington.
- (2) "Campus" shall mean any and all public lands owned, operated, or maintained by Green River Community College, District 10, state of Washington.
- (3) "Campus security officer" shall mean an independent contractor or employee of the college who is designated by the vice president for business affairs as being responsible for campus traffic control, parking, and security.
- (4) "College" shall mean Green River Community College, District 10, state of Washington.
- (5) "Faculty member" or "academic employee" shall mean any employee of Green River Community College, District 10, state of Washington whose employment is as a teacher, counselor, librarian or academic department head, except an administrator.
- (6) "Parking permit" shall mean a writing issued under the authority of the vice president for business affairs which grants a license to its authorized holder to park a designated vehicle on the campus for a time period and under conditions stated thereon.
- (7) "Permanent" parking permits shall mean permits which are valid, as specified thereon, for a school term or a portion thereof exceeding one month.
- (8) "School term" shall mean, unless otherwise designated, the time period commencing with the summer quarter of a community college calendar year and extending through the immediately subsequent fall, winter, and spring quarters.
- (9) "Staff member" shall mean a contracted or classified employee of Green River Community College, District 10, state of Washington.
- (10) "Student" shall mean any person who is enrolled in Green River Community College.
- (11) "Temporary" parking permits shall mean permits which are valid for a specific period designated on the permit up to a maximum of one month.
- (12) "Vehicle" shall mean an automobile, truck, motor cycle, motor scooter, or other motor-driven vehicle.
- (13) "Vice president for business affairs" shall mean the college employee designated with that job title or with the responsibilities of that title by the president, and any person

designated by the vice president to act for her/him on any matter(s) arising under this chapter.

(14) "Visitor" shall mean any person other than a student, faculty member, staff member, or officer of the college, who lawfully comes upon the campus for purposes which are in keeping with the college's role as an institution of higher education in the state of Washington.

**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 81-1, filed 6/24/81)

**WAC 132J-116-040 Permits required for vehicles on campus.** ~~No s~~ Student~~((s))~~, faculty member~~((s))~~, staff member~~((s))~~, ~~((guests;))~~ or visitor~~((s shall not))~~ may stop, park, or leave a vehicle whether attended or unattended upon the campus without a valid parking permit issued pursuant to WAC 132J-116-050.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

**WAC 132J-116-050 Authorization for issuance of permits.** ~~The ((dean of students, or his designee;))~~ vice president for business affairs is authorized to issue parking permits to students, administrators, faculty members, staff members, ~~((guests;))~~ and visitors of the college, ~~((pursuant to the following regulations;))~~ as follows:

- (1) A person may be issued a parking permit upon the proper registration of his vehicle with the college.
- (2) ~~((The dean of students, or his designee;))~~ A person may be issued a temporary, permanent, visitor, or special use parking permit~~((s when such permits are necessary to enhance the business or operation of the college;)),~~ as appropriate, under standards adopted by the vice president for business affairs.
- (3) Additional permits ~~((are available at the current fee schedule))~~ may be issued to an individual who ~~((may be registered to drive any one of several vehicles. It shall be agreed that))~~ shows that s/he drives more than one vehicle but agrees to park only one vehicle ~~((registered to an individual shall be permitted to park))~~ on campus at any one time.
- (4) The vice president for business affairs shall determine the fee, if any, to be charged for each type of permit. Persons who pay the current fee for parking permits and later request a refund shall receive refunds according to the refund policy.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

**WAC 132J-116-060 Valid permit.** (1) A valid parking permit is:

- ~~((1))~~ (a) An unexpired permanent, temporary, visitor, or special use ~~((parking))~~ permit, ~~((registered and properly displayed; or))~~
- ~~((2))~~ (b) ~~((A temporary parking permit authorized by))~~ issued under the authority of the ~~((dean of students, or his~~



~~designee, and properly displayed; or~~) vice president for business affairs,

~~((3)) (c) ((A special parking permit authorized by the dean of students, or his designee, and properly displayed; or))~~ used according to its terms, and

~~((4)) (d) ((A visitor's permit authorized by the dean of students, or his designee, and properly displayed; or))~~ affixed to and visible from outside of the vehicle—and the windshield if the vehicle has one.

~~((5)) (2)~~ No permit will be valid for more than one year.

(3) Expired permits shall be removed from the vehicle.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-080 Transfer of permits.** (1) Parking permits are not transferable except as provided herein.

(2) If a vehicle is sold or traded, a new permit will be issued to the ~~((permit holder))~~ new owner or driver at no ~~((additional))~~ cost if ~~((the permit holder does the following: (1) s/he b((B))rings the invalid permit((7)) or remnant thereof, and the permit number, to the ((appropriate)) permit-issuing office.((7 this office shall then issue the permit holder a new parking permit registered under a new number.~~

(2) If the invalid permit, or remnant thereof, is not submitted to the proper authority, a fee will be charged according to the current fee schedule.))

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 73-4, filed 6/6/73)

**WAC 132J-116-090 Permit revocation.** A parking permit~~((s are))~~ is the property of the college and may be ~~((recalled))~~ revoked by the ~~((dean of students))~~ vice president for business affairs: ~~((for any of the following reasons:))~~

(1) when the purpose for which the permit was issued ~~((changes or))~~ no longer exists or applies; ~~((or))~~

(2) when ~~((a permit))~~ it is used ~~((for an unregistered vehicle or by an unauthorized individual; or))~~ by a person or on a vehicle other than the one for whom or which it was issued;

(3) for falsification on ~~((a parking))~~ the permit application; ~~((or))~~

(4) for the holder's or vehicle's continued or flagrant violations of parking or traffic regulations; or

(5) when it has been altered. ~~((Counterfeiting or altering a parking permit.))~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-100 Right to ~~((refuse))~~ deny permit.** The ~~((college (dean of students or his designee) reserves the right to refuse the issuance of))~~ vice president for business affairs may deny a parking permit to anyone who has had a previous parking permit revoked or refused, or ~~((to anyone))~~ whose driving or parking record indicates a ~~((flagrant))~~ significant disregard for the rights or safety of other people.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-110 Right to appeal.** ~~((permit revocation or refusal to grant permit.))~~ (1) When a parking permit has been ~~((recalled))~~ revoked pursuant to WAC 132J-116-090 or has been ~~((refused in accordance with))~~ denied under WAC 132J-116-100, or when a fine or penalty has been levied ~~((against a violator of the rules and regulations set forth in))~~ under this chapter, such action ~~((by the dean of students, or his designee,))~~ may be appealed ~~((pursuant through the established channels.))~~ through a brief adjudicative proceeding.

(2) Such an appeal may be made by filing within twenty days of the challenged action a written request for such a proceeding with the vice president for marketing and student development, or her/his designee, who shall serve as presiding officer.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-120 Responsibility of person to whom permit issued.** The person to whom a parking permit is issued~~((, pursuant to the rules and regulations set forth in this chapter.))~~ shall be responsible for ~~((all))~~ every violation~~((s))~~ of ~~((said))~~ college rules and regulations involving the vehicle~~((, but))~~ However, such responsibility shall not relieve any other person~~((s who by their conduct with vehicles registered with another permit holder, violate the rules and regulations established by this chapter.))~~ of her/his separate responsibility for the same violation~~((s))~~. In the event that a vehicle in violation is not registered with the college, the ~~((current))~~ registered owner will be responsible for ~~((the))~~ any violation~~((s))~~. ~~((of the campus regulations.))~~

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

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 73-4, filed 6/6/73)

**WAC 132J-116-130 Designation of parking.** (1) ~~((The))~~ Parking spaces available on campus shall be designated and allocated by the ~~((dean of students, or his designee, in such a manner as will best achieve the objectives of the rules and regulations in this chapter.))~~ vice president for business affairs.

~~((1)) (2)~~ Faculty and staff spaces shall be so designated~~((, and))~~.

~~((2)) (3)~~ Student spaces will be all spaces designated for parking and not posted for ~~((special use. Special provisions have been made for physically handicapped students, or their designee.))~~ faculty or staff or otherwise restricted.

~~((3)) (4)~~ Parking spaces ~~((shall))~~ may also be designated for ~~((use of))~~ visitors ~~((on campus; and~~

~~(4) Parking spaces may be designated for) or other special purposes ((as deemed necessary).)~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-140 Parking within designated spaces.** (1) ~~((All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.~~

~~(2)) All vehicles must be parked within designated((marked)) parking areas and parking stalls.~~

~~((3)) (2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that ((either)) another vehicle((s)) may have been ((so)) improperly parked ((as to require the vehicle parking to occupy a portion of more than one space or stall in order to park,)) shall not constitute an excuse for ((a)) violation of this section.~~

~~((4) No vehicle shall be parked on the campus except in those areas set aside and designated for parking.))~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-150 Regulatory signs and directions.** The ~~((dean of students, or his designee,))~~ vice president for business affairs is authorized to erect signs, barricades and other structures, and to ~~((paint))~~ make or post marks or other directions upon the entry ways and streets, ~~((on campus and upon the various public lands devoted to, operated by, or maintained by the college district. Such signs, barricades, structures, markings and directions, shall be so made and placed as in the opinion of the dean of students ((, or his designee,)) will best))~~ to effectuate the objectives ((stated in WAC 132J-116-010 and will best effectuate the rules and regulations contained in)) of this chapter. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by ~~((the))~~ a campus ((patrolmen)) security officer in the control and regulation of traffic.

**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 73-4, filed 6/6/73)

**WAC 132J-116-160 Speed limit.** No vehicle shall be operated on the campus at a speed in excess of fifteen miles per hour, or such slower speed as is reasonable and prudent ~~((to))~~ under the circumstances. No vehicle of any type shall at any time use the campus parking lots for testing, racing, or other ~~((unauthorized))~~ activities not authorized by the vice president for business affairs.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-170 Pedestrian's right of way.** (1) The operator of a vehicle shall yield right of way~~((slowing down or stopping, if need be, to so yield))~~ to any pedestrian~~((but)).~~ However, no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle which has slowed or stopped to yield to pedestrian traffic.

(3) Where a sidewalk is provided, pedestrians shall proceed upon such a sidewalk.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-180 Two-wheeled motorbikes or bicycles.** (1) All two-wheeled vehicles powered by an engine shall park in a space designated for motorcycles only. No ~~((unauthorized))~~ vehicles shall be ridden on the sidewalks on campus at any time unless authorized by the ~~((dean of students or his designee,))~~ vice president for business affairs.

(2) Bicycles and other ~~((nonengine-powered))~~ non-motored cycles shall be subject to posted or published regulations as established by the vice president for business affairs.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-190 Report of accidents.** The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or ~~((total or claimed))~~ damage to ~~((either or both vehicles exceeding \$100))~~ the property of any one person to an apparent extent of at least \$500 shall ((immediately)) within twenty-four hours report such accident in writing to the ((dean of students or his designee)) vice president for business affairs and ((shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report. Other minor accidents may be reported to the office of campus parking and security for insurance record purposes.)) to the appropriate law enforcement agency as required by RCW 46.52.030 or other law. Any other accident may be reported, if desired to a campus security officer.

**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 73-4, filed 6/6/73)

**WAC 132J-116-210 Issuance of traffic tickets.** Upon observing the violation of any of the rules and regulations contained in this chapter, the ~~((dean of students, his designee or subordinates,))~~ vice president for business affairs or a

campus security officer may issue a summons or citation setting forth the date, the approximate time, permit number, license information, infraction, ~~((officer))~~ issuing person, and ~~((schedule of))~~ applicable fine(s). Such summons or ~~((traffic))~~ citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

**WAC 132J-116-220 Fines and penalties.** ~~((The dean of students, or his designee, is authorized to impose the following))~~

(1) The vice president for business affairs is authorized to adopt and impose fines and penalties for ((the)) violation of the rules and regulations contained in this chapter((:)).

~~((1) Except as provided under subsection (2), fines will be levied for all violations of the regulations contained in this chapter.))~~

(2) A vehicle((s)) parked in violation of ((current traffic and)) a parking regulation((s)) will be subject to a fine and also may be impounded, in accordance with RCW 46.55.070 et seq. and other applicable law, and taken to such place for storage as the ((dean of students, or his designee,)) vice president for business affairs selects. The expenses of such ((impoundings)) impound and storage shall be the responsibility of the registered owner ((or)) and the driver of the vehicle. The college shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(3) ((At the discretion of the dean of students,)) An accumulation of traffic or parking violations by a student, staff member, administrator or faculty member ((will)) may be cause for disciplinary action, ((and the dean of students shall initiate disciplinary proceedings against such a violator)) to be initiated by an appropriate administrator.

(4) ((At the discretion of the dean of students,)) An accumulation of ((traffic citations by)) unpaid fines against a student, staff member, administrator or faculty member may be turned over to a private collection agency for ((the)) collection. ~~((of fines not previously received by the dean of students, or his designee.))~~ Other appropriate collection procedures may be initiated as deemed necessary.

~~((5) Vehicles involved in violations of these regulations may be impounded as provided for in subsection (2) here-in.))~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

**WAC 132J-116-240 Exceptions.** (1) No vehicle owned by a governmental agency, as evidenced by ((an exempt)) its license plate, will be required to display a parking permit. Such vehicles will be subject to all other parking and traffic regulations.

(2) No patrol, service, maintenance, or other ((authorized)) college ((vehicles in use for these purposes)) vehicle, or vehicle authorized by a college officer to be on campus for official college business, will be required to obey parking regulations when ((they are)) being used for a college purpose which requires ((that they be parked, stopped or driven in unusual locations, or in an unusual manner in order

~~to accomplish their lawful and authorized purpose.)) nonconforming parking.~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132J-116-020 Definitions.  
WAC 132J-116-070 Display of permit.  
WAC 132J-116-200 Enforcement.

**WSR 93-15-120**  
**PROPOSED RULES**  
**GREEN RIVER**  
**COMMUNITY COLLEGE**  
[Filed July 21, 1993, 11:20 a.m.]

Original Notice.

Title of Rule: Chapter 132J-128 WAC, Tenure.

Purpose: Implements statutes regarding tenure for college faculty.

Statutory Authority for Adoption: RCW 28B.50.852.

Statute Being Implemented: RCW 28B.50.850- [28B.50].869.

Summary: Streamlines tenure rules to provide for situations not covered by statutes or provisions of faculty collective bargaining agreements.

Reasons Supporting Proposal: Updating rules, avoiding duplication and inconsistency.

Name of Agency Personnel Responsible for Drafting: Clark Townsend, Administration Building, 833-9111, ext. 428; Implementation and Enforcement: Richard Rutkowski, Administration Building, 833-9111, ext. 311.

Name of Proponent: Green River Community College, with attorney general advice, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Implements statutes regarding tenure for college faculty.

Proposal Changes the Following Existing Rules: Streamlines tenure rules to provide for situations not covered by statutes or provisions of faculty collective bargaining agreements.

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

Hearing Location: Board Room, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002, on September 16, 1993, at 4 p.m.

Submit Written Comments to: Clark Townsend, Assistant to the President, Green River Community College, by September 7, 1993.

Date of Intended Adoption: September 16, 1993.

July 21, 1993

Clark Townsend  
Assistant to the President

[Chapter 132J-128—Tenure]

NEW SECTION

**WAC 132J-128-200 Board policy on tenure and dismissals.** (1) In accordance with RCW 28B.50.852, the board of trustees of college district no. 10, the appointing authority of Green River Community College, adopts this rules chapter to implement RCW 28B.50.850-.869.

(2) The board of trustees recognizes the importance of faculty tenure and appropriate tenure review and dismissal review processes in a higher education institution. The board further recognizes its own ultimate statutory responsibilities in these regards. Accordingly, the board reserves all of its statutory powers and rights regarding the awarding of faculty tenure and the dismissal of faculty, except as expressly provided otherwise in this chapter.

(3) The board also recognizes the important role of the faculty and the faculty's bargaining representative in helping to determine the college's procedures for awarding tenure and dismissing faculty—and helping to implement those procedures. Accordingly, the board will continue to negotiate with that bargaining representative to include major aspects of the tenure and dismissal review processes in the faculty collective bargaining agreements.

(4) These rules are intended to avoid unnecessary duplication of controlling statues and/or provisions of a faculty collective bargaining agreement, while providing for situations not covered thereby.

NEW SECTION

**WAC 132J-128-210 Review committees generally.**

(1) Except as provided otherwise in a controlling provision of a faculty collective bargaining agreement, tenure and dismissal review committees shall be constituted and conducted under this chapter and as further directed by the college president.

(2) The president is authorized to take all necessary actions to assure the composition and appointment of a valid and effective review committee, in accordance with RCW 28B.50.869 and/or other applicable law. If the president determines that there is no effective election or appointment to a position on a review committee, the president may declare that position vacant and either appoint a replacement (if it is an administrative staff member) or request an appointment by the student association or faculty bargaining representative, as appropriate. The association or bargaining representative shall convene any necessary meeting(s), make the appointment, and so advise the president within ten calendar days of receiving notification. If the association or bargaining representative fails to so advise of an appointment within ten days, without an extension of that deadline by the president, the association or bargaining representative shall be deemed to have waived its right to participate in the appointment and the president may conduct whatever meeting(s) may be appropriate to secure the appointment.

(3) A review committee shall meet at a time and location designated by the president, after at least three days' notice to all its members, unless its members agree to a different time and/or location. At its first meeting, the committee shall elect a chair, who thereafter shall maintain all committee records.

(4) Review committee deliberations shall be kept confidential to the extent permitted by law, except for evaluation information shared with a probationer.

(5) The review committee shall report to the board of trustees within any deadline set by the president or the board.

(6) A review committee's failure to properly perform its function shall not prevent the board of trustees from making a decision, after giving appropriate consideration to any recommendations of committee members and/or appropriate administrators.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 132J-128-010 Tenure.
- WAC 132J-128-020 Tenure review committees.
- WAC 132J-128-030 Granting of tenure.
- WAC 132J-128-040 Tenure review committee defined.
- WAC 132J-128-050 Establishment of criteria and methods for evaluation.
- WAC 132J-128-060 Selection of the tenure review committee.
- WAC 132J-128-070 Evaluation of the probationer.
- WAC 132J-128-080 Final action on tenure.
- WAC 132J-128-090 Dismissal philosophy.
- WAC 132J-128-100 Dismissal hearing committee.
- WAC 132J-128-110 Basis for dismissal.
- WAC 132J-128-120 Dismissal procedure.
- WAC 132J-128-130 Resignation.
- WAC 132J-128-140 Retirement.

**WSR 93-15-121**  
**PROPOSED RULES**  
**GREEN RIVER**  
**COMMUNITY COLLEGE**  
 [Filed July 21, 1993, 11:22 a.m.]

Original Notice.  
 Title of Rule: Chapter 132J-136 WAC, Smoking regulations.

Purpose: Regulated smoking on the college campus.  
 Statutory Authority for Adoption: RCW 28B.50.140.  
 Statute Being Implemented: RCW 28B.50.140.

Summary: Repeals smoking rules, which have largely been superseded by the Clean Indoor Air Act and student conduct code.

Reasons Supporting Proposal: Updating rules.  
 Name of Agency Personnel Responsible for Drafting: Clark Townsend, Administration Building, 833-9111, ext. 428.

Name of Proponent: Green River Community College, with attorney general advice, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regulated smoking on the college campus.

Proposal Changes the Following Existing Rules: Repeals smoking rules, which have largely been superseded by the Clean Indoor Air Act and student conduct code.

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

Hearing Location: Board Room, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002, on September 16, 1993, at 4 p.m.

Submit Written Comments to: Clark Townsend, Assistant to the President, Green River Community College, by September 7, 1993.

Date of Intended Adoption: September 16, 1993.

July 21, 1993

Clark Townsend

Assistant to the President

[Chapter 132J-136—Smoking regulations]

### REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 132J-136 WAC—Smoking regulations

### **WSR 93-15-122**

#### **PROPOSED RULES**

### **HUMAN RIGHTS COMMISSION**

[Filed July 21, 1993, 11:24 a.m.]

#### Original Notice.

Title of Rule: Chapter 162-12 WAC, Preemployment inquiry guide; chapter 162-18 WAC, Corrective employment programs; chapter 162-22 WAC, Employment-Handicapped persons; chapter 162-26 WAC, Public accommodations, handicap discrimination; and chapter 162-30-WAC, Sex discrimination.

Purpose: To govern fair and unfair preemployment inquiries, repeal chapter 162-18 WAC, address persons with disabilities in employment and public accommodations, and address maternity (sex) discrimination.

Statutory Authority for Adoption: RCW 49.60.120(3).

Statute Being Implemented: Chapter 49.60 RCW, RCW 49.60.120, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.205, and 49.60.215.

Summary: Chapter 162-12-WAC

WAC 162-12-100 Purpose, this amendment incorporates WAC 162-12-110 and updates the RCW and WAC references; WAC 162-12-110 Statutes interpreted, this rule is repealed due to its incorporation into the amendment of WAC 162-12-100; WAC 162-12-120 General approach, this amendment restates this WAC rule for readability; WAC 162-12-130 Inquiries for purposes of discrimination prohibited, this amendment adds "age" to the kinds of unfair practice inquiries, and changes "handicap" to "disability" (as also reflected in SB 5474, chapter 510, Laws of 1993, other rules below are similarly updated); WAC 162-12-135 Bona fide occupational qualifications, this amendment adds "freedom

from a disability"; to the list of possible BFOQs, and makes it consistent with other existing commission rules; WAC 162-12-140 Preemployment inquiries, this amendment restates the rule's language for readability, deletes references to rules which are to be repealed, updates language consistent with changes in the RCW, updates and clarifies fair/unfair preemployment inquiries in light of state court decisions, and adds clarifying language and WAC references; WAC 162-12-150 Inquiries required by United States, this amendment adds "age" and "disability" to the categories of inquiries, and adds (requirements due to) court decrees; WAC 162-12-160 Date for legitimate purposes, this amendment adds "age" and "disability" to the categories of inquiries, changes "paper" to "record," and replaces the reference to chapter 162-18 WAC (repealed below) with a reference to affirmative action program(s); WAC 162-12-170 Conditions for inquiries to applicants, this amendment adds "age," and changes "handicap" to "disability," to the categories of inquires; changes "papers" to "records" to more appropriately reflect the means of data-retention and to be consistent with other commission rules; and makes housekeeping language changes; and WAC 162-12-180 Post employment records, this amendment adds "disability" records to the permitted post-employment records.

#### Chapter 162-18 WAC

WAC 162-18-010 to 162-18-100, these rules, and this chapter, are being repealed because the commission deems them unnecessary, particularly with the existence and provisions of chapter 49.74 RCW (affirmative action).

#### Chapter 162-22-WAC

Chapter 162-22 WAC, the chapter's title is amended; WAC 162-22-010 Scope of chapter, this amendment changes "handicap" to "disability," and references the WAC chapter for preemployment regulations; WAC 162-22-020 Definitions, this amendment updates language, and incorporates the purposes of WAC 162-22-030 and 162-22-040 (which are being repealed) in redefining and adding to the terms relevant to disability/employment; WAC 162-22-030 Affirmative action and reporting and 162-22-040 General approach to enforcement, these rules are being repealed because of the repeal of chapter 162-18 WAC and the amendment of WAC 162-22-020 as stated above; WAC 162-22-050 Unfair practice, this amendment updates, restates and adds to this rule's provisions concerning when an unfair practice has occurred, including taking into account the amendment of WAC 162-22-020; WAC 162-22-060 Preference for a person with a disability is not an unfair practice, this amendment updates the rule's title and text, and deletes the last two sentences deemed to be unnecessary example-language; WAC 162-22-070 Bona fide occupational qualification (BFOQ), this amendment updates the rule's language, adds that a BFOQ must be met by all "or substantially all" persons in light of a state court decision, deletes automatic BFOQ status to state/local government rules, and deletes subsection (5) due to the amendment of WAC 162-22-020; WAC 162-22-080 Reasonable accommodation, this amendment updates the rule's title, restates the rule's provisions, and adds clarifying language relating to the requirements for reasonable accommodation; WAC 162-22-090 Medical

opinions, this amendment revises the rule's title, restates and clarifies the rule's provisions, including addressing preemployment and post-employment situations, and adds provisions relating to drug/alcohol testing and confidentiality of records; and WAC 162-22-100 Drug and alcohol use, this new rule addresses drug and alcohol use as disabilities.

#### Chapter 162-26 WAC

Chapter 162-26-WAC, the chapter's title is updated; WAC 162-26-010 Scope of chapter, this amendment updates the rule's language; WAC 162-26-020 Purpose of chapter, this amendment updates the rule's language; WAC 162-26-030 Related law, this amendment updates the rule's language and references; WAC 162-26-040 Definitions, this amendment updates the rule's language; WAC 162-26-050 Who is protected, this amendment updates the rule's language and defines disability consistently with WAC 162-22-020 above; WAC 162-26-060 General principles, this amendment updates the rule's language; WAC 162-26-070 General rules, this amendment updates the rule's language; WAC 162-26-080 Reasonable accommodation, this amendment updates the rule's language; WAC 162-26-090 Arranged service, this amendment updates the rule's language; WAC 162-26-100 Structural barriers to accessibility, this amendment updates the rule's language and references; WAC 162-26-110 Behavior causing risk, this amendment updates the rule's language; WAC 162-26-120 Failure to meet requirements of other law, this amendment updates the rule's language and references; WAC 162-26-130 Use of guide dog, this amendment updates the rule's language consistent with the above-mentioned SB 5474, chapter 510, Laws of 1993, and defines "service dog" which is referenced in said legislation; and WAC 162-26-140 Unfair to request or receive waiver of rights, this amendment updates the rule's language.

#### Chapter 162-30 WAC

WAC 162-30-010 General approach, this amendment updates references in this rule; WAC 162-30-020 General findings, this amendment adds clarifying language and deletes the majority of the rule, the provisions of which are mainly addressed and clarified in the newly-proposed rules addressed below; WAC 162-30-030 Purposes, this new rule addresses the purposes of the rules, previously addressed in WAC 162-30-020; WAC 162-30-035 Unfair practices, this new rule addresses what unfair practices are involved, previously addressed in WAC 162-30-020; WAC 162-30-040 Hiring pregnant women, this new rule addresses what was previously addressed in WAC 162-30-020; WAC 162-30-050 Treatment of employed women, this new rule addresses what was previously addressed in AC 162-30-020; WAC 162-30-060 Leave for medical conditions, this new rule addresses what was previously addressed in WAC 162-30-020; WAC 162-30-070 Medical benefits, this new rule addresses what was previously addressed in WAC 162-30-020; WAC 162-30-080 Insurance benefits, this new rule addresses what was previously addressed in WAC 162-30-020; WAC 162-30-090 Marital status immaterial, this new rule addresses what was previously addressed in WAC 162-30-020; and WAC 162-30-100 Labor unions and employment agencies, this new rule addresses what was previously addressed in WAC 162-30-020.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Refernell Thompson, 711 Capitol Way, #402, Olympia, WA 98504-2490, 753-6770; Implementation: Merritt Long, 711 Capitol Way, #402, Olympia, WA 98504-2490, 753-6770; and Enforcement: Edmon Lee, 711 Capitol Way, #402, Olympia, WA 98504-2490, 753-6770.

Name of Proponent: Human Rights Commission, governmental.

Rule is necessary because of state court decision, as it relates to WAC 162-12-140(3), see *Fahn v. Cowlitz County*, 116 Wn.2d 368 (1981); also, see *Gugin v. Sonico, Inc.* 68 Wn. App. 826 (1993), *Green v. Missouri Pacific Railroad Co.*, 503 F.2d 1290 (8th Cir. 1985), *Monroe v. Tielsch*, 84 Wn.2d 217 (1974).

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.

A small business economic impact statement is not required by these rules.

Hearing Location: Library for the Blind and Physically Handicapped, 821 Lenora Street, Seattle, WA, on Wednesday, August 25, 1993, at 3 p.m. - 7:30 p.m.

Submit Written Comments to: Sherri Kashishian-Apilado, Commission Clerk, 711 South Capitol Way, Evergreen Plaza Building, P.O. Box 42490, Olympia, WA 98504-2490, by August 20, 1993.

Date of Intended Adoption: August 26, 1993.

July 20, 1993

Merritt Long

Executive Director

#### AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-100 Purpose.** ~~((1) This regulation, which may be called the preemployment inquiry guide, is issued to inform employers, employment agencies, and the public of the interpretation given by the Washington state human rights commission to the parts of the law against discrimination which declare certain preemployment inquiries to be unfair practices.))~~ (1) These regulations are intended to carry out the purposes of the law against discrimination as stated generally in RCW 49.60.010 and 49.60.030, and to inform employers, employment agencies, and the public of the commission's interpretation of RCW 49.60.180 and 49.60.200 which declare certain preemployment inquiries to be unfair practices.

(2) This regulation cannot cover every question which might arise in connection with inquiries prior to ~~((the))~~ employment. The commission ~~((hopes))~~ expects that in most cases ~~((the given))~~ these rules, either directly or by analogy, will guide those who are covered by the law. Employers and employment agencies that still have questions are invited to call the commission's staff for advice and assistance, or, if necessary, to petition the commission for a declaratory ruling under ~~((RCW 34.04.080 and WAC 162-08-620 [162-~~

~~08-700 or~~) RCW 34.05.240 and WAC 162-08-700 concerning the application of the law to particular facts.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

WAC 162-12-120 ((Rationale and policy.)) **General approach.** ((1) The portions of RCW 49.60.180 and 49.60.200 quoted in WAC 162-12-110 forbid preemployment inquiries which convey to the applicant the impression that persons in a protected class will be discriminated against. Inquiries which would convey this impression to a reasonable person are prohibited whether or not they are made in connection with a discriminatory purpose.

(2) The Washington state human rights commission recognizes that an employer's interest in the race, etc., of the applicants may be consistent with the purposes of the law against discrimination, as where the employer wants to see whether his or her employment office or employment agency is properly carrying out the employer's policy of nondiscrimination. The commission at the same time recognizes that in the absence of safeguards records of race, etc., can easily be misused. Taking both of these facts into account, the commission has concluded that the best approach is to establish fixed rules which characterize particular preemployment inquiries as fair or not, but to draw the line so that those who intend to make proper use of data on protected classes have maximum freedom to do so.) (1) Inquiries which would convey the impression to a reasonable person that applicants in a protected class will be discriminated against are prohibited whether or not they are made in connection with a discriminatory purpose.

(2) The commission recognizes the legitimate interests of employers with respect to the protected class status of applicants which are consistent with the purpose of the law against discrimination, or where required by government or to carry out an employer's policy of nondiscrimination. However, the commission also recognizes that in the absence of safeguards, the records of race, sex, etc., can be misused for discriminatory purposes. To address this conflict, the commission has established fixed rules in WAC 162-12-140 which characterize particular preemployment inquiries as fair or unfair in such a way that employers and employment agencies who intend to make legitimate use of such data have maximum freedom to do so without conveying the impression that protected class applicants will be discriminated against.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

WAC 162-12-130 **Inquiries for purposes of discrimination prohibited.** It is an unfair practice to make any inquiry or keep any record of race, creed, color, national origin, age, sex, marital status, or ((handicap)) disability, before, during, or after employment, for the purpose of discriminating on these grounds, unless the particular quality inquired about is a bona fide occupational qualification.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

WAC 162-12-135 **Bona fide occupational qualifications.** The statutes construed in this chapter recognize an exception when inquiries are based upon a "bona fide occupational qualification." For guidance on the meaning of that term see WAC 162-16-020. The provisions of this preemployment guide do not apply where age, sex, race, creed, color, marital status, ((or)) national origin, or freedom from a disability is a bona fide occupational qualification and is identified as such to the applicant or other person. See WAC 162-16-040.

AMENDATORY SECTION (Amending Order 19, filed 1/20/75)

WAC 162-12-140 **Preemployment inquiries.** ((1) The rules in the following chart of fair and unfair inquiries to job application forms, preemployment interviews, or any other type of interrogation of persons seeking to be employed. The rules also apply when the inquiries are made to persons other than the applicant or employee, and when the inquiries are made by third parties such as a credit reporting service on behalf of the employer or employment agency.) (1) The following chart of fair and unfair inquiry rules apply when made in reference to job application forms, preemployment interviews, or any other type of inquiry made of persons seeking to be employed. The rules also apply to inquiries made to persons other than an applicant and to inquiries made by third parties such as a credit reporting service. The rules do not apply after a person is employed. See WAC 162-12-180.

(2) Employers and employment agencies shall observe these preemployment rules except where one or more of the following conditions exist:

((a-)) (a) A "bona fide occupational qualification" as explained in chapter 162-16 WAC.

((b. An approved corrective employment program as provided for in chapter 162-18 WAC.

e. An affirmative action plan approved or required by a government agency or competent jurisdiction.

4-)) (b) An affirmative action plan that is in compliance with the requirements of a government agency or other competent authority such as a court, and if made in a manner provided in WAC 162-12-160 and 162-12-170.

(c) A contrary requirement of federal law, as explained in WAC 162-12-150.

If one or more of the above conditions apply, the employer or employment agency may use appropriate inquiries that would otherwise be unfair. Inquiries made under these exceptions must always be accompanied by ((an)) a written explanation of their purpose. See WAC 162-12-135, 162-12-170, and 162-16-040((and 162-18-090)).

(3) The examples in the following chart of fair and unfair preemployment inquiries are intended to define what is an unfair practice under RCW 49.60.180(4) and 49.60.200 ((and to have the force of law where they apply)). These examples, however, are not ((exhaustive, however)) all inclusive. ((The statutes prohibit)) All preemployment inquiries which unnecessarily ((reveal)) elicit the race, sex, or membership in other protected classes((r)) are prohibited

by these statutes irrespective of whether or not the particular inquiry is covered in this regulation.

**SUBJECT**      **FAIR  
PREEMPLOYMENT  
INQUIRIES**

**UNFAIR  
PREEMPLOYMENT  
INQUIRIES**

a. Age      Inquiries as to birth date and proof of true age are permitted by RCW 49.44.090.

Any inquiry not in compliance with RCW 49.44.090 which implies a preference for persons under 40 years of age.

(For age discrimination, RCW 49.44.090 must be read in conjunction with RCW 49.60.180 and 49.60.200. ~~((t))~~ RCW 49.44.090 limits age discrimination coverage to persons ~~((between the ages of 40 and 65))~~ 40 years of age and older, and makes other limitations and exceptions to the age discrimination law.)

b. Arrests      ~~((None. (Law enforcement agencies are exempt for this rule. See WAC 162-16-050, discrimination in employment because of arrests.))~~ Because statistical studies regarding arrests have shown a disparate impact on some racial and ethnic minorities, and an arrest by itself is not a reliable indication of criminal behavior, inquiries concerning arrests must include whether charges are still pending, have been dismissed, or led to conviction of a crime involving behavior which would adversely affect job performance, and the arrest occurred within the last ten years. Exempt from this rule are law enforcement agencies and state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.

~~((All inquiries relating to arrests.))~~ Any inquiry which does not meet the requirements for fair preemployment inquiries.

(see also Convictions)

c. Citizenship      Whether applicant is prevented from lawfully becoming employed in this country because of visa or immigration status. Whether applicant can provide proof of ~~((citizenship, visa,~~

Whether applicant is citizen. Requirement before hiring that applicant present birth certificate, naturalization or baptismal record. Any inquiry

~~alien registration number after being hired)) a legal right to work in the United States after hire.~~

into citizenship which would tend to divulge applicant's lineage, ancestry, national origin, descent, or birth-place.

d. Convictions (see also Arrests)

~~((1) Inquiries concerning specified convictions which relate reasonably to fitness to perform the particular job(s) being applied for. Provided, That such inquiries be limited to convictions for which the date of conviction or prison release, whichever is more recent, is within 7 years of the date of the job application. (2) Where the employer believes, after careful consideration, that it is not practicable to inquire about specified convictions, the employer may inquire generally about all convictions for which the date of the conviction or prison release, whichever is more recent, is within 7 years of the date of the job application. Provided, That such general inquiries be accompanied by a disclaimer informing the applicant that a conviction record will not necessarily bar him or her from employment. (Law enforcement agencies are exempt from this rule. See WAC 162-16-060 for further guidance on proper use of conviction records.))~~ Statistical studies on convictions and imprisonment have shown a disparate impact on some racial and ethnic minority groups. Inquiries concerning convictions (or imprisonment) will be considered to be justified by business necessity if the crimes inquired about relate directly to the job duties, and if such convictions (or release from prison) occurred within the last ten years. Law enforcement agencies, state agencies, school districts, businesses and other organizations that have a direct responsibility for the

~~((Any inquiry which does not meet the requirements for fair preemployment inquiries.))~~ Inquiries concerning convictions and imprisonment which do not relate directly to job duties or did not occur within the last ten years will not be considered justified by business necessity.



supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults are exempt from this rule. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.

e. Family

Whether applicant can meet specified work schedules or has activities, commitments or responsibilities that may prevent him or her from meeting work attendance requirements.

Specific inquiries concerning spouse, spouse's employment or salary, children, child care arrangements, or dependents.

~~((f. Handicap~~

~~Whether applicant has certain specified sensory, mental or physical handicaps which relate reasonably to fitness to perform the particular job. Whether applicant has any handicaps or health problems which may effect work performance or which the employer should take into account in determining job placement.)~~

~~Over general inquiries (e.g. "Do you have any handicaps?") which would tend to divulge handicaps or health conditions which do not relate reasonably to fitness to perform the job.~~

f. Disability

Whether applicant is able to perform the essential functions of the job for which the applicant is applying, with or without reasonable accommodation.

Inquiries about the nature or extent of a disability or whether the applicant requires reasonable accommodation. Also any inquiry that is not job related or consistent with business necessity.

g. Height and Weight

~~((Inquiries as to ability to perform actual job requirements. Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that no employee with the ineligible height or weight could do the work.)) Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that all or substantially all employees who fail to meet the requirement would be unable to perform the job in question with reasonable safety and efficiency.~~

Any inquiry which is not based on actual job requirements and not consistent with business necessity.

h. Marital Status (see also Name and Family)

None.

( ) Mr.  
( ) Mrs.  
( ) Miss  
( ) Ms.

Whether the applicant is married, single, divorced, separated, engaged, widowed, etc.

i. Military

Inquiries concerning education, training, or work experience in the armed forces of the United States.

Type or condition of military discharge. Applicant's experience in military other than U.S. armed forces. Request for discharge papers.

j. Name

Whether applicant has worked for this company or a competitor under a different name and, if so, what name. Name under which applicant is known to references if different from present name.

Inquiry into original name where it has been changed by court order or marriage. Inquiries about a name which would divulge marital status, lineage, ancestry, national origin or descent.

k. National Origin

Inquiries into applicant's ability to read, write and speak foreign languages, when such inquiries are based on job requirements.

Inquiries into applicant's lineage, ancestry, national origin, descent, birthplace, or mother tongue. National origin of applicant's parents or spouse.

l. Organizations

Inquiry into organization memberships, excluding any organization the name or character of which indicates the race, color, creed, sex, marital status, religion, or national origin or ancestry of its members.

Requirement that applicant list all organizations, clubs, societies, and lodges to which he or she belongs.

m. Photographs

May be requested *after* hiring for identification purposes.

Request that applicant submit a photograph, mandatorily or optionally, at any time before hiring.

n. Pregnancy (see also ~~((Handicap))~~ Disability)

Inquiries as to a duration of stay on job or anticipated absences which are made to males and females alike.

All questions as to pregnancy, and medical history concerning pregnancy and related matters.

o. Race or Color

None. See WAC 162-12-150, 162-12-160, and 162-12-170.

Any inquiry concerning race or color of skin, hair, eyes, etc., not specifically permitted by WAC 162-12-150, 162-12-160, and 162-12-170.

p. Relatives

Name of applicant's relatives already employed by this

~~((Names and addresses of any relative other than those~~

company or by any competitor.

~~listed as proper-)~~  
Any inquiry regarding marital status, identity of one's spouse, or spouse's occupation are considered unfair practices in accordance with WAC 162-12-150.

~~((paper))~~ record which is kept in the applicant's ~~((personnel))~~ file, nor shall such data be kept in any other place or form where it is available to those who process the application. Records which identify the race, etc., of a particular person shall be kept confidential, except to the extent necessary to implement ~~((a corrective employment program as authorized by chapter 162-18-WAC))~~ an affirmative action program as authorized by law, to permit the compilation of statistics, and to permit verification of the statistics by top management of the employer, or by the Washington state human rights commission or other concerned governmental agencies.

(While the law does not ~~((directly))~~ prohibit company policies governing the employment of relatives, any policy which has the effect of disadvantaging minorities, women, married couples, or other protected classes, would be in violation of the law unless it is shown to serve a necessary business purpose.) See WAC 162-12-150, 162-12-160, and 162-12-170.

- q. Religion or Creed      None.      Inquiries concerning applicant's religious preference, denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
- r. Residence      Inquiries about address to the extent needed to facilitate contacting the applicant.      Names or relationship of persons with whom applicant resides. Whether applicant owns or rents own home.
- s. Sex      None.      Any inquiry concerning gender is prohibited.

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

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-150 Inquiries required by United States.** Because of the supremacy of federal law over state law, an employer or employment agency may ask applicants to state their race, creed, color, age, sex, marital status, disability, or national origin to the extent that the employer is required to do so by the United States government or a federal or state court decree. When the United States government asks only for data on race, creed, color, national origin, age, marital status, disability, or sex of applicants, the information shall be acquired by means other than inquiry to the applicants, unless the United States expressly requires the inquiries or unless the inquiries are made in conformity with WAC 162-12-160 and 162-12-170.

AMENDATORY SECTION (Amending Order 18, filed 1/20/75)

**WAC 162-12-160 Data for legitimate purposes.** (1) It is not an unfair practice to make inquiries as to race, creed, color, sex, marital status, national origin, age, or ~~((handicap))~~ disability for purposes of affirmative action to eliminate or prevent discrimination against persons in protected classes, when the inquiries are made in the manner provided in WAC 162-12-170.

(2) Data on race, creed, color, national origin, sex, age, disability, or marital status shall not be recorded on any

AMENDATORY SECTION (Amending Order 18, filed 1/20/75)

**WAC 162-12-170 Conditions for inquiries to applicants.** An employer or employment agency may ask an applicant to state his or her race, creed, color, national origin, sex, marital status, age, or ~~((handicap))~~ disability for a nondiscriminatory purpose, and then only if it has satisfied all of the following conditions:

(1) The employer shall have adopted a written equal employment policy which authorizes the inquiries as a means of monitoring its enforcement, and which sets out detailed procedures for keeping the responses confidential and separate from other ~~((papers))~~ records relating to applicants, in fulfillment of the requirements of WAC 162-12-160(2)(-);

(2) The form on which the question appears contains statements clearly informing the applicant of the reasons for asking for the information, the uses to which the information will be put, and the safeguards which will prevent use of the information by those who will process the application(-); and

(3) The written policy and proposed form shall have been submitted to and have been approved by the executive ~~((secretary))~~ director of the commission or his or her designate, or they have been required or approved by an agency of the United States government which has jurisdiction to do so.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-180 Post employment records.** RCW 49.60.180 and 49.60.200 and these rules do not prohibit making or keeping records of the race, creed, color, national origin, sex, marital status, disability or age of persons after they are employed, unless the records are used ~~((in connection with))~~ for the purpose of discrimination. To prevent improper use, records of an employee's race, creed, color ~~((or))~~, national origin, age, sex, marital status or disability should be kept separate from the employee's personnel file.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 162-12-110 Statutes interpreted.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 162-18-010	Corrective employment program defined.
WAC 162-18-020	Purpose and policy.
WAC 162-18-030	Corrective employment programs are lawful.
WAC 162-18-040	Permissible components of program.
WAC 162-18-050	When programs may be used.
WAC 162-18-060	Termination of programs.
WAC 162-18-070	Voluntary programs recommended.
WAC 162-18-080	Commission approval of voluntary programs.
WAC 162-18-090	Job orders specifying race, creed, color, national origin, sex, marital status, handicap or age.
WAC 162-18-100	Construction—Relation to preemployment inquiry guide.

**Chapter 162-22 WAC  
EMPLOYMENT—(~~HANDICAPPED~~) PERSONS  
WITH DISABILITIES**

**AMENDATORY SECTION** (Amending Order 23, filed 7/21/75)

**WAC 162-22-010 Scope of chapter.** This chapter contains rules interpreting and implementing the (~~handicap~~) disability discrimination coverage of RCW 49.60.180 (unfair practices of employers), RCW 49.60.190 (unfair practices of labor unions), and RCW 49.60.200 (unfair practices of employment agencies). Preemployment regulations are contained in chapter 162-12 WAC.

**AMENDATORY SECTION** (Amending Order 23, filed 7/21/75)

**WAC 162-22-020 Definitions.** In this chapter the following words are used in the meaning given, unless the context clearly indicates another meaning:

~~("Handicap" is short for the statutory term "the presence of any sensory, mental, or physical handicap," see WAC 162-04-010, except when it appears as part of the full term.~~

~~An "able handicapped worker" is a person whose handicap does not prevent the proper performance of the particular job in question.)~~ (1) "An able worker with a disability" is a person whose disability does not prevent the proper performance, with or without reasonable accommodation, of the particular job involved.

(2) "Condition" means any physiological, sensory, or mental disorder.

(3) "Disability" is used interchangeably with the statutory term "the presence of any sensory, mental, or physical disability" except when it appears as part of the full statutory term. A disability is a disease or condition of any duration that:

- (i) Is medically cognizable or diagnosable; or
- (ii) Exists as a record or history; or
- (iii) Is perceived to exist, whether or not it exists in fact.
- (4) "Employer" includes labor unions and employment agencies.

(5) "Essential functions" means the fundamental job duties of the position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.

(6) "Health care professional" includes, but is not limited to, any person who has completed a course of study in a particular field of health care requiring diagnosis and treatment of medically cognizable or diagnosable conditions, and who is licensed in their particular field of health care.

(7) "Medical opinion or examination" is any opinion or examination given by a health care professional.

(8) "Reasonable accommodation" is any adjustment or modification made to a job, the work environment, employment policies or practices, training, benefits, or the terms and conditions of employment that enables a person with a disability to perform the essential functions of the particular job involved. (See WAC 162-22-080.)

(9) "Undue hardship" means an action requiring significant difficulty or expense when considered in light of business-related factors, which include but are not limited to the following:

- (a) The nature and cost of the proposed accommodation;
- (b) The overall financial resources of the employer;
- (c) The number of employees;
- (d) The frequency of job vacancies;
- (e) The type of operations of the employer's business

including the composition, structure, and functions of the work force;

(f) The impact of such accommodation upon the operation of the employer's business; and

(g) The availability of other resources to provide for or pay for the accommodation.

**AMENDATORY SECTION** (Amending Order 23, filed 7/21/75)

**WAC 162-22-050 Unfair practice.** (~~(1) RCW 49.60.180 says: "It is unfair practice for any employer:~~

~~"(1) To refuse to hire a person because of . . . the presence of any sensory, mental, or physical handicap, . . . . Provided, That the prohibition against discrimination because of such handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved."~~

~~(2) An unfair practice has been committed when both of the following have occurred:~~

~~(a) An employer, employment agency, or labor union has refused to hire or has otherwise discriminated against a person because the person has a handicap, and~~

~~(b) The handicap does not prevent the person from properly performing the particular job.~~

~~(3) While the proviso on ability to do the job appears only in paragraph (1) of RCW 49.60.180, it logically applies to all circumstances where ability to do the job is material. The rule of the proviso will therefore be applied when appropriate in cases arising under other paragraphs of RCW~~

~~49.60.180, and also in cases under RCW 49.60.190 (labor unions), and RCW 49.60.200 (employment agencies).) (1) An unfair practice has been committed when both of the following have occurred:~~

~~(a) An employer has refused to hire, advance, transfer or has discharged, barred, or has otherwise discriminated against a person in the terms and conditions of employment because of the person's disability; and~~

~~(b) The person is an able worker with a disability.~~

~~(2) It is an unfair practice for an employer to fail or refuse to make a reasonable accommodation for a person's disability, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business.~~

~~(3) It is an unfair practice for a labor union to bar the reasonable accommodation of a person with a disability through a collective bargaining agreement or by any other practice.~~

~~(4) It is an unfair practice for an employer to discriminate against a person with a disability because of preferences or objections of co-workers, the employer, clients, or customers.~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-060 Preference for ~~((handicapped)) a person with a disability~~ is not an unfair practice.** The law against discrimination ~~((says))~~ states that it is an unfair practice to discriminate *against* a person because of the presence of any ~~((handicap))~~ disability. Discrimination *in favor of* a person because of the person's ~~((handicap))~~ disability is not an unfair practice. ~~((Stating the same thing))~~ Stated inversely, discrimination *against* a person because the person is ~~not~~ ~~((handicapped))~~ disabled is not an unfair practice. ~~((This nonreciprocal operation is different from the operation of the statutes in all other areas, except for age discrimination. For example, it is an unfair practice for an employer to discriminate either for or against persons of any race or either sex.))~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-070 Bona fide occupational qualification.** (1) The special rules in this section supplement the general rules on bona fide occupational qualification in WAC 162-16-020, 162-16-030, and 162-16-040.

(2) No bona fide occupational qualification question is raised by preferential treatment of ~~((handicapped persons))~~ an individual with a disability, since such treatment is not an unfair practice. See WAC 162-22-060.

(3) A bona fide occupational qualification differs from the statutory requirement that ~~((the handicapped individual))~~ an individual with a disability be able to properly perform the job. The determination of ability to do the job is made on an individual basis, for each person and for each job. A bona fide occupational qualification is a requirement that must be met by all or substantially all persons, whether or not they can do the job. Ability to do the job is part of the definition of ~~((handicap))~~ disability discrimination; a bona

fide occupational qualification is an exception to the rule of nondiscrimination because of ~~((handicap))~~ a disability.

~~((The following job requirements are bona fide occupational qualifications:~~

~~((a))~~ Any specific requirement set out in a statute of the United States or the state of Washington, or an authorized regulation of an agency of the United States government is a bona fide occupational qualification.

~~((b) Any specific requirement set out in an authorized regulation of an agency of the state of Washington, or in an ordinance, authorized rule, or other official act of a unit of local government of the state of Washington, unless the human rights commission finds that the state or local requirement is not consistent with the law against discrimination.~~

~~((5) The following are not bona fide occupational qualifications:~~

~~((a) Preferences or objections of co-workers, the employer, clients, or customers.~~

~~((b) Physical obstacles or inadequacies at work facilities that reasonably can be corrected as provided in WAC 162-22-080.))~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-080 Reasonable accommodation ~~((to handicapped employees))~~.** ~~((1) It is an unfair practice for an employer to fail or refuse to make reasonable accommodations to the sensory, mental, or physical limitations of employees, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business.~~

~~((2) It is an unfair practice for an employer to refuse to hire or otherwise discriminate against an able handicapped worker because the employer will be subject to the requirements of this section if the worker is hired, promoted, etc.~~

~~((3) The cost of accommodating an able handicapped worker will be considered to be an undue hardship on the conduct of the employer's business only if it is unreasonably high in view of the size of the employer's business, the value of the employee's work, whether the cost can be included in planned remodeling or maintenance, the requirements of other laws and contracts, and other appropriate considerations.)) (1) Reasonable accommodation includes accommodations that:~~

~~((a) Are required to ensure equal opportunity in the application process;~~

~~((b) Enable employees with disabilities to properly perform the particular job held or desired; and~~

~~((c) Enable employees with disabilities to enjoy equivalent benefits, privileges, or terms and conditions of employment as are enjoyed by employees without disabilities.~~

~~((2) Reasonable accommodation includes but is not limited to:~~

~~((a) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;~~

~~((b) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or~~

policies, the provision of qualified readers or interpreters, and training for managers, supervisors, and co-workers.

(3) If an employee becomes disabled or more severely disabled and can no longer perform the assigned job, with or without reasonable accommodation, the employer must inform the employee of other vacant positions, and offer those positions for which the employee is qualified and indicates an interest.

(4) A person with a disability is not required to accept an accommodation. However, a person who rejects a reasonable accommodation that is necessary to enable the individual to properly perform the particular job will not be considered an able worker with a disability.

(5) If the cost of an accommodation would impose an undue hardship on the employer, and there are no other financial resources available, the individual with a disability must be given the option of providing the accommodation or paying the portion of the cost which would constitute an undue hardship on the employer.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-090 ((Physician's)) Medical opinions.**

~~((1) A physician's opinion on whether a handicap prevents a person from properly performing a particular job will be given due weight in view of all the circumstances, including the extent of the physician's knowledge of the particular person and job, and the physician's relationship to the parties.~~

~~(2) A physician's conclusion will not be considered to be an opinion on whether the person can properly perform the particular job unless it:~~

~~(a) Is based on the individual capabilities of the particular person, and not on generalizations as to the capabilities of all persons with the same handicap, unless the handicap is invariable in its disabling effect; and~~

~~(b) Is based on knowledge of the actual sensory, mental, and physical qualifications needed for proper performance of the particular job.~~

~~(3) Employers who choose to rely on a physician's opinion in determining that a person cannot properly perform the particular job are advised to provide the physician with the necessary information about the job and to inform the physician of the need for an individualized opinion.)) (1) Preemployment. Employers may not require a medical opinion or examination as a condition of employment except as follows:~~

~~(a) An employer may condition an offer of employment upon a medical opinion or examination to be given after an offer of employment has been made if the employer requires the same opinion or examination of all employees in the same job classification.~~

~~(b) If the employer uses medical opinions or examinations that exclude or screen out employees with disabilities, the exclusionary criteria must be job-related, consistent with business necessity and required for the proper performance of the job.~~

~~(2) Post-employment.~~

~~(a) Employers may conduct employee medical examinations under the following circumstances:~~

(i) When there is evidence of a job performance problem;

(ii) Examinations are required by Federal or state laws;

(iii) To determine current "fitness" to perform a particular job; or

(iv) Voluntary examinations that are part of employee health programs.

(b) A medical examination may be required if an employee requests an accommodation on the basis of his/her disability, or an accommodation may be needed in an employee's existing job, or if the employee is being transferred or promoted to a different job. Medical information may be required to determine if the employee has a disability and is entitled to a reasonable accommodation, and if so, to help identify an effective accommodation.

(c) Other professional opinions related to an employee's or applicant's disability, functional limitations, or appropriate accommodations may include consultations with knowledgeable professional sources, such as occupational and physical therapists, rehabilitation specialists, and organizations with expertise in adaptations for specific disabilities.

(3) If a health care professional gives an opinion regarding whether an individual with a disability can properly perform a particular job, the opinion will be considered in view of all the circumstances, including the extent of the health care professional's knowledge of the particular person and job, and the health care professional's relationship to the parties.

(a) An opinion must be based on the individual capabilities of the particular person examined, and not on generalizations as to the capabilities of all persons with that disability.

(b) An opinion must be based on knowledge of the actual sensory, mental, or physical qualifications needed for proper performance of the particular job.

(4) Drug and alcohol tests are not considered medical opinions or examinations under this section.

(5) An employer shall maintain all medical information separate from the employee's regular personnel file and this information must be treated as confidential.

NEW SECTION

**WAC 162-22-100 Drug and alcohol use.** (1) Whether drug or alcohol addiction is a disability is a question of fact to be determined on a case-by-case basis through application of WAC 162-22-020(3). A person who engages in the casual or social use of drugs or alcohol is not considered to have a disability.

(2) These regulations do not preclude an employer from conducting drug and alcohol testing as required or permitted by applicable statutes.

(3) Employers must reasonably accommodate individuals with drug addiction and/or alcoholism. Reasonable accommodation may include time off for treatment or rehabilitation, or a flexible work schedule that enables the employees to obtain counseling.

(4) An employer may require an employee with drug addiction and/or alcoholism to properly perform the job involved. If the employee's job performance is impaired and the employee refuses accommodation, appropriate disciplinary action may be taken.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 162-22-030 Affirmative action and reporting.
- WAC 162-22-040 General approach to enforcement.

**Chapter 162-26 WAC  
PUBLIC ACCOMMODATIONS, ((HANDICAP)) DISABILITY DISCRIMINATION**

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-010 Scope of chapter.** (1) **Confined to unfair practice.** This chapter interprets and implements the ((handicap)) disability discrimination coverage of RCW 49.60.215, unfair practices of places of public resort, accommodation, assemblage, amusement. This chapter does not define the scope of the civil right to be free from discrimination because of ((handicap)) a disability declared in RCW 49.60.030 (quoted below in WAC 162-26-030) or interpret other statutes. This chapter applies to the unfair practices which the commission is empowered by RCW 49.60.120 to eliminate and prevent through the administrative process provided in RCW 49.60.230 through 49.60.270.

(2) **Language interpreted.** The language of RCW 49.60.215 that is interpreted and implemented by this chapter is:

"It shall be an unfair practice for any person or his agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of . . . the presence of any sensory, mental, or physical ((handicap)) disability, or the use of a trained guide dog ((guide)) or service dog by a ((blind or deaf)) disabled person: *Provided*, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a ((handicapped)) disabled person except as otherwise required by law: *Provided*, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice."

(3) **Related regulations.** Regulations of the commission on ((handicap)) disability discrimination in real estate transactions are in chapter 162-38 WAC. Commission regulations governing ((handicap)) disability discrimination in employment are in chapter 162-22 WAC and in other regulations governing employment. General regulations of the commission governing schools are in chapter 162-28 WAC.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-020 Purpose of chapter.** (1) **Purpose.** The purpose of this chapter is to specify how the interpreted statute applies to specific circumstances and to established principles of interpretation that will guide in other circumstances.

(2) **Sources of policy.** The commission is guided by the policy of the legislature expressed in the statute being interpreted and in related statutes, particularly RCW 49.60.010, 49.60.030, and chapter 70.04 RCW, the "white cane law." ((The commission is also guided by the specialized knowledge and experience of its staff, particularly its disability specialists, and by the commissioners' own knowledge of the nature of handicap discrimination and the practical needs of the disabled. This includes the information gathered at hearings held in Spokane, Yakima, Lacey, and Seattle prior to the preparation of the first draft of these rules, and the written and oral comments received after circulation of proposed rules.))

(3) **Legislative policy.** The principal expressions of legislative policy outside of the language being interpreted are the following:

RCW 49.60.010: "The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of . . . the presence of any sensory, mental, or physical ((handicap)) disability . . . are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in . . . places of public resort, accommodation, or amusement . . . because of . . . the presence of any sensory, mental, or physical ((handicap)) disabled . . .; and the ((board (human rights)) commission((+)) established hereunder is hereby given general jurisdiction and power for such purposes."

RCW 70.84.010: "The legislature declares:

"(1) It is the policy of this state to encourage and enable the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled to participate fully in the social and economic life of the state, and to engage in remunerative employment.

"(2) As citizens, the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled have the same rights as the able-bodied to the full and free use of the streets, highways, walkways, public buildings, public facilities, and other public places.

"(3) The blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons."

((RCW 28A.13.005: "It is the purpose of this chapter (certain education statutes) to ensure that all handicapped

children . . . shall have the opportunity for an appropriate education at public expense as guaranteed to them by the constitution of this state.") RCW 28A.155.010: "Purpose. It is the purpose of RCW 28A.155.010 through 28A.155.100, 28A.160.030, and 28A.150.390 to ensure that all handicapped children as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-030 Related law.** (1) **General civil right.** RCW 49.60.030 provides:

"(1) The right to be free from discrimination because of . . . the presence of any sensory, mental, or physical (~~handicap~~) disability or the use of a trained guide dog or service dog by a disabled person is recognized as and declared to be a civil right. This right shall include, but not be limited to:

"(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;"

This right is enforceable through lawsuits in court (RCW 49.60.030(2)) but not through the administrative process of the human rights commission.

(2) **The "white cane law."** Chapter 70.84 RCW prohibits the refusal of service to or the exaction of an extra charge from any blind (~~or~~) hearing impaired, or otherwise physically disabled person because the person is accompanied by a guide dog or service dog. RCW 70.84.030. The chapter imposes special duties on a driver who approaches a blind pedestrian with a white cane or a blind or hearing impaired pedestrian using a guide dog, or an otherwise physically disabled person using a service dog. RCW 70.84.040. Blind, partially blind, (~~and~~) hearing impaired, or otherwise physically disabled pedestrians are declared to have all the rights and privileges conferred by law on other persons in any of the places, accommodations, or conveyances listed in RCW 70.84.010 (quoted above in WAC 162-26-020(2)). RCW 70.84.050.

(3) **Other laws.** Other state laws define rights of the (~~handicapped~~) disabled in particular circumstances. Some are referred to elsewhere in this chapter. Some accommodations are subject to United States law, particularly sections 503 and 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 793, 794.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-040 Definitions.** (1) **Place of public accommodation.** RCW 49.60.040 gives the following definition:

"Any place of public resort, accommodation, assemblage, or amusement' includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted

for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: *Provided*, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;"

(2) **General definitions.** General definitions applicable throughout the commission's regulations are set out in WAC 162-04-010. These include the following:

"(~~Handicap~~) 'Disability' is short for the term 'the presence of any sensory, mental, or physical (~~handicap~~) disability' used in the law against discrimination, and means the full term."

(3) **Definitions special to this chapter.** The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

"Accessible" means usable or understandable by a person who is (~~handicapped~~) disabled, with reasonable effort and in reasonable safety.

"Arranged service" means making the services or goods of a place of public accommodation available to a (~~handicapped~~) disabled person at a place or in a way that is different from the place or way that the service is offered to the public in general in order to serve the person. See WAC 162-26-090.

"Dog guide" means a trained dog guide used by a blind or deaf person. See WAC 162-26-130.

"Fair service" means the service required by RCW 49.60.215 for (~~handicapped~~) disabled persons in places of public accommodation. Depending on the circumstances, fair service may be in the form of (a) same service, (b) reasonable accommodation, or (c) arranged service. These terms are defined in this chapter. See also "service" and "fairly serve."

"Fairly serve" means to provide fair service.

"Place of public accommodation" is short for "place of public resort, accommodation, assemblage, or amusement" and means the full term.

"Reasonable accommodation" means action, reasonably possible in the circumstances, to make the regular services of a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical limitations. See WAC 162-26-080.

"Same service" means service without regard to the existence of a ~~((handicap))~~ disability. See WAC 162-26-060.

"Service" means everything available to persons from a place of public accommodation.

"Structural" is defined in WAC 162-26-100(5).

"Unfair service" means service not in compliance with RCW 49.60.215. See "fair service."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-050 Who is protected.** (1) **Statute.** RCW 49.60.215 requires service in places of public accommodation "regardless of . . . the presence of any sensory, mental, or physical ~~((handicap))~~ disability, or the use of a trained ~~((dog guide))~~ guide dog or service dog by a ~~((blind or deaf))~~ disabled person . . ."

~~((2))~~ ~~((What is a handicap. A person's condition is a "sensory, mental, or physical handicap" if it is abnormal and is a reason why the person was not fairly served in a place of public accommodation. A person is handicapped by a sensory, mental, or physical condition if she or he is not fairly served because of the condition. The law protects all persons from unfair service because of handicap, whether the handicap is severe or slight.~~

~~((3))~~ ~~((When ~~((handicap))~~ a disability is present. ~~((The presence of a sensory, mental, or physical handicap includes, but is not limited to, circumstances where a sensory, mental, or physical condition:))~~ "Disability" is used interchangeably with the statutory term "the presence of any sensory, mental, or physical disability" except when it appears as part of the full statutory term. A disability is a disease or condition of any duration that:~~

- ~~((a))~~ Is medically cognizable or diagnosable; or
- ~~((b))~~ Exists as a record or history; or
- ~~((c))~~ Is perceived to exist, whether or not it exists in fact.

~~((4))~~ ~~((3))~~ **Person using ~~((dog guide))~~ a guide dog or service dog.** WAC 162-26-130 defines who is protected as a person using a trained ~~((dog guide))~~ guide dog or service dog.

~~((5))~~ ~~((Nonhandicapped))~~ **(4) Nondisabled not protected.** The law protects against discrimination because of the "presence" of a ~~((handicap))~~ disability. It does not prohibit treating ~~((handicapped))~~ disabled persons more favorably than ~~((nonhandicapped))~~ nondisabled persons. Compare WAC 162-22-060 (employment).

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-060 General principles.** (1) **Same service preferred.** The purposes of the law against discrimination are best achieved when ~~((handicapped))~~ disabled persons are treated the same as if they were not ~~((handicapped))~~ disabled. The legislature expresses this policy in RCW 49.60.215 with the words "regardless of." Persons

should, if possible, be treated without regard to their ~~((handicap))~~ disability or use of a ~~((dog guide))~~ guide dog or service dog. This is called "same service" in this chapter.

(2) **Reasonable accommodation.** In some circumstances, however, treating ~~((handicapped))~~ disabled persons the same as ~~((nonhandicapped))~~ nondisabled persons (same service) will defeat the purposes of the law against discrimination. This would be true if persons in wheelchairs and ~~((nonhandicapped))~~ nondisabled persons are equally entitled to use the stairway to reach the second floor of a store. In such circumstances, the operator of the place of public accommodation should if possible use the next best solution: Reasonable accommodation. A reasonable accommodation would be to permit the shopper in the wheelchair to use an elevator to reach the second floor, even though the public in general is not permitted to use the elevator. Reasonable accommodation is explained in WAC 162-26-080.

(3) **Arranged service.** Where same service will not carry out the purposes of the law and where no accommodation is reasonable, the operator of a place of public accommodation should use the third best solution: Arranged service. In the example used in this section, arranged service would be having a store employee bring merchandise of the size and description requested by the wheelchair shopper from the second floor for examination by the customer on the first floor. This would be appropriate if there were no elevator and no other safe and dignified way to transport the customer to the second floor. Arranged service is explained in WAC 162-26-090.

(4) **Overall objective.** In applying RCW 49.60.215, the commission seeks to assure that ~~((handicapped))~~ disabled persons will have the enjoyment of places of public accommodation to the greatest extent practical. The legislature in RCW 49.60.040 has defined "full enjoyment of" with respect to the civil right set out in places of public accommodation in RCW 49.60.030 as follows:

"Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons . . . with any sensory, mental, or physical ~~((handicap))~~ disability, or a blind or deaf person using a trained ~~((dog guide))~~ guide dog or service dog, to be treated as not welcome, accepted, desired, or solicited;"

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-070 General rules.** (1) **Rules.** Except where exempted by RCW 49.60.215 or excepted by ruling of the commissioners under WAC 162-06-030, it is an unfair practice under RCW 49.60.215 for any person in the operation of a place of public accommodation, because of ~~((handicap))~~ disability or use of a ~~((dog guide))~~ guide dog or service dog:

- (a) To refuse to serve a person;
- (b) To charge for reasonably accommodating the special needs of a ~~((handicapped))~~ disabled person, or for arranged service as defined in this chapter;



(c) To treat a ((handicapped)) disabled person as not welcome, accepted, desired, or solicited the same as a ((nonhandicapped)) nondisabled person;

(d) To segregate or restrict a person or deny a person the use of facilities or services in connection with the place of public accommodation where same service is possible without regard to the ((handicap)) disability;

(e) To fail to reasonably accommodate the known physical, sensory, or mental limitations of a ((handicapped)) disabled person, when same service would prevent the person from fully enjoying the place of public accommodation, as provided in WAC 162-26-080; or

(f) To fail to arrange service under the rules in WAC 162-26-090 when reasonable accommodation is not possible and same service treatment would prevent the ((handicapped)) disabled person from fully enjoying the place of public accommodation.

(2) **Exceptions may be granted.** The commission will grant exceptions to the rules of this chapter under the standards set out in WAC 162-06-030.

**AMENDATORY SECTION** (Amending Order 43, filed 12/23/82)

**WAC 162-26-080 Reasonable accommodation.** (1) **Unfair to not accommodate.** It is an unfair practice for a person in the operation of a place of public accommodation to fail to make reasonable accommodation to the known physical, sensory, or mental limitations of a ((handicapped)) disabled person, when same service would prevent the person from fully enjoying the place of public accommodation.

(2) **Defined.** "Reasonable accommodation" is action, reasonably possible in the circumstances, to make the regular services of a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical limitations.

(3) **Reasonableness.** Whether a possible accommodation is reasonable or not depends on the cost of making the accommodation, the size of the place of public accommodation, the availability of staff to make the accommodation, the importance of the service to the ((handicapped)) disabled person, and other factors bearing on reasonableness in the particular situation.

(4) **Carrying not favored.** Carrying a mobility-impaired person is not required by law and is not an acceptable accommodation, except in rare circumstances. Carrying should be done only when there is no other way for the mobility-impaired person to use the facility and when it is agreeable to the ((handicapped)) disabled person.

(5) **Reference to employment standard.** The concept of reasonable accommodation is also used in the employment context. The commission will rely on its interpretations of WAC 162-22-080 and on *Holland v. Boeing Co.*, 90 Wn.2d 384, 583 P.2d 621 (1978) for guidance in applying this section.

**AMENDATORY SECTION** (Amending Order 41, filed 9/22/82)

**WAC 162-26-090 Arranged service.** (1) **Unfair to deny.** No person shall be denied the enjoyment of a place of public accommodation because the facilities are not accessible to the person and cannot be made accessible with reasonable accommodation, when the desired service can be made available under the standards for arranged service that are specified in this section.

(2) **Defined.** "Arranged service" means making the services or goods of a place of public accommodation available to a ((handicapped)) disabled person at a place or in a way that is different from the place or way that the service is offered to the public in general, in order to serve the person.

(3) **Limitation on use.** Arranged service is fair only when neither same service nor reasonable accommodation is possible, and the choice is between arranged service and no service.

(4) **Choice of means of arranged service.** The operator of a place of public accommodation may choose the place and means of providing arranged service so long as the operator gives reasonable weight to the convenience, needs, and dignity of the ((handicapped)) disabled person seeking service. Among available means or places, the one that most closely approximates service to the general public should be chosen. There is no need for the operator to deliver the services away from the place of public accommodation if the services can be made available somewhere at the place of public accommodation.

(5) **Examples.**

(a) In a retail setting, goods can be carried from an inaccessible location to an accessible location, as described in WAC 162-26-060(3).

(b) In an office setting, interviewers and forms could be brought to an accessible office or conference room in the building or at another place, although the particular business would ordinarily be done at an inaccessible location.

(c) In an office setting, arrange to interview a mentally ((handicapped)) disabled person in place of requiring a written application or report.

(d) In an entertainment setting, seating areas made available for patrons in wheelchairs would be arranged service.

**AMENDATORY SECTION** (Amending Order 43, filed 12/23/82)

**WAC 162-26-100 Structural barriers to accessibility.**

(1) **Statute.** RCW 49.60.215 says that it "shall not be construed to require structural changes, modifications, or additions to make any place accessible to a ((handicapped)) disabled person except as otherwise required by law. . . ."

(2) **Laws requiring accessibility.** The principal laws requiring that places be made accessible are:

(a) The state building code, chapter 19.27 RCW, which includes the barrier free design standards adopted in chapter 51-10 WAC under authority of chapter 70.92 RCW. The barrier free design standards apply with some exceptions to "buildings, structures, or portions thereof, . . . which are

constructed, substantially remodeled, or substantially rehabilitated after October 1, 1976." WAC 51-10-003.

(b) Chapter 219, Laws of 1971 ex. sess., in effect from August 9, 1971, through June 30, 1976. This statute required that plans and specifications for the erection or remodeling of any public accommodation must provide for access by physically ~~((handicapped))~~ disabled persons, for toilet facilities designed for use by the physically ~~((handicapped))~~ disabled, and for additional facilities specified in a national standard.

(c) Chapter 35, Laws of 1967, in effect from June 8, 1967, through June 30, 1976. This statute was substantially the same as the 1971 statute described in paragraph (b) of this subsection, but was limited in its coverage to public buildings.

(d) RCW 35.68.075, requiring curb ramps in sidewalks constructed or replaced after June 7, 1973.

(e) United States law; particularly 45 CFR § 84.23 implementing section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which requires that facilities constructed after April 28, 1977 with federal assistance be readily accessible to and usable by ~~((handicapped))~~ disabled persons.

(3) **Practices that are not unfair.** It is not an unfair practice under RCW 49.60.215 to operate a place of public accommodation with structural barriers to accessibility of the ~~((handicapped))~~ disabled when the structural barriers were lawful when constructed and are presently lawful under the state building code and other law outside of the law against discrimination. This exemption does not relieve the operator of a place of public accommodation of the duty to make reasonable accommodation to the needs of ~~((handicapped))~~ disabled persons as described in WAC 162-26-080, or to provide arranged service as described in WAC 162-26-090.

(4) **When required by law.** It is an unfair practice under RCW 49.60.215:

- (a) To deny service to any person because of a barrier to accessibility when accessibility is required by law;
- (b) To build or remodel in a way that does not comply with requirements of law on accessibility;
- (c) To operate a place of public accommodation that is out of compliance with a law requiring accessibility;
- (d) To fail to maintain or fail to continue the accessibility of a place of public accommodation that was required by law to be accessible when it was built, remodeled, or rehabilitated.

(5) **Nonstructural changes.** After January 1, 1983, it is an unfair practice under RCW 49.60.215 for a person who is making nonstructural changes in a place of public accommodation to fail to eliminate barriers to same service when this can be done without substantially changing the scope or cost of the project or requiring structural changes that are not otherwise required by law. Specifically, it is an unfair practice:

- (a) When installing a nonstructural fixture or component, to choose and install one that is not accessible to the ~~((handicapped))~~ disabled or that makes the place of public accommodation less accessible to the ~~((handicapped))~~ disabled.
- (b) When replacing a nonstructural fixture or component, to replace it with one that is not accessible to the ~~((handicapped))~~ disabled or one that makes the place of

public accommodation less accessible to the ~~((handicapped))~~ disabled.

(c) When relocating a nonstructural fixture or component, to relocate it to a place that is not accessible to the ~~((handicapped))~~ disabled, unless no suitable place is accessible.

(d) When modifying a nonstructural fixture or component, to do so in a way that does not eliminate barriers to the ~~((handicapped))~~ disabled, when possible.

(6) **What is "structural."** "Structural" for purposes of RCW 49.60.215 means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations, or fittings. Examples of structural components are floors, walls, stairs, door openings, sidewalks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, counters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting or other floor covers.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-110 Behavior causing risk.** (1) **Proviso interpreted.** This section interprets the following proviso of RCW 49.60.215:

"*Provided*, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice."

(2) **General rule.** It is not an unfair practice under RCW 49.60.215 to deny a person service in a place of public accommodation because that person's behavior or actions constitute a risk to property or other persons.

(3) **Individual judgment required.** To come within this exception, the denial of service must be based on knowledge of the present behavior or actions of the individual who is not served. It is an unfair practice to exclude all persons who have a ~~((handicap))~~ disability or who have a particular ~~((handicap))~~ disability unless the operator of the place of public accommodation can show that all persons with the ~~((handicap))~~ disability will present a risk to persons or property.

(4) **Likelihood of injury.** Risk to property or other persons must be immediate and likely, not remote or speculative.

(5) **Degree of risk.** Risk of injury to persons may be given more weight than risk of injury to property. Risk of severe injury may be given more weight than risk of slight injury.

(6) **Risk to ~~((handicapped))~~ disabled person.** Risk to the ~~((handicapped))~~ disabled person is not a reason to deny service. Liability for injury to ~~((handicapped))~~ disabled customers is governed by law other than the law against discrimination. The law against discrimination affects tort liability only insofar as it includes ~~((handicapped))~~ disabled persons within the public for which public accommodations must be made safe.

(7) **Annoyance to staff or other customers.** Annoyance on the part of staff or customers of the place of public accommodation at the abnormal appearance or behavior of

a ~~((handicapped))~~ disabled person is not a "risk to property or other persons" justifying nonservice.

(8) **Least discriminatory solution required.** It is an unfair practice to deny a ~~((handicapped))~~ disabled person the enjoyment of an entire place of public accommodation because the person presents a risk of injury when using part of the place. When risk justifies not serving a ~~((handicapped))~~ disabled person in the same way or same place as other customers, the person should be served through reasonable accommodation (WAC 162-26-060, ~~((461-26-080~~ 162-26-080) or arranged service (WAC 162-26-060, 162-260-090), if possible.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-120 Failure to meet requirements of other law.** (1) **Unfair practice.** It is an unfair practice under RCW 49.60.215 for the operator of a place of public accommodation to refuse or fail to comply with any specific requirement of law for the benefit of ~~((handicapped))~~ disabled persons applicable to the place of public accommodation.

(2) **All sources of law covered.** This section applies to all requirements imposed by or authorized by any law of the United States, the state of Washington, or any ordinance of a unit of local government within the state of Washington.

(3) **References to selected laws.** Some of the laws to which this section applies are:

(a) ~~((Chapter 28A.13 RCW (education for handicapped children)))~~ Chapter 28A.155 RCW (Special education);

(b) Sections 503 and 504 of the United States Rehabilitation Act of 1973, 29 U.S.C. §§ 793 and 794, and all regulations of agencies of the United States government issued pursuant to them;

(c) Chapter 70.84 RCW, the "white cane law."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

**WAC 162-26-130 Use of ~~((dog))~~ guide dog.** (1) **Coverage of statute.** RCW 49.60.215 requires fair service in a place of public accommodation "regardless of . . . the use of a trained ~~((dog guide))~~ guide dog or service dog by a ~~((blind or deaf))~~ disabled person . . ." as well as because of ~~((handicap))~~ disability itself.

(2) **Same rules apply.** All of the rules of this chapter with respect to ~~((handicap))~~ disability itself apply equally to service of a ~~((blind or deaf))~~ disabled person who is using a trained ~~((dog guide))~~ guide dog or service dog. See particularly WAC 162-26-060 and 162-26-070.

(3) **Standards of "white cane law" apply.** It is an unfair practice under RCW 49.60.215 for the operator of a place of public accommodation to deny any person the following rights set out in the "white cane law," RCW 70.84.030:

"Every totally or partially blind or hearing impaired person shall have the right to be accompanied by a guide dog in any of the places listed in RCW 70.84.010(3) without being required to pay an extra charge for the guide dog. It shall be unlawful to refuse service to a blind or hearing

impaired person in any such place solely because he is accompanied by a guide dog."

(4) ~~(("Dog guide"))~~ **"Guide dog" defined.** For purposes of RCW 49.60.215 the term "dog guide" means a trained dog guide used by a blind or deaf person. It has the same meaning as "guide dog" in RCW 70.84.020:

". . . the term 'guide dog' shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind persons or a dog which is trained or approved by an accredited school engaged in training dogs for the purpose of assisting hearing impaired persons."

(5) **Identification of trained ~~((dog guide))~~ guide dog.** A trained ~~((dog guide))~~ guide dog used by a blind person is identified by the harness with rigid stirrup for the hand of the guided person that such dogs wear when in service. A trained ~~((dog guide))~~ guide dog used by a deaf person shall be identified by a credential presented by the deaf person on request, or by a tag or other identifying device that is adopted and promulgated so as to become generally known.

(6) **"Service dog."** For purposes of RCW 49.60.215, a "service dog" means a dog that is trained or approved by an accredited school, or state institution of higher education, engaged in training dogs for the purposes of assisting or accommodating a physically disabled person.

AMENDATORY SECTION (Amending Order 43, filed 12/23/82)

**WAC 162-26-140 Unfair to request or require waiver of rights.** It is an unfair practice for any person to request or require another person to waive rights or hold anyone harmless as a condition of the use or enjoyment of a place of public accommodation by a ~~((handicapped))~~ disabled person. This section is intended to prohibit waivers on the basis of ~~((handicap))~~ disability, but is not intended to preclude waivers required on a nondiscriminatory basis.

#### Chapter 162-30 WAC SEX DISCRIMINATION—MATERNITY

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

**WAC 162-30-010 General approach.** In the interest of consistency ~~((and to avoid confusion on the part of persons governed by both the state and federal sex discrimination laws;))~~ the commission will generally follow interpretations of the sex discrimination provisions of Title VII of the United States Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978, 92 Stat 2076, 42 USC § 2000e and following with respect to maternity, where the federal act is comparable to the state act. See in particular part 1604 of the regulations of the United States Equal Employment Opportunity Commission, ~~((42-29))~~ 29 CFR Part 1604. The commission will not follow federal precedents where it believes that a different interpretation will better carry out the purposes of the state act.

AMENDATORY SECTION (Amending Order 15, filed 9/28/73)

**WAC 162-30-020 ((Maternity-)) General findings.**  
 (((1) Findings:)) Pregnancy is an expectable incident in the life of a woman. Many women of childbearing age depend on their jobs for economic support. Practices such as terminating pregnant women, refusing to grant leave or accrued sick pay for ~~((disabilities relating to))~~ pregnancy or childbirth, or refusing to hire women ~~((for responsible jobs))~~ because they may become pregnant, impair the opportunity of women to obtain employment and to advance in employment on the same basis as men. Such practices discriminate against women because of their sex.

~~(((2) Purposes. The purpose of the law against discrimination in employment because of sex (chapter 49.60 RCW) is to equalize employment opportunity for men and women. This regulation explains how the law applies to practices which disadvantage women because of pregnancy or childbirth.~~

~~(3) Hiring pregnant women. It is an unfair practice for an employer to refuse to hire a qualified woman because of pregnancy unless doing so would be unreasonable in view of the necessities of the business. The burden shall be on the employer to show that a decision not to hire a pregnant woman was based on adequate facts concerning her individual ability to perform the job or adequate facts concerning business necessity. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months. On the other hand, negative assumptions about pregnant women in employment must not influence the hiring decision. Such assumptions include but are not limited to:~~

~~(a) That pregnant women do not return to the job after childbirth;~~

~~(b) That the time away from work required for childbearing will increase the employer's costs;~~

~~(c) That the disability period for childbirth will be unreasonably long;~~

~~(d) That pregnant women are frequently absent from work due to illness;~~

~~(e) That clients, co-workers, or customers object to pregnant women on the job.~~

~~(4) Treatment of employed women. It is an unfair practice for an employer to discharge a woman, penalize her in terms or conditions of employment, or in any way limit the job opportunities of a woman because she is pregnant or may require time away from work for childbearing.~~

**(5) Leave for temporary disability.**

(a) An employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. A leave in excess of the actual period of sickness or disability is not required by the law or this regulation. The terms and conditions of the leave shall be determined by the employer's policy on temporary disability, unless the policy conflicts with this regulation. For example:

(i) If advance notice is required for a leave for planned surgeries, or other anticipated disabilities, it may be required also for a leave for childbirth;

(ii) If the uniform policy requires a physician's statement to verify the leave period for other disabilities, a physician's statement may be required to verify the leave period for disabilities relating to pregnancy or childbirth.

(b) While application of the employer's general leave policy to disability because of pregnancy or childbirth will ordinarily afford equal opportunity for women and men, there may be circumstances when this is not so. One circumstance would be where the employer allows no leave for any sickness or other disability by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(c) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. Refusal to do so must be justified by adequate facts concerning business necessity.

(6) Disability benefits. Illness or disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are temporary disabilities and must be treated as such under any sick leave plan or temporary disability benefit plan provided in whole or in part by the employer. All written and unwritten policies and practices concerning disabilities must be applied to disabilities resulting from pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities. For example, if the following benefits or privileges are available for other temporary disabilities, then they must be available also for disabilities resulting from pregnancy or childbirth:

(a) Payment in lieu of wages under a sick leave plan or temporary disability benefit plan. (If no leave pay is granted for other temporary disabilities, then it need not be granted for disabilities relating to pregnancy or childbirth.)

(b) Extensions of leave time (e.g., use of vacation or leave without pay);

(c) Retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period.

(7) Insurance benefits. Insurance benefits provided by the employer must be equal for male and female employees. For example:

(a) If full health insurance coverage is provided for male employees, then full coverage, including maternity and abortion, must be provided for female employees;

(b) If maternity insurance is provided for the wives of male employees, then the same coverage must be provided for the female employees.

Subsection 7 applies only if the employer pays the premium in whole or in part or has participated in negotiating the terms of the insurance policy.

(8) Marital status immaterial. Discrimination because of marital status is an unfair practice. An employer's leave policies and benefits, including health insurance, must apply equally to married and unmarried employees.

~~(9) Labor unions and employment agencies. It is an unfair practice for a labor union or employment agency to conduct its own affairs so as to deny anyone his or her rights under the law and this regulation.~~

~~(10) Commission rulings. Any person in doubt as to the application of this regulation to a particular set of facts may request an opinion letter from the executive secretary of the Washington state human rights commission or a declaratory ruling of the commission under WAC 162-08-620.~~

~~(11) Construction with federal law. This regulation is intended to be consistent with Title VII of the United States Civil Rights Act of 1964 and the United States Equal Employment Opportunity Commission Employment Policies Relating to Pregnancy and Childbirth, 29 CFR § 1604.10, and shall be construed accordingly.))~~

#### NEW SECTION

**WAC 162-30-030 Purposes.** This chapter delineates how the law against discrimination, chapter 49.60 RCW, applies to employment practices which disadvantage women on the basis of sex because of pregnancy or childbirth.

#### NEW SECTION

**WAC 162-30-035 Unfair practices.** Discrimination by an employer against a woman because of pregnancy or childbirth is an unfair practice on the basis of sex in the absence of any medical condition(s) that is not normally associated with pregnancy or childbirth. In the presence of any medical condition(s) that may arise during or as a result of pregnancy or childbirth, discrimination by an employer against a woman because of such a condition(s) would be an unfair practice on the basis of a disability.

#### NEW SECTION

**WAC 162-30-040 Hiring pregnant women.** It is an unfair practice for an employer to refuse to hire a qualified woman because of pregnancy unless hiring her would be unreasonable in view of the requirements of the job. The burden shall be on the employer to show that a decision not to hire a pregnant woman was based on adequate facts concerning her individual ability to perform the job and adequate facts concerning business necessity. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months. On the other hand, negative assumptions about pregnant women in employment must not influence the hiring decision. Such assumptions include but are not limited to:

- (1) That pregnant women do not return to the job after childbirth;
- (2) That the time away from work required for child-bearing will increase the employer's costs;
- (3) That the time away from work for childbirth will be unreasonably long;
- (4) That pregnant women are frequently absent from work due to illness;
- (5) That clients, co-workers, or customers object to pregnant women on the job; and

- (6) That duties of the job may expose an unborn fetus to risk of harm.

#### NEW SECTION

##### **WAC 162-30-050 Treatment of employed women.**

It is an unfair practice for an employer to discharge a woman, penalize her in terms or conditions of employment, or in any way limit the job opportunities of a woman because she is pregnant or may require time away from work for childbearing.

#### NEW SECTION

##### **WAC 162-30-060 Leave for medical conditions.** (1)

An employer shall provide a woman a leave of absence for the period of time that she is unable to perform the duties of her job because of pregnancy, childbirth, or recovery therefrom. A leave in excess of the actual period of inability to perform the job because of pregnancy, childbirth, or recovery therefrom, is not required by the law or this regulation. The terms and conditions of the leave shall be determined by the employer's policy on medical leave of absence, unless the policy conflicts with this regulation. For example:

(a) If an employer's policy requires advance notice for a leave for planned surgeries, or other anticipated medical conditions, it may be required also for a leave for childbirth;

(b) If the policy requires a physician's statement to verify the leave period for other medical conditions, a physician's statement may be required to verify the leave period for pregnancy or childbirth.

(2) While application of the employer's general leave policy regarding pregnancy or childbirth will ordinarily afford equal opportunity for women and men, there may be circumstances when this is not so. One circumstance would be where the employer allows no leave for any medical condition by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(3) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of time she was unable to perform the duties of her job because of pregnancy or childbirth. Refusal to do so must be justified by facts which establish a business necessity basis for such action.

#### NEW SECTION

**WAC 162-30-070 Medical benefits.** Medical conditions caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom must be treated the same as other medical conditions under any medical benefit plan provided in whole or in part by the employer. All written and unwritten policies and practices regarding medical conditions arising from pregnancy or childbirth must be applied on the same terms and conditions as they are applied to other medical conditions. For example, if the following benefits or privileges are available for other

medical conditions, then they must be available also for medical conditions arising from pregnancy or childbirth:

(1) Payment in lieu of wages under a medical leave plan. (If no leave pay is granted for other medical conditions, then it need not be granted for pregnancy or childbirth.)

(2) Extensions of leave time (e.g., use of vacation or leave without pay);

(3) Retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period.

NEW SECTION

**WAC 162-30-080 Insurance benefits.** Insurance benefits provided by the employer must be equal for male and female employees. For example:

(1) If full health insurance coverage is provided for male employees, then full coverage, including pregnancy and abortion, must be provided for female employees;

(2) If maternity insurance is provided for the wives of male employees, then the same coverage must be provided for the female employees.

This section applies only if the employer pays the premium in whole or in part or has participated in negotiating the terms of the insurance policy.

NEW SECTION

**WAC 162-30-090 Marital status immaterial.** Discrimination because of marital status is an unfair practice. An employer's leave policies and benefits, including health insurance for pregnancy, childbirth, or medical conditions caused or contributed to by same, must apply equally to married and unmarried employees.

NEW SECTION

**WAC 162-30-100 Labor unions and employment agencies.** It is an unfair practice for a labor union or employment agency to conduct its own affairs so as to deny anyone rights under the law and this regulation.

**WSR 93-15-123  
WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed July 21, 1993, 11:29 a.m.]

The Department of Social and Health Services is withdrawing WAC 388-160-450 filed as a proposal with the Office of the Code Reviser under WSR 93-05-031 On February 16, 1993.

Rosemary Carr, Director  
Administrative Services

**WSR 93-15-125  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Filed July 21, 1993, 11:46 a.m.]

Original Notice.

Title of Rule: The Model Toxics Control Act cleanup regulation (MTCA), chapter 173-340 WAC.

Purpose: To establish and/or clarify provisions under the MTCA, necessary for the department to recover costs incurred during the identification, investigation, and cleanup of hazardous waste sites.

Other Identifying Information: WAC 173-340-550 Payment of remedial action costs.

Statutory Authority for Adoption: RCW 70.105D.030 (1)(f), 70.105D.040(2), and SB 5404 Right of Contribution.

Statute Being Implemented: Model Toxics Control Act, chapter 70.105D RCW.

Summary: The purpose of this rule amendment is to clarify several cost recovery provisions provided under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, and to comply with a legislative mandate to write rules addressing the right of contribution.

The rule amendment will clarify the types of agency costs that will be included in the definitions of the costs the agency may recover from potentially liable persons. The terms the rule will clarify are: "Costs of direct activities," and "support costs of direct activities." Specifically, the rule allows the agency to charge for all hours worked on a site and includes leave and holiday time as a benefit. Program support will be included in the definition of support costs of direct activities. This amendment will allow the department to cost recover amounts closer to the true costs of providing oversight at contaminated facilities.

A "right of contribution" addition to the MTCA requires ecology to define by regulation what constitutes a "substantial equivalent of a department-conducted or department-supervised remedial action." This will allow potentially liable persons to bring private actions to recover from other potentially liable persons, a portion of the remedial action cost incurred during cleanup. The purpose of this subsection is to facilitate private rights of action and minimize department staff involvement in these actions by providing guidance to potentially liable persons and the court on what remedial actions the department would consider as substantially equivalent. This amendment will encourage independent cleanups. Individuals will be able to clean up sites on their own, knowing that they have a right to recover a portion of their costs from other potentially liable persons.

To meet industry demands, the Toxics Cleanup Program (TCP) has provided a new voluntary service for persons conducting independent remedial actions. Persons voluntarily requesting the department's review and evaluation of their independent remedial actions pay a fee for the new service. The fee is intended to recover the average actual cost of ecology providing its review and evaluation of completed independent remedial actions. The rule will clarify the process for how ecology intends to continue to implement the authority under which this fee was established. This voluntary fee-based oversight option enables the department to evaluate a greater number of independent cleanups, help more sites get cleaned up, helps lenders and others involved

in property transactions quantify potential risks at potentially contaminated properties, helps property owners get their site removed from the hazardous sites list, thus increasing property values, and facilitates the return of once contaminated property to productive use.

Finally, the rule amendment will insure the availability of a prepayment provision to all persons involved in cleaning up contaminated property. Codification of the prepayment oversight option will allow potentially liable persons greater flexibility, and opportunity to enter formal oversight agreements with the department. This mechanism will be available to all persons who want ecology oversight throughout the term of their cleanup. The purpose of a prepayment agreement is to enable department oversight of remedial actions at lower priority sites. The advanced payment will support the FTEs necessary to provide this alternative oversight service, without taking state resources away from higher priority sites. This rule amendment will allow individuals with smaller, less complex cleanup sites to use the prepayment method to gain department oversight more quickly, even if their site is not a high priority to the department.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Pete Kmet, Pat Melone and Lydia Lindwall, 637 Woodland Square Loop, Lacey, 438-3000; Implementation and Enforcement: The Toxics Cleanup Program, all ecology offices.

Name of Proponent: Department of Ecology, governmental.

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

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

Proposal Changes the Following Existing Rules: Changes to WAC 173-340-550(2), definition of the terms "costs of direct activities" and "support costs of direct activities." Ecology is currently limiting cost recovery to include direct costs and costs of agency overhead at the rate established for federal grants and approved by its cognizant agency, the United States Department of Interior (USDO). The Model Toxics Control Act (MTCA) (chapter 70.105D RCW) makes potentially liable persons (PLPs) responsible for "all costs," but does not go on to define what costs are included. The regulation (chapter 173-340 WAC) goes one step further to define "reasonable costs" as costs reasonably attributable to the site and ". . . may include costs of the proposed direct activities, support costs of direct activities, and interest charges for delayed payments." The proposed amendment defines the "costs of direct activities" to include "direct staff costs" and "other direct costs" associated with staff time spent working directly on a contaminated site. "Direct staff costs" include salaries, retirement plan benefits, social security benefits, health care benefits, leave and holiday benefits, and other benefits required by law. "Other direct costs" are costs incurred as a direct result of department staff working on a contaminated site, including travel related to the site, printing and publishing of documents about the site, purchase or rental of equipment used for the site, and contracted work for the site. "Support costs of direct activities" are the agency and program support costs. Agency support costs are the costs of facilities, communica-

tions, personnel, fiscal, and other state- and agency-wide services. Program support costs are the costs of general operation of the Toxics Cleanup Program, including administration, implementation, management, and training.

Complete revision to WAC 173-340-550(5), Contribution rights. On May 12, 1993, Governor Lowry signed legislation providing for an explicit right of contribution under the MTCA. This act limits contribution actions to those cleanups which, when evaluated as a whole, are the substantial equivalent of a department-conducted or department-supervised remedial action. The proposed regulation on private rights of action will satisfy the statutory requirement for defining by regulation the criteria used to determine if an independent cleanup is "substantially equivalent to a department-conducted remedial action."

New section to chapter 173-340 WAC, WAC 173-340-550(7) Independent remedial actions, the department has established a fee to recover the direct and support costs associated with the review and evaluation of independent remedial actions. The rule amendment will clarify the department's process for reviewing and evaluating independent remedial actions, and provide a means of evaluating and modifying the fee schedule to enable the department to collect the average actual cost of providing the review service to independents. Persons conducting independent remedial actions will know in advance, what costs will be associated with voluntarily requesting ecology's evaluation of their cleanup actions.

New section to chapter 173-340 WAC, WAC 173-340-550(8) Prepayment of costs, the rule amendment adds language on prepayment agreements to expand the availability of prepaid oversight. Under the existing prepayment policy, PLPs may request ecology's oversight of remedial actions before ecology has prioritized the site for action, or has resources available to work on the site. Prepayment agreements provide potentially liable persons with the ability to pay for ecology's oversight costs in advance, thereby allowing ecology to increase staff for the unanticipated workload without inhibiting work on the department's high priority sites.

#### Small Business Economic Impact Statement

Explanation of Rule Changes: Only one section of the rule is being changed, WAC 173-340-550. WAC 173-340-550(2) is being changed to allow charges for support costs. A definition is also provided for the "cost of direct activities." WAC 173-340-550(5) is rewritten to help people with a "private right of action" and to reduce ecology's involvement in these actions. The changes make it easier for potentially liable persons to sue to recover costs from other potentially liable persons. Use of this subsection is voluntary. WAC 173-340-550(7) is new. It establishes a fee so that ecology can review independent remedial actions sooner. This will allow people who have conducted an independent cleanup to obtain a written determination from ecology regarding the adequacy of the cleanup. Without this many people have been unable to sell their property. Use of this subsection is voluntary. WAC 173-340-550(8) is also new. This subsection allows a party to pay ecology to provide cleanup oversight through a "prepayment agreement." Some cleanup sites are low priority for ecology. Through this



system the person can proceed with cleanup on an earlier time schedule and still have ecology's review. Use of this subsection is voluntary.

The Regulatory Fairness Act Requirements: The Regulatory Fairness Act, chapter 19.85 RCW, requires review and reductions in the cost 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). The 1990 evaluation of this rule, *Economic Impact Statement for proposed Cleanup Standards Under the Model Toxic Control Act*, showed that more than 10 percent of the businesses in the following sectors would be affected. The same sectors will be affected by the changes to this rule.

SIC	Description
10	Metal Mining
12	Coal Mining
24	Lumber and Wood Products
28	Chemicals and Allied Products
29	Petroleum and Coal Products
33	Primary Metals
347	Electroplating
4953	Sanitary Services
5172	Petroleum Wholesalers
5411	Convenience Stores
554	Retail Gasoline Dealers

Subsection Amendments Creating Disproportionate Impacts: Addition to WAC 173-340-550(2). Program support costs were estimated for 106 sites. The estimates were based on the maximum sites could have been charged last year for support costs, had these amendments been in place. Ecology was able to obtain employment data for some of these sites. The support cost portion of the rule is likely to have a disproportionate impact on small business. An SBEIS and mitigation is required because of this. While the sample size for small business is not large enough to be significant, the cost to employment ratios indicate a disproportionate impact.

Maximum Ratio of Support Costs to Employment cost/Employee

Small Business (50 or fewer employees)	128
Large Business (51 or more employees)	42

Program support costs are a small percentage of the cleanup costs. Some sites will still have a gain from cleanup because it will increase the value of the land.

Cost Minimization: The changes to other subsections (5), (7), and (8) of WAC 173-340-550 will reduce costs for all companies. Since use of these subsections is voluntary, people will only use them if they can lower their costs. The primary beneficiaries will be the parties responsible for cleanups of the small sites for which independent cleanups are appropriate under subsection (7). Many of these smaller sites are owned by small businesses. There will be additional benefits to companies that wish to obtain early cleanups with ecology oversight. The gain to companies from a cleanup is the increase in the value of the land minus the cost of cleanup. Companies opting for early cleanup will

obtain this gain earlier. Similar gains are provided by the option of obtaining early oversight under subsection (8).

For Further Information: For a full copy of the SBEIS contact Curtis Dahlgren at (206) 438-3011 or write to him at the Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

Hearing Location: On August 24, 1993, at 7:00 p.m., General Administration Building, Room 150, 11th and Columbia, Olympia, Washington; on August 25, 1993, at 7:00 p.m., Port of Seattle, Commissioner's Hearing Room, 2711 Alaskan Way, Seattle, WA, on August 25, 1993, at 7:00 p.m., Spokane County Health District, 1101 West College Avenue, Spokane, WA; and on August 26, 1993, at 6:30 p.m., Yakima Valley Regional Library, 102 North 3rd Street, Yakima, WA.

Submit Written Comments to: Lydia Lindwall, P.O. Box 47600, Olympia, WA 98504-7600, by September 2, 1993.

Date of Intended Adoption: November 12, 1993.

July 13, 1993  
Mary Riveland  
Director

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

**WAC 173-340-550 Payment of remedial action costs.**

(1) Policy. RCW 70.105D.050(3) requires that the state seek to recover the amounts spent by the department for investigative and remedial actions and orders. It is the department's intention to recover those costs which are reasonably attributable to the site. Timing of cost recovery for individual sites will be considered on a case-by-case basis, however, the department may demand payment of costs as they are incurred.

(2) Costs. Each person who is liable under chapter 70.105D RCW is liable for remedial action costs incurred by the department. Remedial action costs are costs reasonably attributable to the site and may include costs of direct activities, support costs of direct activities, and interest charges for delayed payments. As used in this subsection, costs of direct activities and support costs of direct activities mean the following:

(a) Costs of direct activities are direct staff costs and other direct costs. Direct staff costs are the costs of hours worked directly on a contaminated site, including salaries, retirement plan benefits, Social Security benefits, health care benefits, leave and holiday benefits, and other benefits required by law to be paid to, or on behalf of, employees. Other direct costs are costs incurred as a direct result of department staff working on a contaminated site including, for example, costs of: Travel related to the site, printing and publishing of documents about the site, purchase or rental of equipment used for the site, and contracted work for the site.

(b) Support costs of direct activities are agency support costs and program support costs, each expressed as a multiplier of the direct staff costs and described as follows:

(i) Agency support costs are the costs of facilities, communications, personnel, fiscal, and other state-wide and agency-wide services. The multiplier used shall be the agency indirect rate approved by the agency's federal



cognizant agency (which, as of July 1, 1993, was the United States Department of the Interior) for each fiscal year.

(ii) Program support costs are the costs of administrative time spent by site managers and other staff that work directly on sites and the cost of management, clerical, policy, computer, financial, and other support provided by other program staff to site managers and other staff that work directly on sites. The multiplier used shall be calculated by dividing actual support costs by the direct staff costs of all hours charged to site related work. The multiplier shall be revised at least biennially and any changes published in at least two publications of the *Site Register*. The multiplier shall not exceed 1.0 (one).

(3) Request for payment. When the department requests payment of remedial action costs it shall provide an itemized statement documenting the costs incurred.

(4) Interest charges. A minimum of twelve percent interest shall accrue on all remedial action costs not paid within ninety days of the billing date, or within another longer time period designated by the department.

(5) ~~(Contribution rights. In addition to any other action under chapter 70.105D RCW, cost recovery is available through contribution actions between potentially liable persons, unless such claims are barred by RCW 70.105D.040 (4)(d). The right to contribution furthers the purposes of chapter 70.105D RCW because it provides an incentive for potentially liable persons to work with the department in complying with chapter 70.105D RCW.)~~ Private rights of action. Under the Model Toxics Control Act, a person may bring a private right of action, including a claim for contribution or for declaratory relief, against any other person liable under RCW 70.105D.040 for the recovery of remedial action costs, unless such claims are barred by RCW 70.105D.040 (4)(d). Under the act, recovery of remedial action costs are limited to those remedial actions that, when evaluated as a whole, are the substantial equivalent of a department-conducted or department-supervised remedial action. The purpose of this subsection is to facilitate private rights of action and minimize department staff involvement in these actions by providing guidance to potentially liable persons and the court on what remedial actions the department would consider as substantially equivalent. Nothing in this subsection is intended to contradict other provisions of this chapter. In determining substantial equivalence, the department anticipates this chapter will be construed in its entirety. For the purposes of this section, the department would consider the following remedial actions to be substantially equivalent to a department-conducted or department-supervised remedial action.

(a) A remedial action that has been conducted by the department and payment of the department's remedial action costs has been made to the department for those portions of the remedial action for which the private right of action is being sought;

(b) A remedial action that has been or is being conducted under an order or decree and the requirements of the order or decree have been satisfied for those portions of the remedial action for which the private right of action is being sought; or

(c) A remedial action that has been conducted as an independent remedial action that, when evaluated as a whole,

addresses the following elements. Strict compliance with the following elements, while preferable, should not be a prerequisite to a private right of action:

(i) Information on the site and remedial actions conducted has been reported to the department in accordance with WAC 173-340-300 and 173-340-450, as applicable;

(ii) The department has not objected to the potentially liable person conducting the remedial action or any such objection has been cured as determined by the court; and

(iii) Except for emergency remedial actions, prior to conducting an interim action or cleanup action, reasonable steps have been taken to provide advance public notice. For the purposes of this subsection only, unless the court determines other notice procedures are adequate for the site-specific circumstances, the following should constitute adequate public notice:

(A) Except for emergency remedial actions, written notification has been mailed at least fifteen days prior to beginning construction of the interim action or cleanup action to: The department; the local jurisdictional health department/district; the town, city or county with land use jurisdiction; all land owners of that portion of the facility where the interim action or cleanup action is being conducted; and persons potentially liable under RCW 70.105D.040 known to the person conducting the interim action or cleanup action. For emergency remedial actions, written notice should be provided as soon as practicable;

(B) The notice includes: A brief statement describing the releases being remedied and the interim actions or cleanup actions expected to be conducted; the schedule for these interim actions or cleanup actions; and, for persons potentially liable under RCW 70.105D.040 known to the person conducting the interim actions or cleanup actions, a statement that they could be held liable for the costs of remedial actions being conducted;

(C) In addition to written notification, posting a sign at the site indicating what interim actions or cleanup actions are being conducted and identifying a person to contact for more information. Except for emergency remedial actions this sign should be posted prior to beginning construction of any interim action or cleanup action and should remain posted for the duration of the construction. For emergency remedial actions posting of a sign should be done as soon as practicable;

(D) These public notice procedures should be applied only to interim actions or cleanup actions conducted after the effective date of this section. For interim actions or cleanup actions conducted as independent remedial actions prior to the effective date of this section, this chapter contains no specific public notice requirements or guidance and the court will need to determine such requirements on a case-by-case basis; and

(E) For independent remedial actions consisting of site investigations and studies it is anticipated that public notice would not normally be done since often these early phases of work are to determine if a release even requires an interim action or cleanup action. However, once it has been determined that an interim action or cleanup action is needed and the engineering design process has begun, it is recommended the public notice procedures specified in (c)(iii)(A) and (B) of this subsection be implemented. For site investi-

gation studies and engineering design work conducted as independent remedial actions prior to the effective date of this section, this chapter contains no specific public notice requirements or guidance and the court will need to determine such requirements on a case-by-case basis.

(iv) The remedial actions have been conducted substantially equivalent with the technical standards and procedures contained in the following sections, where applicable. In applying these sections, reference should be made to the other applicable sections of this chapter, with particular attention to WAC 173-340-130 (Administrative principles), WAC 173-340-200 (Definitions) and WAC 173-340-210 (Usage):

(A) WAC 173-340-350 (State remedial investigation and feasibility study);

(B) WAC 173-340-360 (Selection of cleanup actions);

(C) WAC 173-340-400 (Cleanup actions);

(D) WAC 173-340-410 (Compliance monitoring requirements);

(E) WAC 173-340-430 (Interim actions);

(F) WAC 173-340-440 (Institutional controls);

(G) WAC 173-340-450 (Releases from underground storage tanks);

(H) WAC 173-340-700 through WAC 173-340-760 (Cleanup standards); and

(I) WAC 173-340-810 through WAC 173-340-850 (General provisions).

(v) For facilities where hazardous substances have been treated or disposed of as part of the remedial action, documentation is available indicating where these substances were treated or disposed of and that this treatment or disposal was in compliance with all applicable state and federal laws.

(6) Natural resource damages. Nothing in this section shall affect the authority of the department and the office of attorney general to recover natural resource damages.

(7) Independent remedial actions.

(a) The department has established a fee to recover the direct and support costs associated with the review and evaluation of independent remedial action reports submitted under WAC 173-340-300(4). This fee enables the department to evaluate a greater number of independent cleanups and facilitates the return of property to productive use. This fee is voluntary, and is applicable only to those persons requesting the department's review of an independent remedial action. The fee includes the department's costs for:

(i) Providing a written determination regarding the adequacy of the remedial actions performed at a site; or

(ii) Reviewing petitions to remove sites from the hazardous sites list as provided for in WAC 173-340-330(4)(b).

(b) The fee schedule shall be evaluated in June, 1994, and, if necessary, adjusted to reflect the average actual cost of the review. The fee schedule shall be evaluated every other year thereafter. The revised fee schedule shall be published in at least two publications of the Site Register.

(8) Prepayment of costs. Persons may request the department's oversight of remedial actions through a prepayment agreement. The purpose of such an agreement is to enable department oversight of remedial actions at lower priority sites. The department shall make a determina-

tion that such an agreement is in the public interest. Persons requesting a prepayment agreement shall accept their status as a potentially liable person under WAC 173-340-500. A prepayment agreement requires a potentially liable person to pay the department's remedial action costs, in advance, allowing the department to increase staff for the unanticipated workload. Agreements may cover one or more facilities. Entry into a prepayment agreement does not alter a person's obligations under chapter 70.105D RCW.

WSR 93-15-126  
PROPOSED RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION

[Filed July 21, 1993, 11:55 a.m.]

Original Notice.

Title of Rule: Chapter 236-14 WAC, Parking program for state facilities off the state capitol grounds in Thurston County.

Purpose: The purpose of these rules is to implement the legislative mandate in RCW 46.08.172, as amended by ESHB 2067, to establish equitable and consistent parking rental fees for state-owned and leased properties. It is the department's intent to implement parking fees throughout the state beginning with Thurston County outside the capitol grounds.

Statutory Authority for Adoption: RCW 46.08.172.

Statute Being Implemented: RCW 46.08.172.

Summary: The proposed rules establish parking rental fees for state facilities off the state capitol grounds within Thurston County. The rules also define categories of users and vehicles. In addition, the Department of General Administration is authorized to establish other permits and issue a fee schedule for each. Except for the capitol campus, the director delegates the responsibility for the collection of parking fees to other agencies of state government. Criteria for adjusting the level of parking rental fees or exempting individual state facilities from parking rental fees is also established. The Department of General Administration will promulgate parking rental fees throughout the state after considering comparable market rates in individual geographic area(s), beginning with Thurston County. There are new sections on severability, delegation of authority, and provisions relating to existing leases.

Reasons Supporting Proposal: The legislative mandate is to reduce state subsidization of parking under RCW 46.08.172, as amended. The director of the Department of General Administration is empowered to establish equitable and consistent parking rental fees for state-owned and state-leased properties, considering comparable market rates. To ensure flexible approaches to developing administrative rules and to ensure early joint planning for meaningful public participation in the administrative rule-making process, the department also invited a regional committee representative of affected state agencies, employee bargaining units, local jurisdictions and the business community to advise the director on parking rental fees.

Name of Agency Personnel Responsible for Drafting: Steve Borchardt, P.O. Box 41018, General Administration

Building, Olympia, WA 98504, 753-4243; Implementation and Enforcement: J. Duncan Crump, P.O. Box 41025, Plaza Garage, Olympia, WA 98504, 753-3269.

Name of Proponent: Department of General Administration, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the proposed rules is to implement the general legislative mandate of RCW 46.08.172, as amended, to ensure the establishment of equitable, and consistent parking rental fees for state-owned and state-leased properties. The focus of these rules are on state facilities located in Thurston County, except for the capitol grounds. The rules explain that the director of general administration has delegated the authority for the collection of parking rental fees to other agencies of state government. These rules outline the authority of the director of general administration to establish fee schedules for various situations and establish the factors and criteria to be used by the director when making exemptions or adjustments to fee requirements. The anticipated effects are an equitable and consistent parking rental fee structure for Thurston County state facilities, a reduction in state subsidization of parking, and an increased use of high occupancy vehicles.

Proposal does not change existing rules.

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

Hearing Location: 1st Floor Auditorium, Labor and Industries Building, 7273 Linderson Street, S.W., Tumwater, WA, on August 24, 1993, at 11:00 a.m. - 1:00 p.m.; and at the 1st Floor Auditorium, General Administration Building, 11th and Columbia, Olympia, WA, on August 24, 1993, at 4:00 p.m. - 6:00 p.m.

Submit Written Comments to: Steve Borchardt, APA Coordinator, P.O. Box 41018, Olympia, WA 98504-1018, by August 24, 1993.

Date of Intended Adoption: August 30, 1993.

July 21, 1993

Tim Arnold

Assistant Director

PROPOSED NEW ADMINISTRATIVE RULES  
DEPARTMENT OF GENERAL ADMINISTRATION  
CHAPTER 236-14 WAC  
PARKING PROGRAM FOR STATE FACILITIES OFF  
THE STATE CAPITOL GROUNDS IN THURSTON  
COUNTY

NEW SECTION

**WAC 236-14-010 Purpose.** The purpose of these rules is to implement the legislative mandate in RCW 46.08.172 to establish equitable and consistent parking rental fees for state-owned and leased properties within Thurston County outside the state capitol grounds.

NEW SECTION

**WAC 236-14-015 Definitions.** As used in this chapter, the following terms shall mean:

(1) "Agency assigned uses" means:

(a) parking stalls reserved exclusively for agency use at state-owned or leased facilities;

(b) state-owned or leased vehicles available for temporary assignment;

(c) state-owned or leased vehicles permanently assigned to individual employees (but not available for commuting purposes); and

(d) state-owned or leased vehicles permanently assigned to individual employees (and available for commuting), if those employees are required to perform primary duties away from the assigned facility.

(2) "Carpool" means a motor vehicle occupied by two (2) to four (4) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. (Those under 16 years of age are excluded because they do not eliminate a vehicle trip.)

(3) "Department" means the department of general administration.

(4) "Director" means the director of the department of general administration.

(5) "Disabled" means any person who has made application to the department of licensing in accordance with WAC 308-96A-310, and displays a valid permit in accordance with WAC 308-96A-310 and WAC 308-96A-315.

(6) "Employee" means any person assigned to a state facility, including the staff of vendors, concessionaires, contractors and consultants, who are performing duties that are similar to the duties of state employees or that are in direct support of the state agency functions performed at that facility.

(7) "Parking program" means policies and procedures designed for the specific users of state facility parking areas/lots.

(8) "Shift worker" means any employee whose regularly scheduled work shift is totally outside his/her agency's core hours, as established by Merit System Rule 356-15-095.

(9) "State facilities" means all state-owned and leased properties.

(10) "Vanpool" means a vehicle occupied by five (5) or more people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip.

(11) "Visitor" means any person parking at a state facility who is not employed at that facility.

(12) "Zoned parking" means parking areas/lots where individuals are assigned to a zone, but not to an individual stall.

NEW SECTION

**WAC 236-14-050 Parking program responsibilities.**

(1) State agencies which have control over parking areas at state facilities and are charging parking rental fees as established in WAC 236-14-100, should develop a program to regulate parking in those areas. Recommended program elements include:

(a) Written policies and procedures. A current copy should be sent to and maintained at the department of general administration, office of parking services;

(b) Parking registration;

(c) Compliance with the Americans With Disabilities Act for disabled parkers;

(d) Provisions for carpool and vanpool parking;

(e) Provisions for visitor parking;

(f) Provisions for employees who are specifically required to use their own vehicles as a primary condition of employment. Agency directors or their designees may elect to have the agencies pay for these employees' parking rental fees in lieu of charging the employees; and

(g) Provisions for part-time and intermittent employees.

(2) State agencies are encouraged to implement zoned parking wherever practicable.

(3) State agencies are encouraged to have a permitting and enforcement program.

(a) If an agency chooses to have a permitting program, it is encouraged to use the department's permits to provide consistency, and to take advantage of lower bulk prices. Agencies are also encouraged to require permits to be located on vehicles in a manner consistent with similar department capitol grounds policies.

(b) Where enforcement programs are implemented, it is recommended that they include:

(i) Noncompliance fees consistent with fees in effect on the capitol grounds;

(ii) Provisions for impoundment;

(iii) Provisions for suspension and/or revocation of parking privileges; and

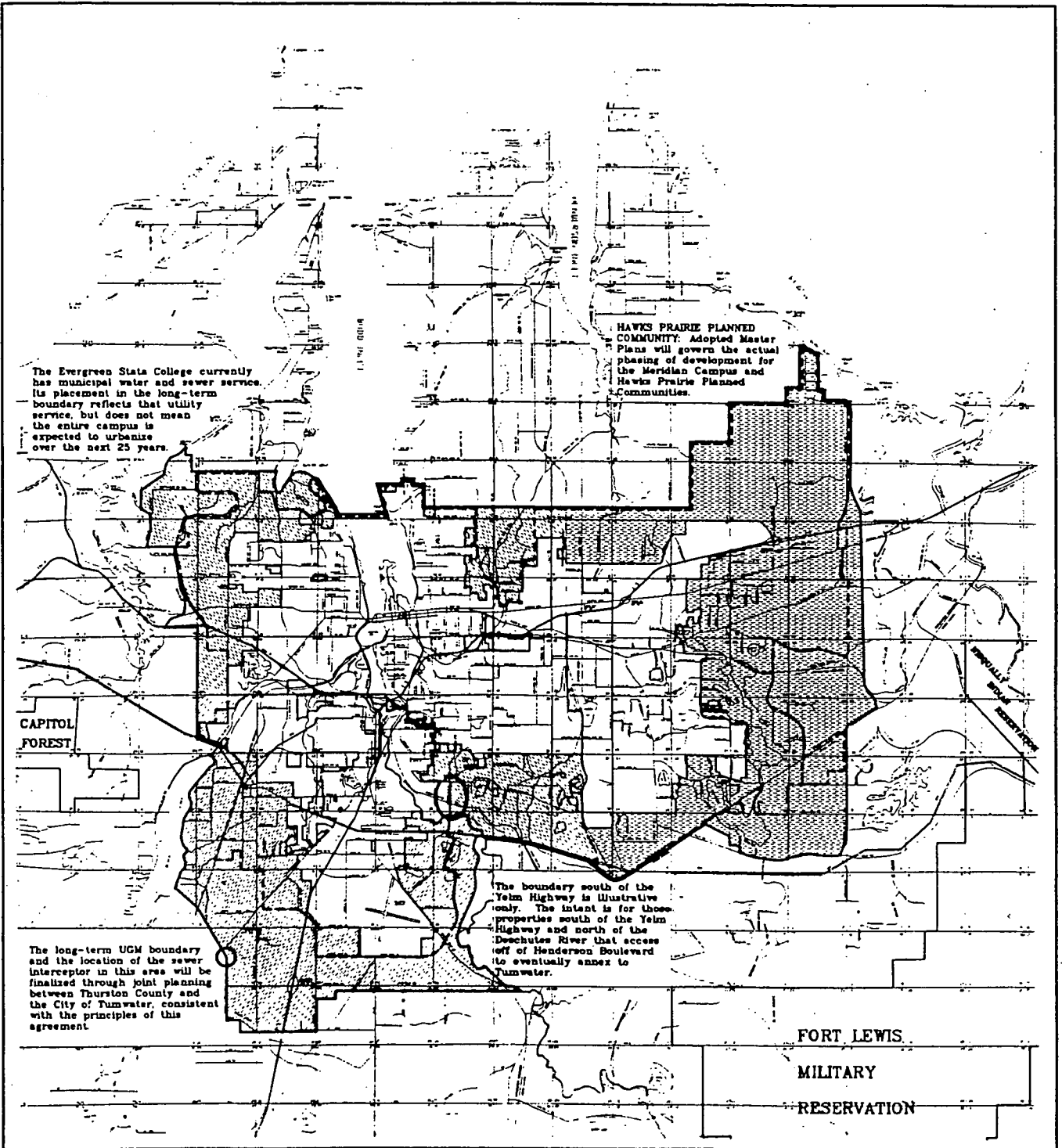
(iv) Provisions for hearing rights related to fees, impoundment, and suspension and/or revocation of parking privileges.

#### NEW SECTION

**WAC 236-14-100 Parking rental fees for state facilities off the state capitol grounds in Thurston County.** (1) For the purpose of setting parking rental fees, Thurston County is divided into two zones. They are as follows:

Zone 1 - defined by the Long-term Olympia, Lacey, Tumwater Urban Growth Management Boundary (UGMB), and

Zone 2 - the remainder of Thurston County not within the Long-term Olympia, Lacey, Tumwater Urban Growth Management Boundary.



# URBAN GROWTH MANAGEMENT

- CITY LIMITS
- LACEY/COUNTY JOINT PLANNING AREA
- PROPOSED UGM BOUNDARY
- OLYMPIA/COUNTY JOINT PLANNING AREA
- SHORT TERM
- TUMWATER/COUNTY JOINT PLANNING AREA
- LONG TERM



JUNE 20, 1988

Prepared by:  
 THURSTON COUNTY PUBLIC WORKS  
 THURSTON REGIONAL PLANNING COUNCIL  
 CITY OF OLYMPIA  
 CITY OF LACEY

Parcel specific identification of the UGMB is available on Thurston County zoning maps.

(2) The parking rental fees for state facilities off the state capitol grounds in Thurston County Zone 1 shall be as follows:

PARKING USES	PARKING RENTAL FEES
(a) Agency assigned uses	no charge
(b) Employee uses:	
(i) General "zoned"	\$15 per month
(ii) Leased/reserved areas and/or stalls	\$20 per month
(iii) Disabled employees	\$15 per month
(iv) Shift workers (non-core hours)	no charge
(v) Part-time and intermittent	agency discretion (not to exceed \$15/month)
(c) Motorcycle, motor-driven cycle/moped uses	\$10 per month
(d) Visitor uses	
(i) Metered parking	\$.50 per hour
(ii) Unmetered parking	no charge
(iii) Disabled visitors	no charge
(e) Carpool	agency discretion (not to exceed \$15/month)
(f) Vanpool	no charge

(g) In addition to the permits issued under (a), (b), (c), (d), (e) and (f) of this subsection, the department may establish rates for other uses as required. The department will establish a fee schedule for such uses, and will keep such fee schedule on file at the Department of General Administration, Office of Parking Services, Plaza Garage, D Level, P.O. Box 41025, Olympia, Washington 98504-1025. Such fee schedule will be available to any person upon request.

(3) If there is a contract or lease provision which sets parking fees at a state facility which is in effect on the date of adoption of this rule, the schedule of fees set forth in subsection (1) of this rule shall not apply to the parking covered by that contract or lease. This exemption shall be in effect only for the duration of the current term of the existing contract or lease.

(4) The parking rental fees for state facilities off the state capitol grounds in Thurston County Zone 2 (outside the Long-term Olympia, Lacey, Tumwater Urban Growth Management Boundary) shall be as follows:

PARKING USES	PARKING RENTAL FEES
All Uses	no charge

(5) The director has exempted the following categories of state facilities from the provisions of this WAC:

- (a) Roads and highways
- (b) Rest areas
- (c) Weigh stations on highways and roadways
- (d) Institutions of higher education (which are covered by RCW 28B)
- (e) Park and ride facilities
- (f) Parking provided at state owned/leased living quarters assigned to state employees.

(6) In addition to those exempted facilities listed in subsection (5) of this rule, the director may, upon written

request by an agency director, exempt individual state facilities from parking rental fees or may authorize a different schedule of fees than provided in subsection (2) of this rule. In determining whether to exempt a state facility, or to authorize a different schedule of fees, the director shall consider one or more of the following factors:

- (a) Transportation demand management or commute trip reduction requirements and availability;
- (b) Unusual market conditions;
- (c) Remoteness of location;
- (d) Other factors.

(7) In accordance with RCW 46.08.172, as amended, The director of the department of general administration shall establish equitable and consistent parking rental fees for state-owned or leased property, to be charged to employees, visitors, clients, service providers, and others, that reflect the legislature's intent to reduce state subsidization of parking. The department shall solicit representatives from affected state agencies, employees, and state employee bargaining units to meet as regional committees. These regional committees will advise the director on parking rental fees taking into account the market rate of comparable, privately owned rental parking in each region. In the event that such fees become part of a collective bargaining agreement and there is a conflict between the agency and the collective bargaining unit, the terms of the collective bargaining agreement shall prevail. All fees shall take into account the market rate of comparable privately owned rental parking, as determined by the director.

NEW SECTION

**WAC 236-14-200 Delegation.** With the exception of the capitol campus, the director, in accordance with RCW 46.08.172, has determined it is cost effective, and is delegating the responsibility for the collection of parking rental fees to other agencies of state government.

NEW SECTION

**WAC 236-14-300 Monthly parking fee payments.** Non-state personnel will be billed for parking by the agency that controls the assigned parking lot. Employee parking rental fees shall be paid by payroll deduction.

NEW SECTION

**WAC 236-14-800 Director review.** The director shall review WAC 236-14 periodically to determine if changed circumstances warrant revisions. Such review shall occur no later than three years from the date of initial promulgation or from subsequent review.

NEW SECTION

**WAC 236-14-900 Severability.** If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

**WSR 93-15-004**  
**PERMANENT RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed July 7, 1993, 3:54 p.m.]

Date of Adoption: June 29, 1993.

Purpose: Amend existing rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 390-16-011, 390-16-012, 390-37-140, and 390-37-142.

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 93-10-049 and 93-10-050 on April 30, 1993.

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

July 6, 1993

Graham E. Johnson

Executive Director

AMENDATORY SECTION (Amending WSR 92-18-002, filed 8/20/92)

**WAC 390-16-011 Forms—Registration statement for political committees.** The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for abbreviated campaign finance reporting is designated "C-1pc", revised ((7/92)) 4/93. 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.

PERMANENT



PUBLIC DISCLOSURE COMMISSION  
711 CAPITOL WAY RM 403  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(206) 753-1111

REGISTRATION:  
CANDIDATES/CANDIDATE COMMITTEE

<b>C1</b>	PDC OFFICE USE
	P O S T R E C E I V E D
(7/92)	

Candidate's Name (Do not abbreviate. Include candidate's full name)

Candidate's Committee Name (Do not abbreviate.)

Mailing Address

City County Zip + 4

1. What office are you running for? Office District, County or City Position No.

2. Political party (if partisan office)

3. Date of general or special election

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below.

If no box is checked you are obligated to use Option III, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

Option I MINI REPORTING  
I will limit contributions or expenditures during this campaign to my filing fee of \$\_\_\_\_\_ plus no more than \$500, including charges for the voters pamphlet. I will accept no more than \$200 in the aggregate from any contributor except myself.

Option II ABBREVIATED REPORTING  
I will use the Abbreviated Reporting System. I will raise and spend no more than \$2,000 and will accept no more than \$200 in the aggregate from any contributor except myself.

Option III FULL REPORTING  
I will use the Full Reporting System. I understand frequent, detailed reports are required.

5. Treasurer's Name and Address (Candidate may be treasurer.) (List deputy treasurers on attached sheet.) Daytime Telephone Number ( )


6. Committee's Principal Officers. List name, address and title.

7. Campaign Bank or Depository Branch City

8. Related or Affiliated Political Committees. List name, address and relationship.

9. Campaign records are to be open for public inspection the last eight days before election. (Two hours daily between 8 AM - 8 PM, Monday - Friday.) Show location and hours below:  
Street Address (Do not use a Post Office Box Number) Hours

10. Fair Campaign Practices: All candidates and committee officers are encouraged to subscribe to the Code of Fair Campaign Practices printed in the instruction manuals.



11. CERTIFICATION:  
I certify that this report is true, complete and correct to the best of my knowledge.

Please advise us about which forms and instructions you need. Remember, candidates must file a Financial Affairs Statement (F-1) unless a current one is already on file with PDC. Check all boxes which apply.

I already have financial affairs and campaign disclosure forms and instructions.

I am using Mini Reporting and, therefore, do not need the other campaign disclosure forms. In addition, I have already filed my Financial Affairs Statement and need no additional F-1 forms.

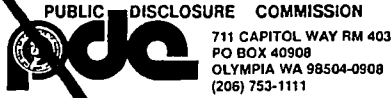
I will obtain all forms and instructions from my county elections office.

I want PDC to mail me:  the F-1 instruction booklet (which includes forms)  the appropriate campaign disclosure forms and instructions.

DISTRIBUTION OF THIS REPORT:  
ORIGINAL — Public Disclosure Commission  
COPY — County Elections Dept. (Auditor)  
COPY — Your own records

PERMANENT





PDC FORM <b>C1</b> (7/92)	<b>CANDIDATE                  REGISTRATION                  STATEMENT</b>
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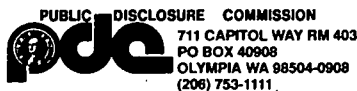
**INSTRUCTIONS**

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** Candidates who run for state or local office in jurisdictions that had 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
- WHEN TO FILE** Within 2 weeks of becoming a candidate (that is, receiving contributions, making expenditures, announcing candidacy, reserving space or filing for office, whichever occurs first). File an amended registration within 10 days of changes affecting accuracy of previously filed C-1. Report is considered filed as of postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the **original** to PDC at the above address. Send a **copy** to **County Auditor** (County Elections Department) of the county in which the candidate resides.
- REPORTING OPTIONS**
  - Option I (MINI): May be used by candidates who raise and spend no more than \$500 on their campaigns (including personal funds), in addition to the filing fee amount. Limited to receiving \$200 or less from any contributor other than the candidate (who may give the entire \$500).
  - Option II (ABBREVIATED): May be used by candidates who raise and spend no more than \$2,000 on their campaigns (including personal funds). Filing fee costs count toward this limit. No more than \$200 may be accepted from any contributor other than the candidate.
  - Option III (FULL): Required of candidates who do not qualify for Mini or Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required as long as the campaign account remains open.
- OTHER REPORTS**
  - F-1 (Financial Affairs Statement): Filed by candidates within 2 weeks of becoming a candidate, unless a previous F-1 filing has been made in the same calendar year.
  - 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.
- FAIR CAMPAIGN PRACTICES CODE** This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All candidates and campaign workers are encouraged to follow the Code's principles.
- SURPLUS FUNDS** Funds remaining in campaign accounts after the election may only be disposed of in one or more of the following ways: returned to contributors; donated to registered charity; held for future election campaign; given to other candidates or committees; reimbursed to candidates for lost earnings or campaign loans used for political or community activity or for nonreimbursed public office related expenses; or donated to the State General Fund.

**For assistance, call or write PDC!**

PERMANENT



REGISTRATION: CANDIDATES/CANDIDATE COMMITTEE

C1

(4/93)

PDC OFFICE USE

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D

Candidate's Name (Do not abbreviate. Include candidate's full name)

Candidate's Committee Name (Do not abbreviate.)

Mailing Address

City

County

Zip + 4

1. What office are you running for?

Office

District, County or City

Position No.

2. Political party (if partisan office)

3. Date of general or special election

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below.

If no box is checked you are obligated to use Option III, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

Option I MINI REPORTING  
I will limit contributions or expenditures during this campaign to my filing fee of \$ \_\_\_\_\_ plus no more than \$500, including charges for the voters pamphlet. I will accept no more than \$200 in the aggregate from any contributor except myself.

Option II ABBREVIATED REPORTING  
I will use the Abbreviated Reporting System. I will raise and spend no more than \$2,000 and will accept no more than \$200 in the aggregate from any contributor except myself.

Option III FULL REPORTING  
I will use the Full Reporting System. I understand frequent, detailed reports are required.

5. Treasurer's Name and Address (Candidate may be treasurer.) (List deputy treasurers on attached sheet.)

Daytime Telephone Number

( )

6. Committee's Principal Officers. List name, address and title.

7. Campaign Bank or Depository

Branch

City

8. Related or Affiliated Political Committees. List name, address and relationship.

9. Campaign records are to be open for public inspection the last eight days before election. (Two hours daily between 8 AM - 8 PM, Monday - Friday.) Show location and hours below:

Street Address (Do not use a Post Office Box Number)

Hours

10. Fair Campaign Practices: All candidates and committee officers are encouraged to subscribe to the Code of Fair Campaign Practices printed in the instruction manuals.



11. CERTIFICATION:

I certify that this report is true, complete and correct to the best of my knowledge.

Candidate's signature

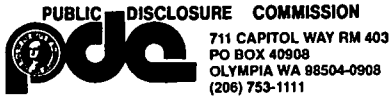
Date

Please advise us about which forms and instructions you need. Remember, candidates must file a Financial Affairs Statement (F-1) unless a current one is already on file with PDC. Check all boxes which apply.

- I already have financial affairs and campaign disclosure forms and instructions.
- I am using Mini Reporting and, therefore, do not need the other campaign disclosure forms. In addition, I have already filed my Financial Affairs Statement and need no additional F-1 forms.
- I will obtain all forms and instructions from my county elections office.
- I want PDC to mail me:  the F-1 instruction booklet (which includes forms)  the appropriate campaign disclosure forms and instructions.

DISTRIBUTION OF THIS REPORT:  
ORIGINAL — Public Disclosure Commission  
COPY — County Elections Dept. (Auditor)  
COPY — Your own records

PERMANENT



PDC FORM <b>C1</b>	<b>CANDIDATE                  REGISTRATION                  STATEMENT</b>
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**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** Candidates who run for state or local office in jurisdictions that had 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
- WHEN TO FILE** Within 2 weeks of becoming a candidate (that is, receiving contributions, making expenditures, announcing candidacy, reserving space or filing for office, whichever occurs first). File an amended registration within 10 days of changes affecting accuracy of previously filed C-1. Report is considered filed as of postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the **original to PDC** at the above address. Send a **copy to County Auditor** (County Elections Department) of the county in which the candidate resides.
- REPORTING OPTIONS**
  - Option I (MINI): May be used by candidates who raise and spend no more than \$500 on their campaigns (including personal funds), in addition to the filing fee amount. Limited to receiving \$200 or less from any contributor other than the candidate (who may give the entire \$500).
  - Option II (ABBREVIATED): May be used by candidates who raise and spend no more than \$2,000 on their campaigns (including personal funds). Filing fee costs count toward this limit. No more than \$200 may be accepted from any contributor other than the candidate.
  - Option III (FULL): Required of candidates who do not qualify for Mini or Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required as long as the campaign account remains open.
- OTHER REPORTS**
  - F-1 (Financial Affairs Statement): Filed by candidates within 2 weeks of becoming a candidate, unless a previous F-1 filing has been made in the same calendar year.
  - 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.
- FAIR CAMPAIGN PRACTICES CODE** This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All candidates and campaign workers are encouraged to follow the Code's principles.

**For assistance, call or write PDC!**

PERMANENT

**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 390-16-012 Forms—Registration statement for candidates.** The official form for providing the statement of organization by candidates and candidate's committees, for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting or abbreviated campaign finance reporting is designated "C-1", revised (~~7/92~~) 4/93. 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.

PERMANENT



PUBLIC DISCLOSURE COMMISSION  
711 CAPITOL WAY RM 403  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(206) 753-1111

REGISTRATION:  
POLITICAL COMMITTEES

<b>C1P</b> (7/92)	P M O A R T K	PDC OFFICE USE
	R E C E I V E D	

Committee Name (Show entire official name.) Acronym

Mailing Address

City County Zip + 4

NEW REGISTRATION OR UPDATE OF FORM OR REGISTRATION?

NEW: Complete all items in the registration form.

AMENDED: Supply the information below which has changed

COMMITTEE STATUS

Continuing committee

19\_\_\_\_ election only; election date \_\_\_\_\_

1. What is the purpose or description of the committee?

Political Party, Central Committee, District Committee, etc. Identify political party. If you are not supporting the entire party ticket, attach a list of the candidates you support.

Ballot Committee (Initiative, Bond, Levy, Recall, etc.) Name or description of ballot measure: \_\_\_\_\_ Ballot Number \_\_\_\_\_ FOR  AGAINST

Political Action Committee. If committee is associated with a business, association, labor union, or similar organization, list name: \_\_\_\_\_

Other. Explain on attached sheet.

2. Related or affiliated committees. List name, address and relationship.

3. HOW MUCH DO YOU PLAN TO SPEND DURING THIS ENTIRE ELECTION CAMPAIGN, INCLUDING THE PRIMARY AND GENERAL ELECTIONS? BASED ON THAT ESTIMATE, CHOOSE ONE OF THE REPORTING OPTIONS BELOW. (If the committee is a continuing organization, estimate spending on a calendar year basis.)

If no box is checked you are obligated to use Full Reporting. See reporting instruction booklets for information about reports required and changing reporting options.

ABBREVIATED REPORTING  
We will use the Abbreviated Reporting System. We will raise and spend no more than \$2,000 and will accept no more than \$200 in the aggregate from any one contributor.

FULL REPORTING  
We will use the Full Reporting System. We understand this means we must file frequent, detailed reports required by law.

4. Treasurer's Name and Address (List deputy treasurers on attached sheet.) Daytime Telephone Number ( )

5. Committee's Principal Officers. List name, address and title.


6. Campaign Bank or Depository.

Branch City

7. Campaign records are to be open for public inspection the last eight days before the election. (Two hours daily between 8 AM - 8 PM Monday - Friday.) Show location and hours below:

Street Address (Do not use a Post Office Box Number) Hours

8. Fair Campaign Practices: All committee officers are encouraged to subscribe to the Code of Fair Campaign Practices printed in campaign instruction booklets.



9. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.

Committee treasurer's signature \_\_\_\_\_ Date \_\_\_\_\_

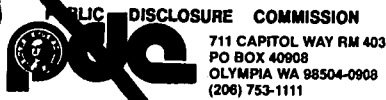
Need campaign finance forms and instructions for the reporting system selected? Please check one of the following boxes:

I already have forms and instructions.

I will get forms and instructions from my county elections office.

I want the Public Disclosure Commission to mail me the proper forms and instructions.

PERMANENT



PDC FORM <b>C1</b> P C <small>(7/92)</small>	<b>POLITICAL COMMITTEE          REGISTRATION          STATEMENT</b>
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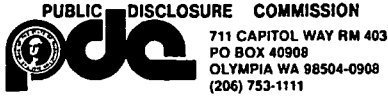
PERMANENT

### 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**      Persons, committees, organizations and groups that receive contributions and make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.
  
- WHEN TO FILE**        Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. (Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.) File an amended C-1pc form within 10 days of significant changes to the registration information provided. Continuing political committees using Abbreviated Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.
  
- WHERE TO FILE**        Send the **original to PDC** at the above address. Send a **copy to the County Auditor** (County Elections Department) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides.
  
- REPORTING OPTIONS**    Abbreviated Reporting: May be used by committees that raise and spend no more than \$2,000 on their campaign activities. No more than \$200 may be accepted from any contributor. A 10th-of-the-month post primary, general or special election C-4 ABB report is required. Continuing committees re-register annually and file a year-end C-4 ABB by January 10 for any year in which they do not participate in an election.  
  
Full Reporting: Required of all committees that do not qualify for Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required until the committee is disbanded and the campaign account is closed.
  
- 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 and committees using Abbreviated Reporting.  
Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of a candidate or another political committee.
  
- FAIR CAMPAIGN PRACTICES CODE**    This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All committee members and supporters are encouraged to follow the Code's principles.
  
- SURPLUS FUNDS**        Funds remaining in committee accounts after the election may only be disposed of in one or more of the following ways: returned to contributors; donated to registered charity; held for future election campaign; given to candidates or other committees; used for political or community activities; or donated to the State General Fund.

**For assistance, call or write PDC!**



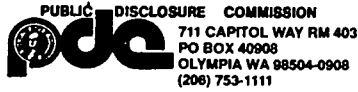
PDC FORM <b>C1</b> P C (4/93)	<b>POLITICAL COMMITTEE REGISTRATION STATEMENT</b>
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## INSTRUCTIONS

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** Persons, committees, organizations and groups that receive contributions and make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.
- WHEN TO FILE** Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)** File an amended C-1pc form within 10 days of significant changes to the registration information provided. Continuing political committees using Abbreviated Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the **original to PDC** at the above address. Send a **copy to the County Auditor** (County Elections Department) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides.
- REPORTING OPTIONS** Abbreviated Reporting: May be used by committees that raise and spend no more than \$2,000 on their campaign activities. No more than \$200 may be accepted from any contributor. A 10th-of-the-month post primary, general or special election C-4 ABB report is required. Continuing committees re-register annually and file a year-end C-4 ABB by January 10 for any year in which they do not participate in an election.  
Full Reporting: Required of all committees that do not qualify for Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required until the committee is disbanded and the campaign account is closed.
- 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 and committees using Abbreviated Reporting.  
Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of a candidate or another political committee.
- FAIR CAMPAIGN PRACTICES CODE** This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All committee members and supporters are encouraged to follow the Code's principles.

**For assistance, call or write PDC!**



REGISTRATION: POLITICAL COMMITTEES

C1 P C (4/93) P M O S T K R E C E I V E D PDC OFFICE USE

Committee Name (Show entire official name.) Acronym

Mailing Address

City County Zip + 4

NEW REGISTRATION OR UPDATE OF PRIOR REGISTRATION? COMMITTEE STATUS

- 1. What is the purpose or description of the committee? Bona Fide Political Party Committee, Ballot Committee, Political Action Committee, etc.

2. Related or affiliated committees. List name, address and relationship.

- 3. HOW MUCH DO YOU PLAN TO SPEND DURING THIS ENTIRE ELECTION CAMPAIGN... ABBREVIATED REPORTING, FULL REPORTING

4. Treasurer's Name and Address (List deputy treasurers on attached sheet.) Daytime Telephone Number

5. Committee's Principal Officers. List name, address and title.

6. Campaign Bank or Depository. Branch City

7. Campaign records are to be open for public inspection the last eight days before the election. (Two hours daily between 8 AM - 8 PM, Monday - Friday.) Show location and hours below:

8. Fair Campaign Practices: All committee officers are encouraged to subscribe to the Code of Fair Campaign Practices... 9. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.



Need campaign finance forms and instructions for the reporting system selected? Please check one of the following boxes: I already have forms and instructions, I will get forms and instructions from my county elections office, I want the Public Disclosure Commission to mail me the proper forms and instructions.

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AMENDATORY SECTION (Amending WSR 91-16-072, filed 8/2/91)

**WAC 390-37-140 Brief enforcement hearings—**

**Authority.** (1) The commission may provide a brief enforcement hearing for violations of provisions in chapter 42.17 RCW (~~which require the filing of reports when such violations are either a failure to file the required report or the late filing of a required report~~) in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than \$500 will be assessed for the violations. Typical matters to be heard in a brief enforcement hearing include but are not limited to the following:

- (a) Failure to file or late filing of required reports,
- (b) Failure to report or accurately report campaign contributions or expenditures or funds spent in lobbying,
- (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal,
- (d) Infractions of political advertising law regarding sponsor identification or political party identification.

(2) A brief enforcement hearing is a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and shall be in accordance with those statutes.

~~((2) This hearing shall be in accordance with RCW 34.05.482 through 34.05.494.))~~

AMENDATORY SECTION (Amending WSR 91-16-072, filed 8/2/91)

**WAC 390-37-142 Brief enforcement hearing—**

**Procedure.** (1) A brief enforcement hearing may be presided over by the chairman, or a member of the commission designated by the chairman.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the alleged violator notice, which shall include:

- (a) Alleged violation,
- (b) The maximum amount of the penalty which can be imposed at the hearing and the amount of any proposed fine, and

(c) Person's right to respond, within ten days, either in writing or in person to explain his/her view of the matter.

(3) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than \$500, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an enforcement hearing by the full Commission.

~~((3))~~ (4) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed, and their right to request review by the commission at the next scheduled commission meeting.

~~((4))~~ (5) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

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 93-15-011  
PERMANENT RULES  
DEPARTMENT OF FISHERIES**

[Filed July 8, 1993, 10:35 a.m.]

Date of Adoption: July 7, 1993.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-255, 220-56-350, and 220-57-370.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 93-10-095 on May 4, 1993.

Effective Date of Rule: Thirty-one days after filing.  
July 8, 1993

Judith Freeman  
Deputy  
for Robert Turner  
Director

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**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: May 20 through June 10 - Thursdays and Fridays only. July 2 through September 30 - Fridays only.

(2) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: May 1 until 85 percent of the quota has been taken; July 2 until the quota has been taken Fridays and Saturdays only.

(3) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: May 13 through July ~~((45))~~ 18 - Open 12:01 a.m. Thursday through 11:59 p.m. Tuesday of each week during the open period (closed Wednesdays).

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**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 public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point - DNR Beach 57-B is open April 16 through May 15.

(b) Camano Island State Park: Open June 1 through June 30.

(c) Fort Flagler State Park: Open April 16 through June 15.

~~((e))~~ (d) Garrison Bay: Tidelands at Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed the entire year.

~~((d))~~ (e) Hoodsport: Tidelands at Hoodsport Salmon Hatchery are closed the entire year.

~~((e))~~ (f) Hope Island State Park: Open April 16 through June 30.

~~((f))~~ (g) Illahee State Park: Open April 16 through July 31.

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~~((g))~~ (h) Kayak Point County Park: All tidelands are closed except tidelands north of the county fishing pier are open April 16 through May 15 of even-numbered years and tidelands south of the county fishing pier are open April 16 through May 15 of odd-numbered years.

~~((h))~~ (i) Oak Bay, East: Open April 16 through May 31.

~~((i))~~ (j) Oak Bay, West: Open April 16 through June 30.

~~((j))~~ (k) Oyster Reserves: Puget Sound state oyster reserves are closed the entire year except the following are open the entire year:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet.

(ii) Oakland Bay: Tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

~~((k))~~ (l) Penrose Point State Park: Open April 16 through April 30.

~~((l))~~ (m) Point Whitney: Open April 16 through May 31.

~~((m))~~ (n) Point Whitney Lagoon: Open May 15 through May 31.

~~((n))~~ (o) Point White: Open April 16 through September 30.

~~((o))~~ (p) Rendsland Creek: Open April 16 through June 15.

~~((p))~~ (q) Shine Tidelands: Open April 16 through July 15.

~~((q))~~ (r) Spencer Spit State Park: Open April 16 through July 31.

~~((r))~~ (s) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.

~~((s))~~ (t) Twanoh State Park: Closed the entire year.

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

**WAC 220-57-370 Puyallup River.** Bag Limit A - July ~~((+))~~ 16 through November 30: Downstream from the mouth of the Carbon River to the 11th Street Bridge.

**WSR 93-15-013**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Institutions)

[Order 3591—Filed July 8, 1993, 4:29 p.m.]

Date of Adoption: July 8, 1993.

Purpose: Amends the definition "act" and corrects a reference citation. The remainder of this rule-making order repeals sections pertaining to alcoholism and substance abuse. The repealed sections are updated and placed into chapter 440-25 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 275-25-300, 275-25-310, 275-25-330, 275-25-340, 275-25-810, and 275-25-840; and amending WAC 275-25-010 Definitions and 275-25-040 Appeal procedure.

Statutory Authority for Adoption: Chapters 70.96A and 34.05 RCW.

Other Authority: P.L. 102-234, Implications for DASA. Pursuant to notice filed as WSR 93-11-053 on May 12, 1993.

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

July 8, 1993

Rosemary Carr

Acting Director

Administrative Services

**Chapter 275-25 WAC**  
**COUNTY PLAN FOR MENTAL HEALTH, (~~DRUG~~**  
**~~ABUSE,)) DEVELOPMENTAL DISABILITIES(~~(~~~~**  
**~~ALCOHOLISM)~~**

**AMENDATORY SECTION** (Amending Order 3230, filed 8/9/91, effective 9/9/91)

**WAC 275-25-010 Definitions.** (1) All terms used in this chapter not defined herein shall have the same meaning as indicated in the act.

(2) "Act" means(~~(~~

~~(a) The Alcoholism Act (chapter 70.96 and 70.96A RCW) as now existing or hereafter amended; or~~

~~(b)) local funds for community services chapter 71.20 RCW, State services chapter 71A.12 RCW, and Local services chapter 71A.14 RCW as now existing or hereafter amended(~~(~~~~

~~(c) Drug and alcohol rehabilitation, education programs—drug treatment centers (chapter 69.54 RCW) as now existing or hereafter amended)).~~

(3) "County" means each county or two or more counties acting jointly.

(4) "Department" means the department of social and health services.

(5) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(6) "Indian" shall mean any:

(a) Person enrolled in or eligible for enrollment in a recognized Indian tribe; any person determined to be or eligible to be found to be an Indian by the secretary of the interior; and any Eskimo, Aleut or other Alaskan native;

(b) Canadian Indian person who is a member of a treaty tribe, Metis community, or other nonstatus Indian community from Canada;

(c) Unenrolled Indian person considered an Indian by a federally or nonfederally recognized Indian tribe or by an urban Indian/Alaska community organization.

(7) "Plan" means the application a county submits to the secretary for review and approval under the act(s); or revision of an existing plan.

(8) "Population" means the most recent estimate of the aggregate number of persons located in the designated county as computed by the office of financial management.

(9) "Secretary" means the secretary of the department or such employee or such unit of the department as the secretary may designate.

**AMENDATORY SECTION** (Amending Order 1142, filed 8/12/76)

**WAC 275-25-040 Appeal procedure.** (1) Any agency making application to participate in a county program operated under authority of the act(s), which is dissatisfied with the disposition of its application, or the community board(s) as defined in the act(s) or the community social services board, which is dissatisfied with any aspect of the plan, may appeal for a hearing before the county governing body. The county governing body shall review the appeal and notify the agency or board of its disposition within thirty days after the appeal has been received.

(2) A county which is dissatisfied with the department's disposition of its plan may request an administrative review.

(3) All requests for administrative reviews shall:

(a) Be made in writing to the appropriate program office within the department;

(b) Specify the date of the decision being appealed;

(c) Specify clearly the issue to be resolved by the review;

(d) Be signed by, and include the address of the county or its representative;

(e) Be made within thirty days of notification of the decision which is being appealed.

(4) An administrative review and redetermination shall be provided by the department within thirty days of the submission of the request for review, with written confirmation of the findings and the reasons for the findings to be forwarded to the county as soon as possible.

(5) Any county dissatisfied with the finding of an administrative review or who chooses not to request an administrative review may initiate proceedings pursuant to the Administrative Procedure Act (chapter ~~(34.04)~~ 34.05 RCW).

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- 275-25-300 Alcoholism program—Wac section numbers.
- 275-25-310 Approved treatment facilities.
- 275-25-330 Service priority.
- 275-25-340 Funding formula—Alcoholism.
- 275-25-810 Drug abuse services.
- 275-25-840 Funding formulae.

**WSR 93-15-014  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(General Provisions)**

[Order 3590—Filed July 8, 1993, 4:34 p.m.]

Date of Adoption: July 8, 1993.

**Purpose:** New chapter 440-25 WAC is established and repeals chapter 275-25 WAC. These rules describe how the Division of Alcohol and Substance Abuse operates in its planning and contractual relationship with the counties of Washington. The process in planning and contracting for services reflects current process agreements arrived at from negotiations with counties.

**Statutory Authority for Adoption:** Chapters 34.05 and 70.96A RCW, RCW [70.96A.]020, [70.96A.]040, [70.96A.]080, [70.96A.]090, [70.96A.]180, [70.96A.]300, [70.96A.]310, and [70.96A.]320.

**Other Authority:** P.L. 102-234.

Pursuant to notice filed as WSR 93-11-052 on May 12, 1993.

**Changes Other than Editing from Proposed to Adopted Version:** Last sentence of WAC 440-25-070(2) is removed which begins with "The department may not allocate more than nine percent of these funds for department administration."

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

July 8, 1993

Rosemary Carr

Acting Director

Administrative Services

**Chapter 440-25 WAC  
ADMINISTRATION OF CHEMICAL DEPENDENCY  
SERVICES**

**NEW SECTION**

**WAC 440-25-005 Purpose.** Rules relating to planning, contracting, and provision of chemical dependency services through counties adopted under the authority and purposes of chapter 70.96A RCW, the comprehensive law on Treatment for Alcoholism, Intoxication and Drug Addiction.

**NEW SECTION**

**WAC 440-25-010 Definitions.** (1) "Act" means chapter 70.96A RCW as now and hereafter amended.

(2) "Chemical dependency" means alcoholism or drug addiction, or dependence on alcohol and one or more other psychoactive chemicals.

(3) "County" means each county or two or more counties acting jointly.

(4) "County alcoholism and other drug addiction program coordinator" means a person appointed by the county legislative authority as the chief executive officer responsible for carrying out the duties under chapter 70.96A RCW.

(5) "Department" means the department of social and health services.

(6) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug

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addiction program coordinator to perform the involuntary commitment duties under chapter 70.96A RCW.

(7) "Plan" means the document describing a coordinated continuum of prevention and treatment services a county submits to the department for review and approval under the act; or revision of an existing plan.

#### NEW SECTION

##### **WAC 440-25-020 County alcohol and other drug addiction program coordinator—Qualification standards.**

(1) The chief executive officer of the county alcoholism and other drug addiction program shall be the county alcoholism and other drug addiction program coordinator. A person appointed to the position of county alcohol and other drug addiction program coordinator shall possess the following minimum qualifications:

(a) Minimum B.A. degree in public administration, social sciences, human services, or a related field. Equivalent experience may be substituted for post-secondary education on a year-for-year basis;

(b) Minimum four years of professional level experience in the administration of social and/or human services programs;

(c) Demonstrated knowledge of chemical dependency; and

(d) Demonstrated knowledge of prevention strategies and treatment approaches used in combating chemical dependency.

(2) Each county shall maintain a current job description for the county alcohol and other drug addiction program coordinator on file.

(3) Grandparenting. The department shall consider a person appointed and employed as county alcohol and other drug addiction program coordinator before January 1, 1994, as having met all requirements listed under this chapter and qualified as the coordinator.

#### NEW SECTION

**WAC 440-25-030 County alcohol and other drug addiction program coordinator—Duties.** The county alcoholism and other drug addiction program coordinator shall:

(1) Provide general supervision over the county alcoholism and other drug addiction program;

(2) Prepare plans and applications for funds to support the alcoholism and other drug addiction program in consultation with the county alcoholism and other drug addiction board;

(3) Monitor the delivery of services to assure conformance with plans and contracts and, at the discretion of the board, but at least annually, report to the alcoholism and other drug addiction board the results of the monitoring;

(4) Provide staff support to the county alcoholism and other drug addiction board;

(5) Designate the county designated chemical dependency specialist to perform the commitment duties under RCW 70.96A.140;

(6) Keep record of who has been designated; and

(7) Advise the department, county courts, law enforcement agencies, hospitals, chemical dependency programs, and other local health care and service agencies in the

county as to who has been designated to provide involuntary commitment duties.

#### NEW SECTION

**WAC 440-25-040 County-designated chemical dependency specialist—Duties.** (1) A person designated as a county-designated chemical dependency specialist shall meet the following minimum standards:

(a) Two years of full-time paid experience as a chemical dependency counselor and qualified as such under WAC 275-19-145, as now or hereafter amended;

(b) Demonstrated knowledge of the laws regarding the involuntary commitment of chemically dependent adolescents and adults;

(c) Demonstrated knowledge and skills in crisis response and chemical dependency intervention counseling for adolescents and adults;

(d) Demonstrated ability to assess the extent and severity of chemical dependency in adults and adolescents;

(e) Demonstrated knowledge and skills in differential assessment of the mentally ill and chemically addicted clients; and

(f) Demonstrated knowledge of the resources available for the emergency custody and treatment of civilly detained and committed adolescents and adults.

(2) Grandparenting. The department shall consider a person designated and employed as the county designated chemical dependency specialist before January 1, 1994, as having met all of the requirements listed under this chapter and qualified as a specialist.

#### NEW SECTION

##### **WAC 440-25-050 Plan development and submission.**

(1) Before July 1, in the odd year of each biennium, the department shall negotiate with and submit to counties the biennial strategic plan guidelines.

(2) In the odd year of each biennium, the department shall submit to counties by:

(a) July 1, needs assessment data; and

(b) December 1, updated needs assessment data.

(3) Before April 1, of the even year of each biennium, each county shall submit to the department a written strategic plan for chemical dependency prevention and treatment services. The county's strategic plan shall be in the form and manner prescribed by the department in the written guidelines. Each county's plan shall include:

(a) An evaluation of progress in meeting the work statement in the current contract;

(b) A prioritized description of service needs; and

(c) Such other information as the department may require in the written guidelines.

(4) Within sixty days of receipt of the county's written plan, the department shall acknowledge receipt, review the plan, and notify the county of any errors and omissions in meeting minimum plan requirements.

(5) Within thirty days after receipt, each county shall submit a response to the department's review when errors and omissions have been identified by the department.

(6) Before December 15 of the even year of each biennium, the department shall announce the amount of funds included in the department's biennial budget request

to each county. The department shall announce the actual amount of funds appropriated and available to each county as soon as possible after final passage of the Biennial Appropriations Act.

(7) Each county shall submit to the department a tactical plan and contract proposal within sixty days of the announcement by the department of the actual amount of funds appropriated and available for the new biennium. The county shall submit the tactical plan and contract proposal in the form and manner prescribed by the department in written guidelines. Each county's proposal shall include:

(a) A listing of a planned, coordinated continuum of prevention and treatment program services, anticipated service volumes, and other activities undertaken during the period covered by the proposed contract;

(b) The methods for administering the various program components and services, including how subcontractors are selected, if any;

(c) The methods for assuring service quality control; and

(d) Such other information as the department may require in the written guidelines.

(8) The department shall review the county's tactical plan within thirty days of receipt and notify the county of any errors or omissions in meeting the tactical plan requirements.

(9) The department shall notify the county of final acceptance of the tactical plan upon receipt of any corrections or additions required by its initial review.

(10) The department may modify deadlines for submission of county plans, contract proposals and responses to reviews of plans and contract proposals when, in the department's judgment, the modification enables the county to improve the program or planning process.

(11) The department may authorize the county to:

(a) Continue providing services according to the previous county plan and contract; and

(b) Reimburse at the average level of the previous contract, in order to continue services until the department executes the new contract.

#### NEW SECTION

**WAC 440-25-060 Service priority.** The county strategic and tactical plans and subsequent contracted services for the provision of county chemical dependency prevention and treatment services shall give priority to populations according to department mandated priorities. The department shall advise the county of mandated priorities in plan guidelines.

#### NEW SECTION

**WAC 440-25-070 Funding formula.** (1) For the purposes of this section, "county" means the legal subdivision of the state, regardless of any agreement between two counties.

(2) Of the state funds appropriated by the legislature for chemical dependency services, the department may allocate funds for state-wide services, special projects, and emergency needs.

(3) The department shall allocate the remainder of funds to the counties through funding formulas jointly developed with representatives of the counties, that carry out the intent

of the federal and state legislated appropriations including any budget provisos.

(4) Of the funds allocated to the counties for chemical dependency prevention, treatment, and support services, the county may use not more than ten percent for county administration.

#### NEW SECTION

**WAC 440-25-080 Contracting.** (1) The department and each county shall negotiate and execute a county contract before the department provides reimbursement for services provided by the county, except as provided under WAC 440-25-050(11).

(2) The department shall not execute a county contract until the department receives the county's tactical plan and the department accepts the plan as described under WAC 440-25-050(9).

#### NEW SECTION

**WAC 440-25-090 Subcontracting.** (1) A county may subcontract with service providers for the performance of any of the services specified in the tactical plan and contract.

(2) In selecting a subcontractor, the county shall consider, at a minimum:

(a) The quality of service delivery performance provided in the past by the provider;

(b) The cost of services proposed by the provider;

(c) The accessibility to the provider's services; and

(d) The appropriateness of the services to be provided to the diversity of recipients.

(3) Each county's subcontract shall include:

(a) A precise and definitive work statement including a description of the services provided;

(b) Specific agreement by the subcontractor to abide by relevant laws and regulations;

(c) Specific authority for the department and the state auditor to inspect all records and other material the department deems pertinent to the subcontract; and

(d) Agreement by the subcontractor that such records will be made available for inspection;

(e) Specific authority for the county and the department to make periodic inspection of the subcontractor's program or premises in order to evaluate performance under the contract between the department and the county; and

(f) Specific agreement by the subcontractor to provide such program and fiscal data as the county and department may reasonably require.

(2) The department may withhold all or part of subsequent monthly disbursement to the county if the department receives evidence a county or subcontractor performing under the contract is:

(a) Not in compliance with chapters 70.96A and 74.50 RCW, and chapters 275-19 and 388-40 WAC; or

(b) Not in substantial compliance with the contract; or

(c) Unable or unwilling to provide such records or data as the department may reasonably require. The department may withhold disbursements until such time as satisfactory evidence of corrective action is forthcoming. Such withholding or denial of funds shall be subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

NEW SECTION

**WAC 440-25-100 Payments.** (1) A county and a subcontractor receiving state and federal funds shall comply with all applicable laws or regulations governing the department's approval of payment of funds for the programs.

(2) The department shall not pay a county for costs of treatment services provided by the county or other person or organization who or which was not licensed, certified, or approved as described under chapter 70.96A RCW.

(3) The department shall make payments to a county on the basis of vouchers submitted to the department for costs incurred under the contract. The department shall specify the form and content of the vouchers.

(4) The department may make advance payments to a county, where such payments would facilitate sound program management. The department shall withhold advance payments from a county failing to meet WAC 440-25-050 requirements until such requirements are met. Any county failing to meet WAC 440-25-050 requirements after advance payments have been made shall repay said advance payment within thirty days of notice by the department that the county is not in compliance.

(5) The department may withhold all or part of subsequent monthly disbursement to the county until such time as satisfactory evidence of corrective action is forthcoming when the department receives evidence a county or subcontractor performing under the contract is not:

(a) In compliance with applicable state law or rule; or

(b) In substantial compliance with the contract; or

(c) Able or not willing to provide such records or data as the department may require. The department's withholding or denial of funds shall be subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

(6) The department may impose to the county such fiscal and program reporting requirements as deemed necessary for effective program management.

(7) Failure to comply with any of these rules shall be cause for the department to refuse to provide the county and any subcontractors funds under the contract.

NEW SECTION

**WAC 440-25-110 Appeal procedure.** (1) The provider may appeal for a hearing according to appeal procedures established by the county governing body when making application to participate in a county program operated under authority of chapter 70.96A RCW, when the provider is dissatisfied with the disposition of its application.

(2) A county governing body or the county's designee shall review the appeal and notify the provider of its disposition within thirty days after the county receives the appeal.

(3) A county dissatisfied with the department's disposition of the county plan may request an administrative review.

(4) A county's request for administrative review shall:

(a) Be in writing to the appropriate program office within the department;

(b) Specify the date of the appealed decision;

(c) Clearly specify the issue to be resolved by the review;

(d) Be signed by, and include the address of, the county or the county's representative; and

(e) Be made within thirty days of notification of the decision.

(5) The department shall provide a county an administrative review and redetermination within thirty days of the submission of the request for review, with written confirmation of the findings and the reasons for the findings forwarded to the county.

(6) A county dissatisfied with the finding of an administrative review may initiate proceedings under the Administrative Procedure Act (chapter 34.05 RCW).

NEW SECTION

**WAC 440-25-120 Exemptions.** (1) The department may grant an exemption to a specific rule in this chapter provided the department's assessment of the exemption request:

(a) Ensures the exemption shall not undermine the legislative intent of chapter 70.96A RCW; and

(b) Shows granting the exemption shall not adversely affect the quality of the services, supervision, health, and safety of department-served persons.

(2) The county coordinator shall retain a copy of each department-approved exemption.

**WSR 93-15-019**  
**PERMANENT RULES**  
**LOTTERY COMMISSION**  
[Filed July 9, 1993, 12:47 p.m.]

Date of Adoption: July 9, 1993.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 101 ("Top Banana"), 102 ("Mistledough"), 103 ("Lucky Duck"), 104 ("Money Match"), and 105 ("Cash Cards"); to update the chapter on the lottery's administrative hearings procedures; and to repeal rules for games 40 through 59.

Citation of Existing Rules Affected by this Order: Repealing WAC 315-11-400 through 315-11-592, 315-20-070, 315-20-080, 315-20-090, 315-20-100, 315-20-110, 315-20-120, 315-20-130, 315-20-140, and 315-20-150.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 93-12-104 on June 1, 1993.

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

July 9, 1993  
Evelyn P. Yenson  
Director

NEW SECTION

**WAC 315-11A-101 Instant Game Number 101 ("Top Banana").** (1) Definitions for Instant Game Number 101.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with

and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 101, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$50.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 101, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 50.00	\$FIFTY\$
\$ 5,000	FIVTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10100001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 101 constitute the "pack number" which starts at 10100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 101, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
TWO	\$ 2.00 (\$1 AND \$1)
THR	\$ 3.00 (\$1, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$8)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8, \$4 AND \$4)

(h) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 101.

(a) The price of each instant game ticket shall be \$1.00.

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

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

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

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 101 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 101; and/or

(ii) Vary the number of tickets sold in Instant Game Number 101 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 101.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 101 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each

of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-102 Instant Game Number 102 ("Mistledough").** (1) Definitions for Instant Game Number 102.

(a) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$7.00"; "\$19.00"; "\$40.00"; "\$80.00"; and "\$1,000." One of these play symbols appears in each of the nine play spots under the latex covering on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 102, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 19.00	NINTEEN
\$ 40.00	\$FORTY\$
\$ 80.00	\$EIGHTY
\$ 1,000	ONETHOU

(c) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(d) Pack-ticket number: The eleven-digit number of the form 10200001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 102 constitute the "pack number" which starts at 10200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(e) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 102, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00

FOR	\$ 4.00
SVN	\$ 7.00
NNT	\$19.00

(f) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 102.

(a) The price of each instant game ticket shall be \$1.00.

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

The bearer of a ticket having the following play symbols in any three of the nine spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 1.00	play symbols - Win	\$ 1.00
Three \$ 2.00	play symbols - Win	\$ 2.00
Three \$ 4.00	play symbols - Win	\$ 4.00
Three \$ 7.00	play symbols - Win	\$ 7.00
Three \$ 19.00	play symbols - Win	\$ 19.00
Three \$ 40.00	play symbols - Win	\$ 40.00
Three \$ 80.00	play symbols - Win	\$ 80.00
Three \$ 1,000	play symbols - Win	\$ 1,000

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

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 102 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 102; and/or

(ii) Vary the number of tickets sold in Instant Game Number 102 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 102.

(a) A valid instant game ticket for Instant Game Number 102 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations.

(i) Exactly one play symbol must appear in each of the nine play spots under the removable latex covering on the front of the ticket.

(ii) Each of the nine play symbols must have a caption below it, and each must agree with its caption.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

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(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the captions must be exactly one of those described in subsection (1)(b) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10300001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 103 constitute the "pack number" which starts at 10300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 103, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

**NEW SECTION**

**WAC 315-11A-103 Instant Game Number 103 ("Lucky Duck").** (1) Definitions for Instant Game Number 103.

(a) Play symbols: The following are the "play symbols": "0," "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 103, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
0	ZRO
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$50.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 103, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 50.00	\$FIFTY\$
\$ 5,000	FIVTHOU

VERIFICATION CODE	PRIZE
ONE	\$ 1.00 (\$1)
TWO	\$ 2.00 (\$1 AND \$1)
FOR	\$ 4.00 (\$2, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$4, \$2 AND \$2)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8 AND \$8)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 103.

(a) The price of each instant game ticket shall be \$1.00.

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

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

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

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 103 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 103; and/or

(ii) Vary the number of tickets sold in Instant Game Number 103 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 103.

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(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 103 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-104 Instant Game Number 104 ("Money Match").** (1) Definitions for Instant Game Number 104.

(a) Play symbols: The following are the "play symbols": "0," "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 104, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZRO
1	ONE

2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$7.00," "\$50.00," "\$500.00," and "\$10,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 104, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 7.00	SVN DOL
\$ 50.00	\$FIFTY\$
\$ 500.00	FIVHUN
\$ 10,000	TENTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10400001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 104 constitute the "pack number" which starts at 10400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 104, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1)
SVN	\$ 7.00 (\$2, \$2, \$2 AND \$1; \$7)
ELV	\$ 11.00 (\$7, \$2 AND \$2)
TTN	\$ 21.00 (\$7, \$7 AND \$7)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 104.

(a) The price of each instant game ticket shall be \$1.00.

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

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching

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play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

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

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 104 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 104; and/or

(ii) Vary the number of tickets sold in Instant Game Number 104 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 104.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 104 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

**WAC 315-11A-105 Instant Game Number 105 ("Cash Cards").** (1) Definitions for Instant Game Number 105.

(a) Play symbols: The following are the "play symbols": "A," "K," "Q," "J," "10," "9," and "8." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 105, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
A	ACE
K	KNG
Q	QUE
J	JAC
10	TEN
9	NIN
8	EGT

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$40.00," and "\$8,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 105, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 40.00	\$FORTY\$
\$ 8,000	EGTTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10500001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 105 constitute the "pack number" which starts at 10500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify

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instant winners of \$25.00 or less. For Instant Game Number 105, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
EGT	\$ 8.00 (\$4, \$2 AND \$2; \$4 AND \$4; \$8)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8 AND \$8)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 105.

(a) The price of each instant game ticket shall be \$1.00.

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

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

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

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 105 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 105; and/or

(ii) Vary the number of tickets sold in Instant Game Number 105 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 105.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 105 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file

with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

**WAC 315-20-005 Adjudicative proceedings— Authority—Office of administrative hearings rules adopted.** (1) Washington state lottery adjudicative proceedings are conducted under the authority of chapter 34.05 RCW, the Washington Administrative Procedure Act, and chapter 67.70 RCW, the Washington State Lottery Act.

(2) Chapter 10-08 WAC as periodically amended, rules of the office of administrative hearings is hereby adopted for the administration of lottery adjudicative proceedings. The lottery commission may adopt additional rules, pursuant to applicable rule making procedures, pertaining to adjudicative proceedings.

NEW SECTION

**WAC 315-20-075 Adjudicative proceedings— Subpoenas—Discovery.** (1) The presiding officer may issue subpoenas to persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums, or other records deemed relevant or material and the presiding officer may issue protective orders all as a part of an adjudicative proceeding. The agency or its legal representative may issue subpoenas as may the attorney of the party against whom action is taken. All subpoenas must be filed with the presiding officer, together with proof of proper service, at least five days prior to the date of the hearing for which they are issued. Such subpoenas will issue and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120.

(2) The presiding officer, upon motion or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued

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of the reasonable cost of producing the books, papers, documents, or tangible things.

(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.

#### NEW SECTION

**WAC 315-20-085 Adjudicative proceedings—Depositions and interrogatories—Right to take.** Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding. The deposition of a commissioner, the director, or the deputy director, may be taken only upon application to the presiding officer, for good cause shown and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

#### NEW SECTION

**WAC 315-20-095 Adjudicative proceedings—Depositions and interrogatories—Notice.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than seven days in writing to all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party on whom the notice is served, the presiding officer may, for good cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

#### NEW SECTION

**WAC 315-20-105 Depositions and interrogatories in adjudicative proceedings—Protection of parties and deponents.** (1) After notice is served for taking a deposition, upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that the presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

(2) At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the hearing officer may order

the party conducting the examination to cease forthwith from taking the deposition as above provided.

(3) If the order made terminates the examination, it shall be resumed only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

#### NEW SECTION

**WAC 315-20-115 Production of documents and use at an adjudicative proceeding.** (1) Upon request by any party to the adjudicative proceeding, copies of all materials to be presented at the adjudicative proceeding shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When exhibits of a documentary character are to be offered into evidence at the hearing, the party offering the exhibit shall provide a minimum of two copies, one for the opposing party and one for the presiding officer.

(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-11-400	Definitions for Instant Game Number 40 ("Double Header").
WAC 315-11-401	Criteria for Instant Game Number 40.
WAC 315-11-402	Ticket validation requirements for Instant Game Number 40.
WAC 315-11-410	Definitions for Instant Game Number 41 ("Three of a Kind").
WAC 315-11-411	Criteria for Instant Game Number 41.
WAC 315-11-412	Ticket validation requirements for Instant Game Number 41.
WAC 315-11-420	Definitions for Instant Game Number 42 ("Zodiac").
WAC 315-11-421	Criteria for Instant Game Number 42.
WAC 315-11-422	Ticket validation requirements for Instant Game Number 42.
WAC 315-11-430	Definitions for Instant Game Number 43 ("7-11-21").
WAC 315-11-431	Criteria for Instant Game Number 43.
WAC 315-11-432	Ticket validation requirements for Instant Game Number 43.
WAC 315-11-440	Definitions for Instant Game Number 44 ("Money Tree").
WAC 315-11-441	Criteria for Instant Game Number 44.
WAC 315-11-442	Ticket validation requirements for Instant Game Number 44.

WAC 315-11-450	Definitions for Instant Game Number 45 ("Pot O' Gold").	WAC 315-11-550	Definitions for Instant Game Number 55 ("Jackpot").
WAC 315-11-451	Criteria for Instant Game Number 45.	WAC 315-11-551	Criteria for Instant Game Number 55.
WAC 315-11-452	Ticket validation requirements for Instant Game Number 45.	WAC 315-11-552	Ticket validation requirements for Instant Game Number 55.
WAC 315-11-460	Definitions for Instant Game Number 46 ("Big Wheel").	WAC 315-11-560	Definitions for Instant Game Number 56 ("Silver Bells").
WAC 315-11-461	Criteria for Instant Game Number 46.	WAC 315-11-561	Criteria for Instant Game Number 56.
WAC 315-11-462	Ticket validation requirements for Instant Game Number 46.	WAC 315-11-562	Ticket validation requirements for Instant Game Number 56.
WAC 315-11-470	Definitions for Instant Game Number 47 ("Fabulous Fifties").	WAC 315-11-570	Definitions for Instant Game Number 57 ("Treasure Island").
WAC 315-11-471	Criteria for Instant Game Number 47.	WAC 315-11-571	Criteria for Instant Game Number 57.
WAC 315-11-472	Ticket validation requirements for Instant Game Number 47.	WAC 315-11-572	Ticket validation requirements for Instant Game Number 57.
WAC 315-11-480	Definitions for Instant Game Number 48 ("Black Jack").	WAC 315-11-580	Definitions for Instant Game Number 58 ("Photo Finish").
WAC 315-11-481	Criteria for Instant Game Number 48.	WAC 315-11-581	Criteria for Instant Game Number 58.
WAC 315-11-482	Ticket validation requirements for Instant Game Number 48.	WAC 315-11-582	Ticket validation requirements for Instant Game Number 58.
WAC 315-11-490	Definitions for Instant Game Number 49 ("Play it Again").	WAC 315-11-590	Definitions for Instant Game Number 59 ("Lucky Draw").
WAC 315-11-491	Criteria for Instant Game Number 49.	WAC 315-11-591	Criteria for Instant Game Number 59.
WAC 315-11-492	Ticket validation requirements for Instant Game Number 49.	WAC 315-11-592	Ticket validation requirements for Instant Game Number 59.
WAC 315-11-500	Definitions for Instant Game Number 50 ("Wall Street").		
WAC 315-11-501	Criteria for Instant Game Number 50.		
WAC 315-11-502	Ticket validation requirements for Instant Game Number 50.		
WAC 315-11-510	Definitions for Instant Game Number 51 ("Double Dough").		
WAC 315-11-511	Criteria for Instant Game Number 51.		
WAC 315-11-512	Ticket validation requirements for Instant Game Number 51.		
WAC 315-11-520	Definitions for Instant Game Number 52 ("Grand Slam").		
WAC 315-11-521	Criteria for Instant Game Number 52.		
WAC 315-11-522	Ticket validation requirements for Instant Game Number 52.		
WAC 315-11-530	Definitions for Instant Game Number 53 ("Aces Wild").		
WAC 315-11-531	Criteria for Instant Game Number 53.		
WAC 315-11-532	Ticket validation requirements for Instant Game Number 53.		
WAC 315-11-540	Definitions for Instant Game Number 54 ("Two for the Money").		
WAC 315-11-541	Criteria for Instant Game Number 54.		
WAC 315-11-542	Ticket validation requirements for Instant Game Number 54.		

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 315-20-070	Depositions in contested cases—Right to take.
WAC 315-20-080	Official notice—Material facts.
WAC 315-20-090	Form and content of decisions in contested cases and proposed orders.
WAC 315-20-100	Petitions for rule making, amendments or repeal—Who may petition.
WAC 315-20-110	Petitions for rule making, amendments or repeal—Requisites.
WAC 315-20-120	Petitions for rule making, amendments or repeal—Agency must consider.
WAC 315-20-130	Petitions for rule making, amendments or repeal—Notice of disposition.
WAC 315-20-140	Declaratory rulings.
WAC 315-20-150	Forms.

**WSR 93-15-023**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed July 12, 1993, 1:00 p.m.]

Date of Adoption: July 7, 1993.

Purpose: To put into rule form the provision for exemption of increased tax payments which were adopted in chapter 492, Laws of 1993, as they apply to malt liquor (beer). (Adopting as permanent, an emergency rule adopted previously.)

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-12-116 on June 2, 1993.

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

July 12, 1993  
 Paula O'Connor  
 Chairman

**NEW SECTION**

**WAC 314-20-180 Partial beer tax exemption.** (1) The additional beer taxes imposed under RCW 66.24.290 (4)(a) shall not apply to the sale of the first sixty thousand barrels of beer in Washington each fiscal year beginning July 1, 1993, for beer produced in the United States if the producing brewery meets the qualifications of 26 U.S.C. Sec. 5051 (a)(2).

(2) In order to qualify for the exemption provided for in sub-section (1), it shall be the responsibility of the licensed Washington brewer and/or the out-of-state beer certificate of approval holder to provide the board with a copy of a Bureau of Alcohol, Tobacco and Firearms (BATF) acknowledged copy of their filing "Notice of Brewer to Pay Reduced Rate of Tax" for the calendar year as required under 27 C.F.R. Sec. 25.167.

(3) The BATF acknowledged copy of the "Notice of Brewer to Pay Reduced Rate of Tax" must be on file with the board prior to June 1 in order to qualify for the tax exemption beginning on July 1 of each year. If proof of eligibility is not received prior to June 1, the tax exemption will not apply until the first day of the second month following the month notice is received.

**WSR 93-15-024**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed July 12, 1993, 1:03 p.m.]

Date of Adoption: July 7, 1993.

Purpose: To make corrections to clerical errors made in previous filings which have resulted in code reviser notes being entered on permanent record.

Citation of Existing Rules Affected by this Order: Amending WAC 314-12-020.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-12-117 on June 2, 1993.

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

July 12, 1993  
 Paula O'Connor  
 Chairman

**AMENDATORY SECTION** (Amending WSR 90-24-007, filed 11/27/90, effective 12/28/90)

**WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.** (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance or transfer of any annual license, fingerprinting (~~((and criminal history record))~~) and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible (~~((for issuance of a license under RCW 66.24.010(2) shall also cease to be eligible))~~) for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) An applicant for any license or permit issued by the liquor control board (~~((who employs an attorney or agent in connection with an application))~~), who employs an attorney or agent in connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received (~~((shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received))~~) shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.

(5) The board, in considering an application for a license, may require, in addition to all other information

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requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

(6) The board may, at its discretion and for good cause shown, reconsider a denied application upon receipt of new information within sixty days of the original (~~denial~~) denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration.

**WSR 93-15-025**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed July 12, 1993, 1:05 p.m.]

Date of Adoption: July 7, 1993.

Purpose: Specifies the type of container which may be used by a licensee to fill a request by a purchaser for malt liquor for off-premises consumption.

Citation of Existing Rules Affected by this Order: Amending WAC 314-16-090.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-12-118 on June 2, 1993.

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

July 12, 1993  
 Paula O'Connor  
 Chairman

AMENDATORY SECTION (Amending Order 19, filed 8/10/72)

**WAC 314-16-090 Bottles and containers—Reuse.**

(1) No Class H licensee shall reuse, refill or tamper with any bottle of spiritous liquor, nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to, the contents of any bottle of spiritous liquor.

(2) No retail licensee shall (~~refill~~) fill a jug, bottle or other container with (~~unpasteurized~~) beer while such jug, bottle or other container bears (~~the label or name of any brand of beer or of any brewer, wholesaler or bottler~~) any identification or marking which would mislead the purchaser about the identity of the contents of the container.

(3) Every jug, bottle or other container a retail licensee fills for off-premise consumption must:

(a) Be capable of being sealed; and

(b) Be capable of holding a minimum of 750 ml (25.4 ounces) of liquid and may not hold more than 15 liters (or 4 gallons or 512 ounces) of any beer.

**WSR 93-15-026**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed July 12, 1993, 1:07 p.m.]

Date of Adoption: July 7, 1993.

Purpose: Incorporates chapter 21, Laws of 1993 into WAC 314-16-250 pertaining to sale of malt liquor in containers which are subject to keg registration requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 314-16-250.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-12-119 on June 2, 1993.

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

July 12, 1993  
 Paula O'Connor  
 Chairman

AMENDATORY SECTION (Amending WSR 91-19-070, filed 9/16/91, effective 10/17/91)

**WAC 314-16-250 Retail sale of malt liquor in kegs.**

(1) Licensees holding a Class A or B license in combination with a Class E license may sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid.

(2) Licensees holding a Class E license may sell malt liquor in kegs or other containers capable of holding four gallons or more, but less than five and one-half gallons of malt liquor.

(3) Any licensee who sells or offers for sale kegs or other containers holding four gallons or more of malt liquor to consumers for off-premises consumption who are not licensed under chapter 66.24 RCW shall require the purchaser to:

(a) Provide one piece of identification pursuant to RCW 66.16.040.

(b) Sign a sworn statement, contained on the keg registration declaration and receipt form, under penalty of perjury that:

(i) The purchaser is of legal age to purchase, possess(~~fill~~), or use malt liquor;

(ii) The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;

(iii) The purchaser will not remove, obliterate, or allow to be removed or obliterated, the keg registration declaration and receipt form affixed to the container.

(c) State the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located.

~~((2))~~ (4) The keg registration declaration and receipt forms shall be provided by the board to licensees holding a Class A or B license in combination with the Class E license. Licensees holding a Class E license must purchase the keg registration declaration and receipt forms from the board at the board's costs of providing the forms. Forms will be sold to Class E licensees upon receipt of a request and payment in the form of a check or money order for the proper amount.

(5) The keg registration declaration and receipt form provided by the board must be properly completed for sales of kegs for off-premises consumption.

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(a) The form shall contain:

(i) The name and address of the purchaser~~((f;h;-))~~.

(ii) The type and number of the identification presented by the purchaser pursuant to RCW 66.16.040~~((f;h;-))~~.

(iii) A sworn statement, signed by the purchaser under penalty of perjury, that the purchaser is twenty-one years of age or older; will not allow persons under twenty-one years of age to consume the malt liquor purchased; and that ~~((the))~~ the purchaser will not remove or obliterate the keg registration tag affixed to the keg or allow its removal or obliteration.

(iv) The particular address where the malt liquor will be consumed, and the date on which it will be consumed.

(b) Where the purchaser obtains more than one keg for off-premises consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed keg registration and declaration receipt.

~~((3))~~ (6) The seller shall comply with all provisions of the keg registration law as ~~((provided) [adopted] in sections 229 through 234 chapter 271, Laws of 1989))~~ codified in RCW 66.28.200, 66.28.210, 66.28.220, 66.28.230, and 66.28.240 including provisions adopted in chapter 21, Laws of 1993.

~~((4))~~ (7) For the purpose of tracing the kegs and purchaser responsibility it shall be the responsibility of the seller to affix the properly completed and signed keg registration declaration and receipt form to all containers of four gallons or more of malt liquor prior to the container leaving the premises of the seller.

~~((5))~~ (8) The licensee must retain a copy of the keg registration declaration and receipt, which shall be retained on the licensed premises for a period of one year unless otherwise authorized in writing by the board. The records shall be available for inspection and copying by any liquor enforcement officer or other law enforcement officer.

~~((6))~~ (9) The keg registration declaration and receipt affixed to the keg may serve as the purchaser's receipt.

~~((7))~~ (10) Kegs or other containers holding four gallons or more of malt liquor shall be purchased for off-premises consumption only from an authorized retail source and shall, at all times, have a properly completed keg registration declaration and receipt form affixed thereon when sold for off-premises consumption. Possession of a keg or other container which holds four gallons or more of malt liquor, other than on the seller's premises, without a properly completed keg registration and declaration form either affixed thereon or in possession of the person with the keg(s) shall be a violation of this title.

**WSR 93-15-027**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
[Filed July 12, 1993, 1:09 p.m.]

Date of Adoption: July 7, 1993.

Purpose: Sets forth specific procedures to pursue when new applicants are issued a liquor license and deletes requirement for applicants to take a test before receiving a license.

Citation of Existing Rules Affected by this Order: Amending WAC 314-12-015.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-12-120 on June 2, 1993.

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

July 12, 1993

Paula O'Connor

Chairman

AMENDATORY SECTION (Amending WSR 92-14-024, filed 6/22/92, effective 7/23/92)

~~WAC 314-12-015 ((Applicant certification for a license))~~ Receipt of liquor laws/rules summary. ~~((4))~~ Upon ~~((making application for))~~ issuance of a liquor license ~~((as authorized by))~~ under chapter 66.24 RCW, ~~((and prior to the board considering such license application,))~~ every ~~((applicant))~~ licensee shall ~~((take a test on forms prescribed by the board))~~ be issued a guide on liquor laws, regulations, and other pertinent information. ~~((The test shall be of the applicants' knowledge of liquor laws))~~ Every licensee or designee of a licensee shall be required to sign a form provided by the board acknowledging receipt of the guide. The ~~((passing of such test is a certification))~~ issuance of the guide to the licensee and the receipt of the licensee's signed acknowledgement signifies that the ~~((applicant has a))~~ licensee is aware of the basic ~~((knowledge of))~~ liquor law requirements and is able to operate their liquor business in such a fashion as to protect the public health, welfare and safety.

~~((a) If the applicant is a sole proprietor, the sole proprietor must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.~~

~~((b) If the applicant is a partnership, all general partners must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.~~

~~((c) If the applicant is a corporation, the corporate president or designee must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.))~~

**WSR 93-15-035**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-392, Docket No. T-921165—Filed July 13, 1993, 1:42 p.m.]

In the matter of amending WAC 480-12-083, 480-30-015, 480-40-015 and 480-70-055 relating to material adopted by reference.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-11-099, filed with the code reviser on May 19, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-11-099, for 9:00 a.m., Wednesday, July 7, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until June 18, 1993. No interested person submitted comments.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on July 7, 1993, before Chairman Sharon L. Nelson, Commissioner Richard D. Casad and Commissioner Richard Hemstad. Written and oral comments were presented by Cathie Anderson on behalf of the commission staff. The proposals would identify certain documents that are adopted by reference in pertinent chapters of the Washington Administrative Code and state where the documents may be viewed and obtained. After considering the comments, the commission adopted the rule as proposed.

In reviewing the entire record, the commission determines that WAC 480-12-083, 480-30-015, 480-40-015 and 480-70-055 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

#### ORDER

THE COMMISSION ORDERS That WAC 480-12-083, 480-30-015, 480-40-015 and 480-70-055 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 12th day of July, 1993.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
Richard Hemstad, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order R-355, Docket No. TV-900483, filed 12/18/91, effective 1/18/92)

**WAC 480-12-083 Adoption by reference defined.** Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" (~~(shall be that)~~) published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on February 15, ((1994)) 1993.

(2) "Title 49 Code of Federal Regulations" (~~(shall be the rules and)~~), cited as 49 CFR, includes the regulations ((as well as and including)) and all appendices and amendments in effect on May 1, ((1994)) 1993.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-357, Docket No. TC-900481, filed 12/31/91, effective 1/31/92)

**WAC 480-30-015 Adoption by reference defined.** Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" (~~(shall be that)~~) published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on February 15, ((1994)) 1993.

(2) "Title 49 Code of Federal Regulations" (~~(shall be the rules and)~~), cited as 49 CFR, includes the regulations ((as well as)) and ((including)) all appendices and amendments in effect on May 1, ((1994)) 1993.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-357, Docket No. TC-900481, filed 12/31/91, effective 1/31/92)

**WAC 480-40-015 Adoption by reference defined.** Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" (~~(shall be that)~~) published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on February 15, ((1994)) 1993.

(2) "Rules and regulations adopted by the United States Department of Transportation in Title 49 Code of Federal Regulations" (~~(shall be)~~), cited as 49 CFR, includes the ((rules and)) regulations ((as well as)) and ((including)) all appendices and amendments in effect on May 1, ((1994)) 1993.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

**AMENDATORY SECTION** (Amending Order R-356, Docket No. TG-900482, filed 12/31/91, effective 1/31/92)

**WAC 480-70-055 Adoption by reference defined.** Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" ~~((shall be that))~~ published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on February 15, ((1991)) 1993.

(2) "Title 49 Code of Federal Regulations" ~~((or "C.F.R. 49" shall mean))~~, cited as 49 CFR, includes the ~~((rules and))~~ regulations ~~((as well as))~~ and ~~((including))~~ all appendices and amendments in effect on May 1, ~~((1991)) 1993.~~

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

**WSR 93-15-036  
PERMANENT RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-391, Docket No. TV-921164—Filed July 13, 1993, 1:44 p.m.]

In the matter of amending WAC 480-12-010 and 480-12-285 relating to the cost of rule books and WUTC published tariffs.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-11-098, filed with the code reviser on May 19, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-11-098, for 9:00 a.m., Wednesday, July 7, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until June 18, 1993. No interested person submitted written comments.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on July 7, 1993, before Chairman Sharon L. Nelson, Commissioner Richard D. Casad and Commissioner Richard Hemstad. Written and oral comments were made by Cathie Anderson on behalf of the commission staff. The proposal would specify that the price of rule books and published tariffs be set by commission order based on the cost of production. After considering the written and oral comment, the commission adopted the rule, as proposed.

In reviewing the entire record, the commission determines that WAC 480-12-010 and 480-12-285 should be

amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

**ORDER**

THE COMMISSION ORDERS That WAC 480-12-285 and 480-12-010 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 12th day of July, 1993.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
Richard Hemstad, Commissioner

**APPENDIX "A"**

**AMENDATORY SECTION** (Amending Order R-276, Cause No. TV-2092, filed 9/17/87)

**WAC 480-12-010 Rule book must be in main office—~~((Charge for replacement))~~ Rule book fee—~~Updates—Notification of pending and adopted rule changes—Compliance with rules.~~** (1) All carriers operating under these rules ~~((are required to))~~ must keep a copy of ~~((same))~~ the rule book entitled "Laws and Rules Relating to Motor Carriers" on file in their main office at all times, and ~~((to regularly insert))~~ must maintain that rule book by inserting in it all revised pages issued by the commission ~~((so that the rule book contains all the current rules.~~

~~(2) The original book to noncarriers, replacement of lost books, or additional rule books will be charged for at seven dollars fifty cents, plus retail sales tax, for each copy.~~

~~(3) Failure to comply with subsection (1) of this section will subject permittee to penalty).~~

(2) The commission shall by order establish a fee for the motor carrier rule book. The fee shall be set according to the estimated cost of compiling, printing, and distributing the rule book.

(a) The commission will give applicants for temporary or permanent permit authority who do not hold motor carrier authority issued by the commission one copy of the rule book at no charge at the time the application is filed with the commission.

(b) The commission will charge its established rule book fee to other persons and for replacement or additional copies.

(3) Rule books may be purchased at any commission office. All fees must be prepaid.

(4) The commission will send one annual update, containing rules becoming effective during the prior year, to each common and contract carrier without charge. The commission shall establish and collect a fee for updates for other persons or additional copies.

(5) Carriers must comply with all rules when they become effective, and rules become effective at various times throughout the year. The commission will notify

carrier associations of potential and approved rule amendments, adoptions, and repealers. The commission will also provide that notification to every person who requests to be on its rule notification list for the topics desired. Proposed and adopted rules are also published in the *Washington State Register*, available at libraries throughout the state or by subscription from the Washington state code reviser, Olympia. The commission welcomes comments on proposed rules.

**AMENDATORY SECTION** (Amending Order R-294, Cause No. TV-2223, filed 1/31/89)

**WAC 480-12-285 Tariffs, distribution and ((cost of)) fees.** ((Tariffs, with description and cost thereof are as follows:

Tariff No.	Territory	Cost per tariff	
		*Initial Charge	*Annual Maintenance
3 B	Spokane cartage	\$ 10.00	\$ 19.00
4 A	Special commodities — (state wide)	17.50	40.00
5 A	General freight west — of cascades	20.00	50.00
6 A	General freight east — of Cascades and — between east and — west	20.00	50.00
7 B	Bulk petroleum — products	12.50	40.00
9	General freight in King, — Pierce, Snohomish — & Thurston counties	20.00	50.00
10	Mileage circular	8.00	18.00
12	Local areas	12.50	20.00
13	Bulk commodities — except petroleum	17.50	40.00
14	Mobile homes — (towaway)	8.00	18.00
15	Household goods	8.00	22.00
16	Zip code (class rates)	15.00	25.00

\*Subject to Washington state retail sales tax-))

(1) The commission shall, by order, establish fees for purchase of original tariff copies, for annual maintenance of tariffs, and for replacement pages. For the purpose of this rule "maintenance" shall mean the compilation, printing, and distribution of amended tariff pages.

(2) The commission shall print a list of the tariffs it publishes, with a description of the motor carrier operations to which each tariff applies, the cost per copy of the tariff, the cost for replacement pages, the fee for annual maintenance, and applicable retail sales tax. Copies of the price list shall be available, upon request, from any commission office.

(3) During the calendar year in which the ((purchase of a)) tariff is ((made)) purchased, the annual maintenance fee shall be payable in advance on the following basis:

Month Purchased	Fee Payable
January, February, March	In full
April, May, June	Three-quarters
July, August, September	One-half
October, November, December	One-quarter

((Each subsequent year)) (4) The annual maintenance fee shall be payable on or before December 31 of the preceding year.

((One or more single pages in any tariff will be supplied at twenty five cents per page—minimum order two dollars.

All prices set out in this rule shall be subject to change without notice. All subsequent issues or reissues of commission))

(5) Upon written request, refunds of tariff maintenance fees will be made to those carriers whose permits are canceled, or to nonpermitted subscribers who cancel a tariff subscription during a calendar year for which tariff maintenance fees have been prepaid. Refunds will be based on a prorated formula of one-twelfth of the amount of fee prepaid times the number of whole months remaining in the calendar year after the date on which the request is filed with the commission.

(6) Copies of current or expired single tariff pages will be supplied upon receipt of the established fees. Copies of entire expired tariffs or entire tariffs applicable on a specific date in the past are not generally available.

(7) Tariff copy, individual page and maintenance fees are subject to change by commission order. All tariffs shall be priced according to the cost of compilation, distribution, and maintenance and all fees shall be payable in advance ((as stated herein)) unless otherwise ((specifically)) ordered by the commission.

**WSR 93-15-037  
PERMANENT RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-390, Docket No. T-921404—Filed July 13, 1993, 1:45 p.m.]

In the matter of amending WAC 480-30-030, 480-40-030 and 480-35-030 relating to eliminating the requirement of notarization for applications for auto transportation carrier, charter party carrier, and limousine charter party carrier.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-11-096, filed with the code reviser on May 19, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-11-096, for 9:00 a.m., Wednesday, July 7, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written

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comments to the commission until June 18, 1993. No interested person submitted written comments.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on Wednesday, July 7, 1993, before Chairman Sharon L. Nelson, Commissioner Richard D. Casad and Commissioner Richard Hemstad. Written and oral comments were made by Cathie Anderson on behalf of the commission staff. The proposals would eliminate the requirement of notarization for applications for specified authority. Adoption would reduce the time and expense involved in making application. The public interest is satisfied by certification by the signer. After considering the written and oral comments, the commission adopted the rule as proposed.

In reviewing the entire record, the commission determines that WAC 480-30-030, 480-35-030 and 480-40-030 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

ORDER

THE COMMISSION ORDERS That WAC 480-30-030, 480-35-030 and 480-40-030 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 12th day of July, 1993.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
Richard Hemstad, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

**WAC 480-30-030 Certificates—Auto transportation companies.** (1) No auto transportation company shall operate, establish, or begin operation of a line or route or any extension of any existing line or route for the purpose of transporting persons on the public highways of this state, without first having obtained from the commission a certificate declaring that public convenience and necessity requires, or will require, the establishment and operation of such line or route.

(2) No certificate will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of RCW 19.80.010, and a certified copy thereof filed with the commission.

(3) Certificates must be kept on file at the main office of the owner except when directed to be transmitted to the commission, and shall be subject at all times to inspection by the authorized representatives of the commission.

(4) Any certificate to operate a motor propelled vehicle for the transportation of persons for compensation obtained upon any application by any false affidavit or representation

shall be subject to revocation and cancellation by the commission.

(5) Every auto transportation company shall submit, at the time of filing quarterly reports of gross operating revenue, as required by WAC 480-30-110(1), on forms to be prescribed and furnished by the commission, a list of all vehicles used under its certificate during the preceding quarter, or portion thereof.

(6) All auto transportation companies shall keep on file in their main offices, subject to inspection by the authorized representatives of the commission, a daily record of vehicles used, showing:

- (a) Description of each vehicle used;
- (b) Number of trips and to what points each of said vehicles was operated;
- (c) Drivers' time sheets for each day's employment;
- (d) Copies of all accident reports.

(7) No auto transportation company certificate shall be sold or transferred unless the purchaser thereof shall agree in writing to pay all lawful claims against the seller for loss of or damage to shipments, overcharges, or money collected on C.O.D. shipments that may be presented to him within sixty days after the date of the transfer. The agreement herein provided for must be included in the application to transfer.

(8) No certificate, nor any right thereunder, shall be sold, assigned, leased, transferred or mortgaged except upon authorization by the commission. Application for such sale, assignment, lease, transfer or mortgage must be made up in accordance with subsection (9) of this section, must be joined in by all parties interested and must be accompanied by the original certificate, the same to be held by the commission pending its decision in the matter.

(9) Applications for certificates, extension of service, line or route under certificates, shall be typewritten, on forms to be furnished by the commission, giving all information therein requested (~~(, sworn to before a notary)~~) and accompanied by the application fee named in subsection (11) of this section.

(10) Application for sale, lease, or transfer, or for authority to mortgage a certificate (~~(, or)~~) or any interest therein shall be typewritten on forms to be furnished by the commission, giving all information (~~(therein)~~) requested (~~(, sworn to before a notary)~~) and accompanied by the application fee named in subsection (11) of this section.

(11) Miscellaneous fees:

Application for certificate . . . . .	\$150.00
Application for extension of service, line or route under a certificate . . . . .	150.00
Application for sale, transfer, lease, assignment or other encumbering of a certificate or any interest therein . . . . .	150.00
Application for authority to mortgage a certificate . . . . .	35.00
Application for issuance of a duplicate certificate . . . . .	3.00

EXCEPTION: The (~~(above fees of)~~) \$150.00 (~~(shall be)~~) fees named above are reduced to \$50.00 for applications (~~(pertaining to certificates)~~) for private, nonprofit transporta-

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tion (~~((providers-certificated))~~) authority under WAC 480-30-035.

(12) All applications for (~~((the-issuance-of))~~) a duplicate (~~((certification))~~) certificate must be accompanied by affidavit of the holder (~~((thereof-setting-forth))~~) stating that the original certificate has been lost or destroyed.

(13) Whenever an order is entered by the commission revoking a previous order granting a certificate, or revoking a certificate already issued, and subsequently an application is made for reinstatement of such order or certificate, the party or parties applying for (~~((such))~~) reinstatement shall pay the fee required by the rules (~~((and-regulations,-as-is-provided-in-case-of))~~) for an original application.

(14) Remittances shall be made by money order, bank draft or certified check, made payable to the Washington utilities and transportation commission.

**AMENDATORY SECTION** (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

**WAC 480-35-030 Certificates.** (1) No person may engage in the business of a limousine charter party carrier of persons over any public highway without first having obtained a certificate or registration from the commission to do so.

(2) A certificate shall be issued to any qualified applicant authorizing, in whole or in part, the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and conform to the provisions of the laws governing commercial limousine operators and the rules and regulations of the commission.

(3) Before a certificate is issued, the commission shall require the applicant to meet certain safety requirements and show proof of minimum financial responsibility as set forth in this chapter.

(4) No certificate will be issued to persons operating under a trade name, unless a certificate of (~~((said))~~) the trade name is filed in accordance with the provisions of chapter 19.80 RCW, and a certified copy thereof filed with the commission.

(5) Certificates must be kept on file at the main office of the owner except when directed to be transmitted to the commission, and shall be subject at all times to inspection by the authorized representatives of the commission.

(6) Any certificate to operate a motor vehicle for the transportation of persons for compensation obtained upon any application by any false affidavit or representation shall be subject to revocation and cancellation by the commission.

(a) No certificate nor any right thereunder may be leased, assigned, or otherwise transferred or encumbered unless authorized by the commission. Requests for such authority shall be on forms to be furnished by the commission, giving all information therein requested (~~((,-sworn-to-before-a-notary))~~) and accompanied by a filing fee named in WAC 480-35-040.

(b) No certificate or right to conduct any of the service therein authorized shall be leased, assigned, or otherwise transferred except in its entirety unless the portion thereof not to be leased, assigned, or otherwise transferred is to be immediately cancelled.

(7) The commission may cancel, revoke, or suspend any certificate or registration issued under this chapter on any of the following grounds:

(a) The violation of any of the provisions of chapter 283, Laws of 1989;

(b) The violation of an order, decision, rule, regulation, or requirement established by the commission pursuant to the law governing limousine charter party carriers;

(c) Failure of a limousine charter party carrier of passengers to pay a fee imposed on the carrier within the time required by law;

(d) Failure of a limousine charter party carrier to maintain required insurance coverage in full force and effect; or

(e) Failure of the certificate holder to operate and perform reasonable service.

(8) After the cancellation or revocation of a certificate or registration or during the period of its suspension, it is unlawful for a limousine charter party carrier of passengers to conduct any operations as such a carrier.

(9) Whenever an order is entered by the commission cancelling or revoking a previous order granting a certificate or cancelling or revoking a certificate already issued, and subsequently an application is made, such application shall be filed in the manner required as for the original.

**AMENDATORY SECTION** (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

**WAC 480-40-030 Certificates.** (1) No person may operate, establish, or engage in the business of a charter party carrier or excursion service carrier of persons over any public highway in this state, without first having obtained a certificate from the commission or having registered as an interstate carrier.

(2) No certificate will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of chapter 19.80 RCW, and a certified copy thereof filed with the commission.

(3) Certificates must be kept on file at the main office of the owner except when directed to be transmitted to the commission, and shall be subject at all times to inspection by the authorized representatives of the commission.

(4) Any certificate to operate a motor propelled vehicle for the transportation of persons for compensation obtained upon any application by any false affidavit or representation shall be subject to revocation and cancellation by the commission.

(5)(a) No certificate nor any right thereunder may be leased, assigned, or otherwise transferred or encumbered unless authorized by the commission. Requests for such authority shall be on forms to be furnished by the commission, giving all information therein requested (~~((,-sworn-to-before-a-notary))~~) and accompanied by filing fee named in subsection (7) of this section.

(b) No charter party or excursion service carrier certificate or right to conduct any of the service therein authorized shall be leased, assigned or otherwise transferred except in its entirety unless the portion thereof not to be leased, assigned, or otherwise transferred is to be immediately cancelled.

(6)(a) All applications for original certificates (including extensions of certificates), shall be on forms to be furnished by the commission, giving all information therein requested(~~(, sworn to before a notary)~~) and accompanied by application fee named in subsection (7) of this section.

(b) A certificate shall be issued to any qualified applicant authorizing, in whole or in part, the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and to conform to the provisions of the laws governing charter party carriers or excursion service carriers of passengers and the rules and regulations of the commission.

(c) Before a certificate is issued, the commission shall require the applicant to meet certain safety requirements and show proof of minimum financial responsibility as set forth in this chapter.

(7) Miscellaneous fees:

Original application for certificate . . . . .	\$150.00
Application for extension of certificate . . . . .	150.00
Application to lease, assign, or otherwise transfer or encumber a certificate . . . . .	150.00
Application for issuance of duplicate certificate . . . . .	5.00

(8) All applications for the issuance of a duplicate certificate must be accompanied by affidavit of the holder thereof setting forth that the original certificate has been lost or destroyed.

(9) The commission may cancel, revoke, or suspend any certificate issued under this chapter on any of the following grounds:

(a) The violation of any of the provisions of chapter 81.70 RCW;

(b) The violation of an order, decision, rule, regulation, or requirement established by the commission pursuant to the law governing charter party carriers or excursion service carriers of passengers;

(c) Failure of a charter party carrier or excursion service carrier of passengers to pay a fee imposed on the carrier within the time required by law;

(d) Failure of a charter party carrier or excursion service carrier to maintain required insurance coverage in full force and effect; or

(e) Failure of the certificate holder to operate and perform reasonable service.

(10) After the cancellation or revocation of a certificate or interstate registration, or during the period of its suspension, it is unlawful for a charter party carrier or excursion service carrier of passengers to conduct any operations as such a carrier.

(11) Whenever an order is entered by the commission cancelling or revoking a previous order granting a certificate or cancelling or revoking a certificate already issued, and subsequently an application is made, such application shall be filed in the manner required as for the original.

(12) Remittances shall be made by money order, bank draft, or check, made payable to the Washington utilities and transportation commission.

**WSR 93-15-038  
PERMANENT RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-393, Docket No. TV-920973—Filed July 13, 1993, 1:47 p.m.]

In the matter of amending WAC 480-12-150 relating to identification markings for motor vehicles.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-11-097, filed with the code reviser on may 19, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-11-097, for 9:00 a.m., Wednesday, July 7, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until June 18, 1993. Jackie Zimmerman submitted written comments on behalf of Zillah Hauling Service.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on July 7, 1993, before Chairman Sharon L. Nelson, Commissioner Richard D. Casad and Commissioner Richard Hemstad. Written and oral comments were made by Cathie Anderson of the commission staff. The rule reflects the requirements of RCW 81.80.305 that specified identification be placed on power vehicles when the vehicle is painted or when the information is changed. After considering the written and oral comment, the commission adopted the rule, as proposed.

In reviewing the entire record, the commission determines that WAC 480-12-150 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

**ORDER**

**THE COMMISSION ORDERS** That WAC 480-12-150 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

**THE COMMISSION FURTHER ORDERS** That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 12th day of July, 1993.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
Richard Hemstad, Commissioner

**APPENDIX "A"**

PERMANENT



AMENDATORY SECTION (Amending Order R-276, Cause No. TV-2092, filed 9/17/87)

~~WAC 480-12-150 Equipment—((Name and permit number)) Identification. ((All common and contract carriers shall have painted in contrasting colors on both sides of their power units in letters at least three inches high, the name of the permittee, or business name, and the permit number. This rule will not apply to trucks and trailers under lease, except that such equipment shall bear a placard indicating the name and permit number of the operator of said equipment.~~

~~The commission in its discretion, may authorize the carrier to use initials, insignia, decals, et cetera, when in the opinion of the commission such device adequately identifies the carrier.~~

~~Common carriers holding both intrastate and interstate authority between points within the state and in addition possess interstate authority between points in the state and points outside the state may at their option use their ICC permit number in lieu of the Washington utilities and transportation commission permit number otherwise required by this rule upon authority of the commission so to do.) (1) All motor vehicles, except those defined as exempt under RCW 81.80.040 and those operated by private carriers that singly or in combination are less than thirty-six thousand pounds gross vehicle weight, shall display a permanent marking identifying the carrier's name or number, or both, on each side of each power unit in the manner specified in this rule.~~

~~(2) Common carriers, contract carriers, private carriers, or leased carriers adding, modifying, or renewing identification markings after the effective date of this rule must display on the driver and passenger doors of power units identification markings as specified below. The markings must be clearly legible, with letters no less than three inches high, in a color that contrasts with the surrounding body panel. Leased vehicles may display either permanent markings or placards on the driver and passenger doors of the power unit.~~

~~(a) Motor vehicles operated by or under lease to a common or contract carrier must display the name of the permittee as registered with the commission and the permit number. Provided however, common or contract carriers holding both intrastate and interstate authority may display either the ICC certificate number, commission permit number, or both.~~

~~(b) Motor vehicles operated by or under lease to a private carrier must display the name and address of either the business operating the vehicle or the registered owner.~~

**WSR 93-15-040**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3534—Filed July 13, 1993, 1:56 p.m.]

Date of Adoption: July 13, 1993.

Purpose: Deletes the requirement to check the central registry of child abuse which is now defunct. WAC 388-

330-030 amended to specify conditions for a waiver to allow an otherwise disqualified person to provide child care.

Citation of Existing Rules Affected by this Order: Amending WAC 388-330-010 Purpose and authority; 388-330-020 Scope; 388-330-030 Application of inquiry findings; and 388-330-050 Release of information.

Statutory Authority for Adoption: RCW 74.15.030.

Pursuant to notice filed as WSR 93-12-096 on June 1, 1993.

Changes Other than Editing from Proposed to Adopted Version: For WAC 388-330-030, erroneous references to subsection (1) are corrected to subsection (2) and while the criteria for allowing a rehabilitated offender to care for children is not changed, a certificate of rehabilitation from a superior court would now be required.

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

July 13, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2777, filed 3/22/89)

**WAC 388-330-010 Purpose and authority.** This chapter establishes policy within the department of social and health services for conducting ((central registry and)) criminal history portions of background inquiries and checks of Washington state patrol's child abuse information file on those licensed or authorized by the department to care for children or developmentally disabled persons. Such inquiries are required under RCW 74.15.030.

AMENDATORY SECTION (Amending Order 2777, filed 3/22/89)

**WAC 388-330-020 Scope.** (1) Background inquiries. The department's background inquiries:

(a) ((Inquiries)) Shall include, but ((are)) not be limited to review of:

(i) ((Review of)) Records of criminal convictions and pending criminal charges as listed by the Washington state patrol (WSP) per chapters 10.97 and 43.43 RCW;

(ii) ((Review of the central registry of abuse and neglect established per RCW 26.44.070, repealed pursuant to 2SSB 5063, chapter 486, Laws of 1987; and

(iii) Review of)) Washington state patrol file of a person found to be a child abuser in a civil adjudication or a disciplinary board final decision; and

(ii) Child protective service and case file information in the case and management information system and division of children and family services (DCFS) records.

(b) ((Inquiries)) May include a review of law enforcement records of convictions and pending charges in other states or locations ((whenever)) when the need for further information is indicated by:

(i) ((An individual's)) A person's prior residences;

(ii) Reports from credible community sources; or

(iii) An identification number indicating the subject has a record on file with the Federal Bureau of Investigation.

(2) Affected persons. Persons subject to background inquiries include:



(a) All persons licensed to care for children or disabled persons under:

- (i) Chapter 74.15 RCW; or
- (ii) Contract with the department to provide that care.

(b) All staff, employed by licensed or authorized providers, involved in the direct care or supervision of children and developmentally disabled persons;

(c) Any volunteer or other person having regular, unsupervised access to children or developmentally disabled persons in facilities, homes, or operations licensed or authorized by the department to provide care under chapter 74.15 RCW.

(3) Persons not affected. This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial and where the provider is not acting in place of the parent.

(4) This chapter does not apply to persons being considered for employment or volunteer activities with the department of social and health services. Background check requirements applicable to department employees and volunteers are set forth in MSR 326-26-140 and 2SSB 5063, chapter 486, Laws of 1987, respectively.

**AMENDATORY SECTION** (Amending WSR 92-08-038, filed 3/24/92, effective 4/24/92)

**WAC 388-330-030 Application of inquiry findings.**

(1) For the purposes of conducting criminal history portions of background inquiries under RCW 74.15.030, the department shall only consider ~~((only))~~ a person's convictions and pending charges. The department shall not solicit or use as the sole basis for disqualification information about:

- (a) Arrests not resulting in charges; and
- (b) Dismissed charges.

(2) The department shall maintain a listing of offenses which, because of their seriousness, shall disqualify prospective care providers from being licensed or otherwise authorized to provide care to children or developmentally disabled persons. The following offenses or their equivalents in jurisdictions outside of the state of Washington shall constitute that list:

- (a) Aggravated murder;
- (b) Murder in the first degree;
- (c) Murder in the second degree;
- (d) Manslaughter in the first degree;
- (e) Manslaughter in the second degree;
- (f) Simple assault, if the assault involves physical harm to another person;
- (g) Assault in the first degree;
- (h) Assault in the second degree;
- (i) Assault in the third degree;
- (j) Custodial assault;
- (k) Vehicular homicide;
- (l) Criminal mistreatment in the first degree;
- (m) Criminal mistreatment in the second degree;
- (n) Reckless endangerment;
- (o) Kidnapping in the first degree;
- (p) Kidnapping in the second degree;
- (q) Unlawful imprisonment;
- (r) Rape in the first degree;
- (s) Rape in the second degree;
- (t) Rape in the third degree;

- (u) First degree rape of a child;
- (v) Second degree rape of a child;
- (w) Third degree rape of a child;
- (x) Child molestation in the first degree;
- (y) Child molestation in the second degree;
- (z) Child molestation in the third degree;
- (aa) Sexual misconduct with a minor in the first degree;
- (bb) Sexual misconduct with a minor in the second degree;

- (cc) Indecent liberties;
- (dd) Felony indecent exposure;
- (ee) Arson in the first degree;
- (ff) Arson in the second degree;
- (gg) Burglary in the first degree;
- (hh) Extortion in the first degree;
- (ii) Extortion in the second degree;
- (jj) Robbery in the first degree;
- (kk) Robbery in the second degree;
- (ll) Incest in the first degree;
- (mm) Incest in the second degree;
- (nn) Promoting prostitution in the first degree;
- (oo) Promoting prostitution in the second degree;
- (pp) Sexual exploitation of a minor;
- (qq) Communication with a minor for immoral purposes;

- (rr) Child selling - child buying;
- (ss) Public indecency, if toward a person under ~~((the age of))~~ fourteen years of age;
- (tt) Prostitution;
- (uu) Dealing in depictions of a minor engaged in sexually explicit conduct;
- (vv) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
- (ww) Possession of depictions of a minor engaged in sexually explicit conduct;
- (xx) Patronizing a juvenile prostitute;
- (yy) Family abandonment;
- (zz) Child abandonment;
- (aaa) Unlawfully manufacturing, delivering, or possessing with intent to deliver, a controlled substance;
- (bbb) Promoting a suicide attempt;
- (ccc) Malicious harassment;
- (ddd) Promoting pornography;
- (eee) Coercion;
- (fff) Child abuse or neglect as defined ~~((#))~~ under RCW 26.44.020;
- (ggg) Violation of child abuse restraining order; and
- (hhh) First or second degree custodial interference.

(3) Whenever a criminal history inquiry reveals a prospective care provider has been charged with or convicted of an offense ~~((, or has been listed in the central registry as a perpetrator of substantiated child abuse or neglect,))~~ or is in the WSP file as a person found to be a child abuser in a civil adjudication or disciplinary board final decision, the department shall take action as follows:

- (a) If it is confirmed the subject's name appears on the aforementioned WSP file of child abusers, that person shall not be licensed, employed by licensees or contractors, serve in a volunteer capacity for licensees or contractors, or otherwise be authorized by the department to provide care ~~((If the subject's name appears on the central registry of child abuse, the individual shall be disqualified))~~;

(b) If the inquiry reveals charges are pending against the subject for any of the offenses listed in subsection ((4)) (2) of this section, or their equivalents in other jurisdictions, the department shall withhold licensure or authorization to provide care until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding licensure or authorization to provide care. If the inquiry reveals pending charges are more than one year old, the department shall contact the charging law enforcement agency to determine the disposition or status of the charge;

(c) If the inquiry reveals the subject has been convicted of any of the offenses listed in subsection ((4)) (2) of this section or their equivalents in other jurisdictions, the department shall deny licensure or authorization to provide care((3)). The department at its discretion may license a person or authorize a person to provide care despite a conviction under subsection (2) of this section if the person presents to the department a certificate of rehabilitation issued by a superior court under RCW 43.43.830(4). A certificate of rehabilitation shall address the fitness of the person to provide the specific type of care considering the following factors:

(i) The seriousness and circumstances of the illegal act;

(ii) The number of crimes for which the person was convicted;

(iii) The amount of time passed since the illegal act was committed;

(iv) The age of the person at the time of conviction;

(v) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those ordered by a court;

(vi) The behavior of the person since the illegal act was committed;

(vii) Recommendations of persons closely associated with the person;

(viii) The duties the person would perform at the agency, and the vulnerability of the persons under care; and

(ix) Other evidence of rehabilitation.

If the department licenses or approves a person under this subsection, it may place limitations or conditions on the person in the performance of the person's duties at the agency.

(d) If the inquiry reveals the subject has been convicted of an offense not listed in subsection (2) of this section, the department shall consider such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. However, the department shall not use conviction as the sole basis for denial of licensure or authorization to provide care unless the conviction is directly related to the employment, licensure, or authorization being sought. The department shall consider the recency, seriousness, kind, and number of previous offenses, as well as the vulnerability of the clients to be cared for.

AMENDATORY SECTION (Amending Order 2777, filed 3/22/89)

**WAC 388-330-050 Release of information.** (1) Release of criminal history information.

(a) Unless there is a signed release of information, the department may only share with a provider:

(i) The criminal inquiry information used to disqualify an employee or volunteer of that provider; or

(ii) The fact the subject is listed on the Washington state patrol's child abuse information file if that is the basis for a disqualification.

(b) The department shall not share any other inquiry information with the provider or provider's employees unless the department withheld licensure or care authorization based on that information.

(2) Release of ~~((central registry))~~ abuse information from department files.

(a) The department shall not share with care providers or prospective providers any abuse information in ~~((the central registry))~~ department files.

(b) Unless there is a release of information signed by the employee, the department may only tell a provider or prospective provider that the results of the department's background inquiry disqualify the employee. Even if the employee has signed a release of information, the department shall not discuss identifying information about the victim of the abuse.

(3) Release of inquiry findings to the subject of inquiry. The department shall provide disqualified care providers with inquiry findings about themselves if the providers:

(a) Make((s)) the requests in writing((:)); and

(b) Offer((s)) proof of identity.

#### WSR 93-15-041

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Order 242—Filed July 14, 1993, 9:07 a.m.]

Date of Adoption: July 9, 1993.

Purpose: Requires director's approval prior to conducting a performance.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 93-07-083 on March 18, 1993.

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

July 14, 1993

Sharon M. Tolton  
Rules Coordinator

#### NEW SECTION

**WAC 230-20-111 Promotional activities Performances as gifts—Advance approval required.** In order to preserve the integrity and image of the charitable and nonprofit bingo industry, promotional activities including performances to entertain bingo patrons shall be deemed a promotional gift and subject to the monetary restrictions of WAC 230-20-242. For the purpose of this rule, a performance includes any show, comedy act, skit, play, dance, or similar activities, whether live or recorded, and whether or not consideration is paid or not paid to the performers of such activities.

(1) An organization that plans to offer any performance before, during, or after any bingo session shall present a written detailed outline of such and shall secure approval by the director of the commission prior to conducting the performance. The organization shall, in writing, request a

review by the director at least sixty days in advance of the scheduled date of the performance.

(2) The director shall review the subject matter of the proposed performance and shall not approve any such performance which in the director's opinion is contrary to the public interest of preserving the integrity of charitable bingo.

(3) If the director denies a request to conduct a performance, the organization may request a review by the commission within thirty days of the decision. The decision of the commission shall be final.

**WSR 93-15-044**  
**PERMANENT RULES**  
**PUGET SOUND AIR**  
**POLLUTION CONTROL AGENCY**  
[Filed July 14, 1993, 11:11 a.m.]

Date of Adoption: July 8, 1993.

Purpose: To adjust maximum civil penalty amount to account for inflation; to adjust the fees for the registration and operating permit program and notice of construction program to cover operating costs; to repeal the surcharge for mandatory training programs and move to the registration and operating permit fee schedule; and to improve legibility.

Citation of Existing Rules Affected by this Order:  
Repealing PSAPCA Regulation I, Section 5.10 and amending PSAPCA Regulation I, Sections 3.11, 5.07, 5.11, 6.04, 6.07, and 6.10.

Statutory Authority for Adoption: Chapter 70.94 RCW.  
Pursuant to notice filed as WSR 93-12-132 on June 2, 1993.

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

July 13, 1993

James L. Nolan

Director - Compliance

AMENDATORY SECTION

**REGULATION I SECTION 3.11 CIVIL PENALTIES**

(a) Any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed (~~(\$10,300.00)~~) \$10,660.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Air Pollution Control Agency shall be liable for a civil penalty of not more than (~~(\$10,300.00)~~) \$10,660.00 for each day of continued non-compliance.

(c) Within 15 days after receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the appealing party;

(2) A copy of the Notice and Order of Civil Penalty appealed from;

(3) A short and plain statement showing the grounds upon which the appealing party considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(d) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition on the application for relief from penalty.

(e) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(f) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(g) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(h) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

**REGULATION I SECTION 5.07 (~~FEES - REGISTRATION PROGRAM~~) REGISTRATION AND OPERATING PERMIT FEES**

(a) The Agency shall levy annual (~~registration~~) fees as set forth in (~~Table 5-B~~) the 1994 Registration and Operating Permit Fee Schedule for services provided in administering the registration or operating permit programs. Fees received under the registration or operating permit programs

shall not exceed the cost of administering these ~~((registrations))~~ programs.

(b) Upon assessment by the Agency, registration or operating permit fees are due and payable within 30 days. ~~((and))~~ They shall be deemed delinquent if not fully paid within ~~((60))~~ 90 days, and shall be subject to an additional fee equal to 3 times the original fee.

~~((TABLE 5-B))~~ 1994 REGISTRATION AND OPERATING PERMIT FEE SCHEDULE

(1) For all facilities, a fee of ~~((65.00))~~ \$85.00 per facility except \$1,200.00 per facility for those subject to (4) below; and

(2) For all facilities:

(i) \$35.00 for each item of air contaminant generating equipment; and

(ii) ~~((35.00))~~ \$80.00 for each item of air contaminant control equipment ~~((, including continuous emission monitors)); and~~

~~((iii))~~ \$5.00 for each Stage 2 gasoline dispensing nozzle; and

(iii) \$500.00 for each continuous emission monitor required under Article 12 of Regulation I; and

(iv) \$500.00 for each incinerator; and

(v) \$500.00 for each landfill; and

(3) For all facilities except those subject to (4) below, ~~((an \$18.00))~~ a \$20.00 emission fee for each item of air contaminant generating equipment; and

(4) For only those facilities ~~((for))~~ which ~~((the Agency has recorded total))~~ have permitted emissions or actual annual emissions of 25 tons or more of any of the following: PM<sub>10</sub>, sulfur oxides, nitrogen oxides, or carbon monoxide; or annual emissions of 10 tons or more of toxic air contaminants or volatile organic compounds, including any negligibly reactive compound:

(i) ~~((18.00))~~ \$20.00 per ton for PM<sub>10</sub>, sulfur oxides, nitrogen oxides, or volatile organic compounds, including any negligibly reactive compound; and

(ii) ~~((6.00))~~ \$7.00 per ton for carbon monoxide or toxic air contaminants ~~((, and~~

~~((iii))~~ \$100.00 for each emission segment; and

~~((iv))~~ \$100.00 for each emission point.)

(5) The fees required by this section are for the calendar year 1994 and shall be based on Agency files showing equipment in place or permitted as of September 1, 1993; and either permitted emissions or actual emissions during calendar year 1992, whichever is greater. ~~((January 1 of the current reporting year; and materials, processes, and emission points and segments in use between January 1 and December 31 of the previous year. Items registered under Section 5.07 (b)(2) shall be reported as equipment. Items registered under Section 5.07 (b)(4) shall be reported as materials, processes, and emission points and segments.))~~

REPEALER

REGULATION I SECTION 5.10 SURCHARGE FOR MANDATORY TRAINING PROGRAMS

AMENDATORY SECTION

REGULATION I SECTION 5.11 1994 SURCHARGE FOR BLENDERS OF OXYGENATED GASOLINE

(a) The Agency shall levy the following registration surcharges to defray the costs of administering the oxygenated gasoline blender registration and field compliance program mandated by WAC 173-492.

November 1, 1992 to March 1, 1993 Average Monthly Sales:

(gallons)	
less than 100,000	\$ 500.00
100,000 or more but less than 1,000,000	\$ 1,000.00
1,000,000 or more but less than 15,000,000	\$10,000.00
15,000,000 or more	\$25,000.00

(b) Upon assessment by the Agency, this registration surcharge is due and payable within 30 days. ~~((and))~~ It shall be deemed delinquent if not fully paid within ~~((60))~~ 90 days and shall be subject to an additional fee equal to 3 times the original fee.

AMENDATORY SECTION

REGULATION I SECTION 6.04 NOTICE OF CONSTRUCTION REVIEW ((FILING)) FEES

A Notice of Construction and Application for Approval is incomplete until the Agency has received a ~~((filing fee of \$50.00 and))~~ plan examination fee ~~((s))~~ as shown below:

Fuel Burning Equipment:  
(rated heat input - million Btu/hr)

less than <del>((20.0))</del> 10.0	\$ 300.00
<del>((20.0 or more but less than 50.0))</del> \$ 400.00)	
<del>((50.0))</del> 10.0 or more but less than 100.0	<del>((500.00))</del> \$ 1,000.00
100.0 or more but less than 250.0	<del>((800.00))</del> \$10,000.00
250.0 or more <del>((but less than 500.0))</del> \$ 1,000.00)	\$20,000.00
<del>((500.0 or more))</del> \$ 1,500.00)	

Control Equipment or Equipment Used in a Manufacturing Process:  
(acfm)

less than <del>((2,000))</del> 10,000	<del>((100.00))</del> \$ 300.00
<del>((2,000 or more but less than 5,000))</del> \$ 200.00)	
<del>((5,000 or more but less than 10,000))</del> \$ 300.00)	
<del>((10,000 or more but less than 20,000))</del> \$ 400.00)	
<del>((20,000))</del> 10,000 or more but less than 100,000	<del>((500.00))</del> \$ 1,000.00
100,000 or more <del>((but less than 250,000))</del> \$ 800.00)	\$ 5,000.00
<del>((250,000 or more))</del> \$ 1,000.00)	

Refuse Burning Equipment:  
(rated capacity)

12 tons per day or less	
<del>((without hydrochloric acid control equipment))</del> \$ 200.00)	\$ 5,000.00
<del>((12 tons per day or less with hydrochloric acid control equipment))</del> \$ 1,000.00)	
greater than 12 tons per day but less than 250 tons per day	<del>((2,000.00))</del> \$20,000.00
250 tons per day or greater	<del>((5,000.00))</del> \$50,000.00

Storage Tanks:  
(gallons)

less than <del>((4,000))</del> 20,000	<del>((80.00))</del> \$ 200.00
<del>((4,000 or more, but less than 20,000))</del> \$ 160.00)	
20,000 or more <del>((, but less than 40,000))</del> \$ 200.00)	\$ 500.00
<del>((40,000 or more, but less than 1,000,000))</del> \$ 300.00)	
<del>((More than 1,000,000))</del> \$ 400.00)	

PERMANENT

Gasoline Station(+)		\$ 200.00
<del>((Stage 1</del>	<del>\$ 80.00))</del>	
<del>((Stage 2</del>	<del>\$ 80.00))</del>	
Dry Cleaner		\$ 200.00
Other (not classified above)		\$ 200.00
<u>Additional Charges:</u>		
Air Toxics Screening [see Regulation III, Section 2.03(b)]		\$ 200.00
Exceedance of Acceptable Source Impact Level [see Regulation III, Section 2.03(b)]	<del>(( \$ 200.00))</del>	\$ 5,000.00
Major Source or Major Modification [see Regulation I, Section 6.07(d)]	<del>(( \$ 1,000.00))</del>	\$ 5,000.00
Opacity/Grain Loading Correlation [see Regulation I, Section 9.09(e)]	<del>(( \$ 1,000.00))</del>	\$ 5,000.00
Permitted Emissions		\$20.00/ton
<del>((Other (not classified above)</del>	<del>\$ 100.00))</del>	

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.

AMENDATORY SECTION

**REGULATION I SECTION 6.07 ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION**

(a) Within 30 days of receipt of a complete Notice of Construction and Application for Approval, or 30 days after the close of the public comment period if subject to the public notice requirements of Section 6.06, the Board or Control Officer shall issue an Order of Approval or an Order to Prevent Construction.

(b) An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with Regulations I, II, and III.

(c) No Order of Approval shall be issued unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;

(2) The source meets the requirements of all applicable emission standards including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency;

(3) Best available control technology is employed for the construction, installation, or establishment of new sources and the modification of existing sources; and

(4) Reasonably available control technology is employed for the replacement of existing control equipment.

(d) No Order of Approval shall be issued for a new major source or major modification (as defined in Section 1.07 of this Regulation) in a nonattainment area unless the Notice of Construction and Application for Approval also demonstrates to the Board or Control Officer that:

(i) For those air contaminants for which the area is designated nonattainment, lowest achievable emission rate is employed for each new source at a new major source, and each new or modified source involved in a major modification;

(2) All existing major sources owned or operated by the applicant in the state of Washington are in compliance with all applicable emission standards under the federal Clean Air Act or are on an approved compliance schedule;

(3) Offsets in the form of emission reduction credits banked pursuant to Section 6.08 and in an amount greater than or equal to 1.10 times the proposed total allowable emissions from the new major source, or the increase from current actual to the proposed total allowable emissions for a major modification, have been obtained from sources in the same nonattainment area and occur by the time the new major source or major modification begins operation; and

(4) The benefits of the proposed new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (This demonstration, which shall include an analysis of alternative sites, sizes, production processes, and environmental control techniques, may be in the form of an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act.)

(e) An Order of Approval shall expire unless construction has commenced within 24 months of the date of its issuance or if construction is discontinued for a period of more than 24 months. ~~((Upon written request by the applicant or owner, the Control Officer may grant an extension of the Order of Approval provided:~~

~~(1) The applicant or owner pays a filing fee of \$50.00 and a plan examination fee of 25% of the fee contained in Section 6.04; and~~

~~(2) The proposed source still meets the requirements of this section.))~~

(f) An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of Regulations I, II, and III that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the owner or applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The Board or Control Officer shall consider the petition, and shall within 30 days give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.

AMENDATORY SECTION

**REGULATION I SECTION 6.10 WORK DONE WITHOUT AN APPROVAL**

Where work for which a Notice of Construction is required is commenced or performed prior to making application and receiving approval, the Control Officer may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Section 6.04, shall be assessed in an amount equal to 3 times the plan examination ~~((and inspection))~~ fees of Section 6.04. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

PERMANENT

**WSR 93-15-045**  
**PERMANENT RULES**  
**PUGET SOUND AIR**  
**POLLUTION CONTROL AGENCY**

[Filed July 14, 1993, 11:15 a.m.]

Date of Adoption: July 8, 1993.

Purpose: To clarify definitions and procedures for asbestos control standards.

Citation of Existing Rules Affected by this Order: Amending PSAPCA Regulation III, Sections 1.08, 4.01, and 4.02.

Statutory Authority for Adoption: Chapter 70.94 RCW. Pursuant to notice filed as WSR 93-12-094 on June 1, 1993.

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

July 13, 1993

Claude Williams

Air Pollution Engineer

AMENDATORY SECTION

**REGULATION III SECTION 1.08 SPECIAL DEFINITIONS**

(a) **ACCEPTABLE SOURCE IMPACT LEVEL (ASIL)** means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

(b) **ADEQUATELY WET** means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent emissions.

(c) **AMPERE-HOURS** means the integral of electrical current applied to a plating or anodizing tank (amperes) over a period of time (hours).

(d) **ANTI-MIST ADDITIVE** means a chemical which reduces the hexavalent chromium emission rate from a tank.

(e) **ASBESTOS** means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

(f) **ASBESTOS-CONTAINING MATERIAL** means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart F in 40 CFR Part 763. This term does not include asbestos-containing roofing material, regardless of asbestos content, when the following conditions are met:

(1) The asbestos-containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(2) The binder is petroleum based, the asbestos fibers are suspended in that base, and individual fibers are still encapsulated; and

(3) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(4) The building, vessel, or structure containing the asbestos-containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

(g) **ASBESTOS-CONTAINING WASTE MATERIAL** means any waste that contains asbestos-containing material. This term includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material(s) collected for disposal, or asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. This term does not include samples of asbestos-containing material taken for testing or enforcement actions.

(h) **ASBESTOS PROJECT** means the construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos-containing material. This term includes the removal and disposal of asbestos-containing waste material from manufacturing operations that combine asbestos-containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

(i) **ASBESTOS SURVEY** means an inspection using the procedures contained in 40 CFR 763.86, or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, removed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

(j) **CERTIFIED ASBESTOS WORKER ((A) OR SUPERVISOR)** means a person who is certified by the Washington State Department of Labor and Industries under WAC 296-65-010, 012, and 030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

(k) **CHROMIC ACID ANODIZING** means an electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.

(l) **CHROMIC ACID PLATING** means an electrolytic process by which chromium is deposited on a base metal surface.

(m) **COLD SOLVENT CLEANER or COLD CLEANER** means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.

(n) **COLLECTED FOR DISPOSAL** means sealed in a leak-tight container while adequately wet.

(o) **COMPONENT** means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos-containing material.

(p) **CONTROLLED AREA** means an area to which only certified asbestos workers, or other persons authorized by Section 3.05 of Regulation I or the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling.

(q) **DEMOLITION** means the wrecking, dismantling, removal of any load-supporting structural member on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load-bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering as permanently uninhabitable, that portion of the building being demolished.

(r) **EMERGENCY ASBESTOS PROJECT** means an unplanned asbestos project necessitated by a sudden and unexpected event that will imminently endanger human health and safety either through exposure to asbestos fibers or loss of vital utilities. Such events may include earthquakes, floods, fire damage, non-routine failure or malfunction of equipment, or identification of additional asbestos-containing material discovered during an asbestos project.

(s) **ETHYLENE OXIDE AERATOR** means any equipment, space, or room in which air is used to remove residual ethylene oxide from sterilized materials.

(t) **ETHYLENE OXIDE STERILIZER** means any chamber or related piece of equipment that uses ethylene oxide or an ethylene oxide mixture in any sterilization or fumigation process.

(u) **FREEBOARD RATIO** means the freeboard height (the distance from the top of the degreaser to the air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).

(v) **HEPA FILTER** means a high efficiency particulate air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

(w) **LEAK-TIGHT CONTAINER** means a dust-tight container, at least 6-mil thick, that encloses the asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

(x) **LOCAL EXHAUST VENTILATION AND COLLECTION SYSTEM** means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos-Containing Materials in Buildings).

(y) **OWNER OR OPERATOR** means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

(z) **REFRIGERATED FREEBOARD CHILLER** means a set of cooling coils situated above the condenser which operates at 2°C or less.

(aa) **RESIDENTIAL DWELLING** means any nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one ((family)) owner as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include single or multiple family rental units. This term does not include structures that are demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

(bb) **TOXIC AIR CONTAMINANT (TAC)** means any air contaminant listed in Appendix A of this Regulation III

or listed in the Administrative Regulations of the United States of America in 40 CFR Part 372, Subpart D, as both now exist or are hereinafter amended, and both of which by this reference are incorporated herein and made a part hereof.

(cc) **VAPOR DEGREASER** means a degreasing tank in which the solvent is heated at or above the boiling point.

(dd) **VISIBLE EMISSIONS** means any emissions that are visually detectable without the aid of instruments. This term does not include condensed uncombined water vapor.

(ee) **WASTE GENERATOR** means any owner or operator of a source whose act or process produces asbestos-containing waste material.

(ff) **WASTE SHIPMENT RECORD** means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos-containing waste material.

(gg) **WORKING DAY** means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

#### AMENDATORY SECTION

#### **REGULATION III SECTION 4.01 APPLICATION REQUIREMENTS AND FEES**

##### **(a) Application Requirements - Applicability.**

It shall be unlawful for any person to cause or allow work on an asbestos project or demolition unless the owner or operator has obtained written approval from the Control Officer as follows:

(1) A written "Application to Perform an Asbestos Project" or an "Application to Perform a Demolition" shall be submitted on Agency-provided forms by the owner or operator for approval by the Control Officer before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written application shall be accompanied by the appropriate application fee and a certification that an asbestos survey has been conducted.

(3) The written application for a demolition shall also include a certification that there is no known asbestos-containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall not exceed one (1) year beyond the original starting date and shall have a starting and completion date that is commensurate with the amount of work involved.

(5) A copy of the approved application and asbestos survey shall be available for inspection at the asbestos project or demolition site.

(6) Upon completion of an asbestos project or a demolition, a written "Notice of Completion" shall be filed with the Control Officer on forms provided by the Agency.

(7) Submission of an "Application to Perform an Asbestos Project" shall be prima facie evidence that the asbestos project involves asbestos-containing material.

(8) Application for multiple asbestos projects may be filed on one form, if the following criteria are met:

(A) The work will be performed continuously by the same contractor; and

(B) The structures ~~((are in a contiguous group))~~ must be in an unbroken sequence, not divided by road, waterway, or structures not included in the asbestos project; and

(C) The asbestos project specifications regarding location and dates are provided in detail; and

(D) All asbestos projects are bid as a group under the same contract.

(b) **Application Requirements - Advance Notification Period and Fee.** Any application required by Section 4.01(a) shall be considered incomplete until all the information required by Section 4.01(a) is received by the Control Officer and accompanied by the appropriate, non-refundable fee. The advance notification period and appropriate fee shall be determined by the following table:

		Advance Notification Period	Application Fee	Forms Required
Demolition	All	10 Working Days	\$25	1)Application to Perform a Demolition 2)Certification that No Known Asbestos is Present
Asbestos Project	Residential	Prior Notification Required	\$25	Application to Perform an Asbestos Project
Asbestos Project	<10 linear ft <11 square ft	Prior Notification Required	\$25	Application to Perform an Asbestos Project
Asbestos Project	10 - 259 linear ft 11 - 159 square ft	10 Working Days	\$100	Application to Perform an Asbestos Project
Asbestos Project	260 - 999 linear ft 160 - 4,999 sq ft	10 Working Days	\$250	Application to Perform an Asbestos Project
Asbestos Project	1,000 - 9,999 linear ft 5,000 - 49,999 sq ft	10 Working Days	\$500	Application to Perform an Asbestos Project
Asbestos Project	10,000+ linear ft 50,000+ sq ft	10 Working Days	\$1,000	Application to Perform an Asbestos Project
Amendments	All Projects	Prior Notification Required	\$25 (3rd amendment & after)	Amended Copy of Approved Application
Emergencies	All projects that normally require a 10 working day notification period	Prior Notification Required	\$100 plus Normal Notification Fee	Emergency Waiver Request Letter (submitted by property owner)

**(c) Annual Applications.**

In addition to the application requirements of Sections 4.01(a) and 4.01(b), the owner or operator of a facility may file for approval by the Control Officer an annual written application to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Sections 4.01 (a)(1) through 4.01 (a)(4), 4.01 (a)(6), and 4.01(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual Application - Restrictions.

(A) The annual written application shall be filed for approval by the Control Officer before commencing work on any asbestos project to be specified in an annual application.

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section shall be limited to less than 260 linear feet on pipes and 160 square feet on other components.

(C) The application requirements of Sections 4.01(a) and 4.01(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.

(D) A copy of the written annual application shall be available for inspection at the property owner's or operator's office until the end of the calendar year.

(E) Asbestos-containing waste material generated from asbestos projects filed under an annual application may be

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stored for disposal at the facility if all of the following conditions are met:

(i) All asbestos-containing waste material shall be treated in accordance with Sections 4.03 (a)(1) (~~(-4.03 (a)(2), 4.03 (a)(3), and 4.03 (a)(4))~~) and 4.03 (a)(3);

(ii) Accumulated asbestos-containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(iii) All stored asbestos-containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos-containing waste material is handled as dangerous waste in accordance with WAC 173-303. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction.

(2) Annual Application - Reporting Requirements and Fees.

Annual written applications required by Section 4.01 (c)(1) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, accompanied by an annual fee of \$1,000.

(3) Annual Application - Quarterly Reporting Requirements.

In addition to the written annual application requirements of Section 4.01 (c)(2), the facility owner or operator shall submit quarterly written reports to the Control Officer within fifteen (15) days after the end of each calendar quarter. Each quarterly report shall be submitted on forms provided by the Agency or in a format approved by the Control Officer.

(d) **Application Requirements - Amendments.**

It shall be unlawful for any person to cause or allow any deviation from the information contained in a written application unless an amended application has been received and approved by the Control Officer. Amended applications required by this section shall be filed by the original applicant, received by the Control Officer no later than the last filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos-containing material. In this case, the fee shall be increased accordingly and the total fee shall be equal to, but not exceed, the fee amount provided for each job size category specified in Section 4.01(b);

(2) The asbestos project or demolition starting or completion date, provided the total duration of the work does not exceed one (1) calendar year beyond the original starting date. The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Section 4.01(d) and approved by the Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Section 4.01(b) and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of

40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction;

(5) Method of removal or compliance procedures, provided the revised work plan meets the asbestos emission control and disposal requirements of Sections 4.02 and 4.03;

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and

(7) Any other information requested by the Control Officer.

(e) **Advance Notification Period - Exemptions.**

The Control Officer may waive the required ten (10) working day advance notification period in Section 4.01(b) for an asbestos project or demolition if the facility owner demonstrates to the Control Officer that there is an emergency as follows:

(1) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer and be accompanied by the required application and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the facility owner or operator, including the city, zip code, and county;

(B) The complete street address or location of the asbestos project site, including the city, zip code, and county;

(C) A description of the sudden and unexpected event including the date and hour that the emergency occurred; and

(D) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) Emergency Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer and be accompanied by the required applications and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency demolition shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos project, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has ordered the demolition;

(D) The reason why the demolition was ordered; and

(E) The dates on which the order was received and the demolition was ordered to begin.

#### AMENDATORY SECTION

#### **REGULATION III SECTION 4.02 PROCEDURES FOR ASBESTOS EMISSION CONTROL**

(a) **Asbestos Project - Requirements.**

It shall be unlawful for any person to cause or allow work on an asbestos project unless an asbestos survey has been conducted and the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, on-site supervision of a certified asbestos supervisor. This requirement shall not apply to certain limited asbestos projects conducted in accordance with Section 4.02(b) for residential dwellings, nor to asbestos projects for which the Washington State Department of Labor and Industries has determined certified asbestos workers or supervisors are not required.

(2) All asbestos-containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(3) No visible emissions shall result from an asbestos project.

(4) All asbestos-containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(A) Kept adequately wet until collected for disposal; and

(B) Collected for disposal at the end of each working day; and

(C) Contained in a controlled area at all times until transported to a waste disposal site; and

(D) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(E) Transported to the ground via dust-tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) Mechanical assemblies or components covered, coated, or manufactured from asbestos-containing material, removed as a unit or in sections, shall be contained in a leak-tight wrapping after wetting and labeled in accordance with Section 4.03 (a)(1)(C).

(A) For large components such as boilers, steam generators, and large tanks, the asbestos-containing material is not required to be removed or stripped if the component can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(B) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos-containing material may avoid wetting and leak-tight wrapping if:

(i) All access to the asbestos-containing material is welded shut; or

(ii) The component has mechanical seals in place that separate the asbestos-containing material from the environment and these seals cannot be removed by hand; and

(iii) The components are labeled in accordance with Section 4.03 (a)(1)(C).

(6) Local exhaust ventilation and collection systems used on an asbestos project shall:

(A) Be maintained to ensure the integrity of the system; and

(B) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

(7) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

**(b) Asbestos Project - Exemptions For Residential Dwellings.**

The requirements of 4.02 (a)(1) shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 4.02 (a)(1) shall apply to furnace interiors and direct-applied mudded asbestos insulation on hot water heating systems, which may not be removed by the resident owner.

**(c) Demolition - Requirements.**

It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos-containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos-containing material or prevent access to the asbestos-containing material for removal and disposal.

**(d) Demolition - Asbestos Removal Exemptions.**

Asbestos-containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof, if:

(1) The asbestos-containing material is on a component that is encased in concrete or other material determined by the Control Officer to be equally effective in controlling asbestos emissions. In this case, the application requirements of Section 4.01 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Section 4.03 (a)(2); or

(2) The asbestos-containing material could not be removed prior to demolition because it was not accessible until after demolition began. In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer to waive the requirements of Section 4.02(c). In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, shall accompany the written request in addition to the application and appropriate fee as required by Section 4.01. The request for exemption from Section 4.02(c) shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has determined the hazardous condition;

(D) A description of the hazardous condition that prevents the removal of asbestos-containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(E) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

**(e) Alternative Control Measures.**

The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions for conditional approval by the Control Officer. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city, zip code, and county;

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

**WSR 93-15-051  
PERMANENT RULES  
DEPARTMENT OF FISHERIES**

[Filed July 14, 1993, 4:26 p.m.]

Date of Adoption: July 14, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-16-015, 220-20-010, 220-48-005, 220-52-019, 220-52-1901, 220-52-043, 220-52-046, 220-52-050, 220-52-051, 220-52-068, 220-52-069, 220-52-071, 220-52-075, and 220-88-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 93-12-092 on May 28, 1993.

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

July 14, 1993

Judith Freeman

Deputy

for Robert Turner

Director

**AMENDATORY SECTION** (Amending Order 82-72, filed 7/1/82)

**WAC 220-16-015 General definitions—Trawl gear.**

(1) "Otter trawl" shall be defined as a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Otter trawl nets may be used both on and off

the seabed. Otter trawl nets may be fished with or without trawl doors, and may employ warps or cables to direct fish. Otter trawl nets are restricted to the following three categories:

(a) "Bottom trawl" means an otter trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear.

(b) "Roller trawl" or "bobbin trawl" are identical, and mean an otter trawl with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net during fishing on the seabed.

(c) "Pelagic trawl" means an otter trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. Pelagic trawl nets may not have footropes protected at the trawl mouth with rollers, bobbins, or discs.

(2) "Beam trawl" shall be defined as a type of bottom trawl, consisting of a bag-shaped trawl net (~~net~~) utilizing a beam to spread the mouth of the net horizontally as it is towed and not having weighted otter frames or otter doors (~~when operated~~). The minimum mesh size for beam trawl nets is four and one-half inches in a food fish fishery and one and one-half inches in a shrimp fishery, unless otherwise provided.

(3) "Shrimp trawl" shall be defined as a tapered, funnel-shaped trawl net in which the mesh size is two inches or less in the intermediate and codend sections of the trawl. Otter doors (~~or~~), otter boards (~~are~~), or a beam may be used to spread the mouth of the net horizontally as it is towed. The mouth of the net is formed on the upper edge by a line to which floats are attached (headrope) and on the lower edge by a line which is usually weighted (footrope). Additional webbing is frequently attached to the codend section to prevent the net from chafing.

(4) "Scallop dredge" shall be defined as trawl gear with interlocking metal ring meshes, which is legal gear for harvest of scallops.

(5) "Codend" shall be defined as the terminal, closed end of a trawl net.

(a) Single-walled codend is a codend constructed of a single wall of webbing knitted with single-ply mesh, or with double-ply mesh (double twine tied into a single knot).

(b) Double-walled codend is a codend constructed of two walls of webbing. The double-walled portion of the codend must be tied knot-to-knot to the trawl net, and may not be longer than twenty-five trawl meshes or twelve feet, whichever is greater. The use of double-walled codends is unlawful in pelagic trawls, roller trawls, and bobbin trawls.

(6) "Chafing gear" shall be defined as webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear. Chafing gear must not be connected to the terminal (closed) end of the codend.

(7) "Trawl riblines" shall be defined as heavy ropes or lines that run down the sides, top or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

(8) "Trawl mesh size" shall be defined as the distance between the inside of one knot and the inside of the opposite vertical knot in trawl mesh. Minimum trawl mesh size requirements are met if a wedge of legal size can be passed

without undue force through sixteen of twenty sets of two meshes each of wet mesh in the codend.

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

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasi)</i>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbuscha)</i>
Sockeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand issued to the license, provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make or return any report required by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling unless otherwise provided.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using baitfish jigger gear or squid jigs.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in

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commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department of fisheries or bringing food fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-52-043 Crab fishery—Gear.** (1) It shall be unlawful to take or fish for crabs for commercial purposes except with shellfish pots and ring nets.

(2) It shall be unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless such gear meets the following requirements:

(a) Pot gear must have not less than two escape rings or ports not less than 4-1/4 inches inside diameter.

(b) Escape rings or ports described above must be located in the upper half of the trap.

(3) All buoys attached to commercial crab gear in Puget Sound waters must consist of a durable material and remain floating on the water's surface when five pounds of weight is attached. It is unlawful to use bleach or antifreeze bottles or any other container as a float. No buoys attached to commercial crab gear in Puget Sound may be half red in color and half white in color, as these colors are reserved for personal use crab gear as described in WAC 220-56-320 (1)(c).

#### NEW SECTION

**WAC 220-52-068 Scallop fishery—Coastal waters.** It is unlawful to fish for or possess scallops taken for commercial purposes from coastal and offshore waters except as provided for in this section.

(1) Season: July 1 through November 30.

(2) Gear: Only scallop dredge gear may be used. Scallop dredge gear may not exceed fifteen feet in width per unit of gear nor have a ring size less than three inches inside diameter. Scallop dredges may not use a dredge liner nor have chaffing gear covering any portion of the top half of the dredge.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-069 Scallop fishery—Puget Sound.** It is unlawful to fish for or possess scallops taken for commercial purposes from Puget Sound except as provided for in this section:

~~(1) (It is lawful at any time to take or fish for scallops for commercial purposes in coastal waters with otter trawl or beam trawl or scallop dredge gear. Minimum and maximum size for trawl gear are concurrent with sizes used in coastal shrimp fishing, see WAC 220-52-054. Scallop dredge gear may not exceed fifteen feet in width nor have a ring size of less than three inches inside diameter except as authorized under a permit issued by the director.~~

~~(2) It is lawful at any time to take or fish for scallops for commercial purposes in Puget Sound waters with scallop dredge gear not exceeding fifteen feet in width or having a ring size of not less than three inches inside diameter. It is lawful to take and possess scallops taken incidental to bottomfish trawl fishing as authorized under chapter 220-48 WAC. The taking of scallops with trawl gear at times or of size other than those authorized under chapter 220-48 WAC, with scallop dredge gear of a size other than that provided for in this section, or by shellfish diver gear is prohibited except as authorized under permit issued by the director.~~

~~(3)) Rock scallops and weathervane scallops. It is unlawful at any time to take or possess rock or weathervane scallops taken for commercial purposes from Puget Sound unless a person has first obtained a ((roek)) scallop brood stock permit issued by the department. The permit will specify the species, location, time, and quantity of ((roek)) scallops that can be taken for brood stock or culture purposes.~~

(2) Pink scallops and spiny scallops.

(a) General provisions:

(i) Pink and spiny scallops may be harvested from Puget Sound at any time.

(ii) The minimum commercial pink or spiny scallop size is 2 inches in length from the hinge to the outer margin of the shell.

(iii) Persons fishing for pink or spiny scallops must have approval of the Washington state department of health. Scallops may only be taken from areas approved by the department of health and any fisher taking pink or spiny scallops must have on board the harvesting vessel a valid department of health shellfish toxin sampling agreement.

(iv) No other shellfish or food fish may be retained while scallop fishing or possessed aboard the scallop fishing vessel.

(b) Trawl gear provisions:

(i) Trawlers may only use single beam trawls not exceeding ten feet in width and having mesh size no smaller than two inches in the intermediate portion and cod end of the trawl.

(ii) Trawling for scallops is prohibited in waters less than 120 feet below mean lower low water.

(iii) Trawling for scallops is prohibited in the following areas:

(A) All waters closed to bottomfish trawl in WAC 220-48-015.

(B) Shrimp Districts 1 and 3 as defined in WAC 220-52-051.

(C) Sea Urchin Districts 1 and 2 closed waters defined in WAC 220-52-073 (1)(a)(i), (ii), and (1)(b)(ii).

(c) Shellfish diver gear provisions:

(i) Diving for scallops is prohibited in Sea Urchin Districts 1 and 2 closed waters as defined in WAC 220-52-073 (1)(a)(i), (ii), (1)(b)(i), and (ii).

AMENDATORY SECTION (Amending Order 91-73, filed 8/28/91, effective 9/28/91)

**WAC 220-52-071 Sea cucumbers.** It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

**(1) Sea cucumber districts:**

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(iii) Within one-quarter mile of Green Point on Spieden Island.

(iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

**(2) Sea cucumber areas and seasons:**

(a) District 1 open May 1 through October 31, 1991.

(b) District 2 open May 1 through October 31, 1992.

(c) District 3 open May 1 through October 31, 1993, except:

(i) Marine Fish Shellfish Management and Catch Reporting Area 26C is closed to the harvest of sea cucumbers after August 31, 1993.

(ii) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island are closed to the harvest of sea cucumbers at all times.

(iii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis are closed to the harvest of sea cucumbers at all times.

(d) District 4 open May 1 through October 31, 1994.

(e) Other areas and times as authorized by permit issued by the director.

(f) During the seasons provided for in this subsection, harvest is restricted to Monday through Wednesday May 1 through May 14, Monday through Thursday May 15 through June 30, and Monday through Friday thereafter. Divers may

not take sea cucumbers from one-half hour before official sunset to official sunrise or 6:00 a.m., whichever is later.

**(3) Shellfish diver gear:**

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

**(4) Trawl gear:**

~~((a) Trawl gear is limited to that gear and those times authorized under chapter 220-48 WAC, or otherwise as authorized by a permit issued by the director.~~

~~((b) Up to one hundred pounds of sea cucumbers may be taken without regard to other species aboard, but landings of more than one hundred pounds are lawful only if sea cucumbers represent no more than twenty percent of the total weight of fish on board. No trawl vessel may land more than two hundred fifty pounds of sea cucumbers in any one vessel trip except as authorized by permit issued by the director.)) It is unlawful to fish for or possess sea cucumbers taken with trawl gear.~~

AMENDATORY SECTION (Amending Order 92-89, filed 9/3/92, effective 10/4/92)

**WAC 220-88-030 Experimental fishery permit advisory board.** ~~((+))~~ The five-person advisory board that will review and make recommendations regarding number and qualifications of persons who will receive experimental fishery permits shall have knowledge of the commercial fishing industry.

~~((2) No board member may be an applicant for or receive an experimental fishery permit.))~~

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-046 Crab fishery—Seasons and areas.**

It is unlawful to fish for or possess Dungeness crabs taken for commercial purposes except during the lawful open seasons and areas as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except 25C, 27A, 27B, 27C, 28A, 28B, 28C, and 28D - open October 1 through April 15, provided that it is unlawful to set any crab gear prior to 9:00 a.m. on the opening day of the season.

(2) Coastal, Pacific Ocean, Grays Harbor, Willapa Harbor and Columbia River waters - open December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November ~~((27))~~ 28.

AMENDATORY SECTION (Amending Order 91-73, filed 8/28/91, effective 9/28/91)

**WAC 220-52-051 Shrimp fishery—Puget Sound.** It is unlawful to fish for or possess shrimp taken for commercial purposes from Puget Sound except as provided for in this section:

(1) SHRIMP DISTRICTS: The following areas are defined as shrimp fishing districts:

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

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

(c) Shrimp District 3 - (Port Angeles) Waters inside Ediz Hook west of a line from the tip of Ediz Hook to the ITT Rayonier Dock.

(d) Shrimp District 4 - (Sequim Bay) Waters of Sequim Bay south of a line projected true west from Travis Spit on the Miller Peninsula.

(e) Shrimp District 5 - (Hood Canal) Waters south of the Hood Canal Floating Bridge.

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

(2) TRAWL GEAR:

(a) SEASONS - All waters of Puget Sound are open to trawl gear April ~~((15))~~ 16 through October 15 except closed in:

(i) Shrimp Districts 1, 2, 3, 4, 5, and 6.

(ii) ~~((Waters south of the Narrows Bridge.~~

~~((iii))~~ Waters closed to trawl fishing in WAC ~~((220-49-015))~~ 220-48-015.

(b) GEAR RESTRICTIONS - Beam trawl gear only. Otter trawl gear may not be used.

(3) SHELLFISH POT GEAR:

(a) SEASONS - All waters of Puget Sound are open to shellfish pot gear April 16 through October 15 except:

(i) Open in Shrimp Districts 1, 2, and 3 from May 16 through September 15 except those waters of Shrimp District 1 within a line from the entrance to the Cape George Marina projected southwesterly to the easternmost tip of Diamond Point thence southeasterly to the westernmost tip of Beckett Point thence following the shore to the point of origin are closed to shrimp fishing.

(ii) Closed in Shrimp Districts 4, 5, and 6 unless opened by emergency regulation.

(b) GEAR RESTRICTIONS -

(i) In all areas, maximum 100 pots per ~~((fisherman))~~ fisher, except:

(A) Maximum 75 pots per ~~((fisherman))~~ fisher in Marine Fish-Shellfish Management and Catch Reporting Area 28B.

(B) Maximum 25 pots per fisher in Shrimp District 1.

(C) Maximum 50 pots per ~~((fisherman))~~ fisher in Shrimp Districts ~~((+))~~ 2~~((;))~~ and 5.

~~((C))~~ (b) Maximum 10 pots per ~~((fisherman))~~ fisher in Shrimp District 3.



(ii) In all shrimp districts:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(iii) In Shrimp Districts 2 and 5:

(A) The entire top, bottom, and sides of the pot, except entrance tunnels, must be constructed of mesh material having a minimum mesh of such size that a 7/8 inch square peg can pass through without changing the shape of the opening.

(B) All entrance tunnels must open into the pot from the sides.

(C) The sum of the maximum widths of all entrance tunnels must not exceed one-half of the perimeter of the bottom of the pot.

(c) Spot shrimp size restriction: It is unlawful to possess spot shrimp taken by shellfish pot gear that average more than 20 shrimp per pound as sampled by a minimum of two samples of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-52-019 Geoduck clams—Gear and unlawful acts.** (1) It is unlawful to take, fish for or possess geoduck clams taken for commercial purposes from any of the beds of navigable waters of the state of Washington except as provided ~~((for))~~ in RCW 75.24.100 and rules of the director.

(2) ~~((Validations for the use of hand held manually operated water jet or suction devices for harvesting geoduck clams for commercial purposes, pursuant to RCW 75.24.100, may be obtained from the director of fisheries subject to the following conditions:~~

~~((a) All harvesting methods and types of water jet and suction devices used in the taking or harvesting of geoduck clams must be approved by the director of fisheries prior to their use, except that water jet devices meeting the following requirements are approved for use:~~

~~Any water jet having an automatic spring triggered shutoff valve or a manual valve capable of being operated from full flow to completely off within one half turn and consisting of not more than one)) (a) Only a manually operated water jet, the nozzle of which shall not exceed 5/8 inch inside diameter may be used to commercially harvest geoduck clams. Use of any other gear requires a permit from the director.~~

(b) It is unlawful in the commercial harvest of geoducks for through-hull fittings for water discharge hoses connected to the harvest gear to be below the surface of the water. Any through-hull fitting connected to the harvest gear which is above the surface of the water must be visible at all times.

(3) It is unlawful to take~~((;))~~ or fish for ~~((or possess))~~ geoduck clams taken ~~((from))~~ for commercial purposes between one-half hour before official sunset ~~((to official sunrise))~~ or ~~((to 6:00 a.m.))~~ 7:00 p.m. whichever is ~~((later))~~

earlier and 7:00 a.m. No geoduck harvest vessel may be on a geoduck tract or harvest area after 7:30 p.m. or before 6:30 a.m. It is unlawful to take~~((;))~~ or fish for ~~((or possess))~~ geoduck clams ~~((taken))~~ on Sundays or on state holidays as defined by the office of financial management. It is unlawful to possess geoduck clams taken in violation of this section.

(4) It is unlawful to harvest geoduck clams with any instrument that penetrates the skin, neck or body of the geoduck.

(5) It is unlawful to possess only the siphon or neck portion of a geoduck clam aboard a geoduck harvest vessel.

(6) It is unlawful to retain any food fish or shellfish other than geoduck clams during geoduck harvesting operations ~~((unless the operator is licensed for the taking of elams other than geoduck clams as provided for in chapter 75.28 RCW. It is unlawful to take, fish for or possess sea cucumbers during geoduck clam harvesting operations, or possess sea cucumbers on a vessel that has geoducks aboard))~~.

~~((6)) (7) It is unlawful for more than ~~((six))~~ two divers from any one geoduck harvest vessel to ~~((harvest geoducks))~~ be in the water at any one time ~~((on a single geoduck tract. It is the responsibility of the holder of the harvest agreement to assure that no more than six divers are harvesting at one time))~~.~~

~~((7) At)) (8) The following documents must be on board the geoduck harvesting vessel at all times ~~((when))~~ during geoduck ~~((harvest is occurring, eopies))~~ operations:~~

(a) A copy of the department of natural resources geoduck harvesting agreement for the tract or area where harvesting is occurring;

(b) A map of the ~~((official))~~ geoduck tract ~~((map))~~ or harvest area and complete tract or harvest area boundary identification documents or photographs ~~((as))~~ issued by the department of natural resources for the ~~((specific))~~ tract ~~((must be on board the vessel))~~ or harvest area;

(c) A geoduck diver license for each diver on board the harvest vessel or in the water; and

(d) A geoduck gear license as described in WAC 220-52-01901.

~~((8)) (9) It is unlawful to process geoducks on board any harvest vessel.~~

~~((9)) (10) It ~~((shall be))~~ is unlawful to take~~((;))~~ or fish for ~~((or possess))~~ geoduck clams for commercial purposes ~~((except those taken within boundaries of subtidal tracts for which geoduck harvest agreements have been issued by the))~~ outside the tract or harvest area designated in the department of natural resources geoduck harvesting agreement required by subsection (8)(a) of this section. It is unlawful to possess geoduck clams taken in violation of this subsection.~~

~~((10)) (11) It ~~((shall be))~~ is unlawful to commercially harvest ~~((from bottoms))~~ geoduck clams in areas which are shallower than 18 feet below mean lower low water (0.0 feet), or ~~((which lie))~~ in areas ~~((bounded by the line of ordinary high tide (mean high tide), and))~~ shoreward from a line 200 yards seaward from and parallel to ~~((said))~~ the line of ordinary high tide ~~((on subtidal tracts))~~. It is unlawful to harvest geoduck clams in areas deeper than seventy feet below the water surface at any tide height.~~

(12) It is unlawful for any harvest vessel to anchor less than 600 feet from a previously-anchored harvest vessel.



Harvest vessels must remain at least 600 feet apart while divers are in the water.

(13) Holders of geoduck gear licenses issued under RCW 75.24.100 and WAC 220-52-01901 shall comply with all applicable commercial diving safety regulations adopted by the Federal Occupational Safety and Health Administration established under the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. Some of those regulations appear at 29 C.F.R. Part 1910, Subpart T.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-01901 Geoduck ((validations)) gear licenses. (1) ((Numbered validations will be)) A geoduck gear license issued ((only to holders of valid subtidal geoduck harvest agreements issued by the department of natural resources and persons who hold current geoduck tract licenses issued by the department of fisheries. The)) by the director is required for the commercial harvest of geoduck clams. Geoduck gear licenses were previously called "geoduck validations" ((will be issued for each licensed tract))."

(2) ((The number of validations to be issued to each holder of a)) Only persons holding current geoduck harvest agreements ((shall be determined by the director of fisheries based upon the number of individual geoduck tracts for which harvest agreements have been issued by)) from the department of natural resources ((, their total acreage, past geoduck production, present number of nozzle licenses held for the operation, and other factors as deemed appropriate by the director of fisheries)) or their agents may apply for geoduck gear licenses. An application for a geoduck gear license must be on a form provided by the department; must be complete, and must be accompanied by a copy of the geoduck harvest agreement for which the license is sought.

(3) ((The number of geoduck validations held by the holder of the harvest agreement may be adjusted from time to time as deemed necessary by the director of fisheries and when changes in leases occur.

(4) The)) A geoduck ((validation will)) gear license expires at the end of ((each)) the calendar year ((, provided that the director may issue temporary validations for restricted time periods. In the event a validation is lost, a new validation will be issued upon receipt of a signed affidavit from the holder of the harvest agreement attesting to the loss. Any request to assign or transfer a validation from one holder of a harvest agreement to another must be made in writing. No validation will be assigned or transferred without the written approval of the director of fisheries)) following its issuance, or when the harvesting agreement for which it is issued terminates, whichever is earlier.

(4) The fee requirements of RCW 75.28.035 apply to any request to transfer a geoduck gear license or replace a lost geoduck gear license card.

(5) ((The holder of the harvest agreement is responsible for notifying each designated vessel operator and diver to whom he provides a validation of all the laws and regulations of the state of Washington department of fisheries pertaining to commercial geoduck harvest. The holder of the harvest agreement, designated vessel operator or diver may be held criminally or civilly liable for violation of the

applicable rules and regulations of the department of fisheries. Violations by the holder of the harvest agreement, designated vessel operator or the diver can result in suspension or cancellation of the validation subject to the holder's right to opportunity for a hearing as specified in chapter 34.04 RCW. The director of fisheries may refuse to issue a validation to any holder of a harvest agreement who has failed to comply with these regulations.

(6) Applications for geoduck validations must be made on forms provided by the department of fisheries.

(7) At all times when geoduck harvest is occurring, the geoduck personal commercial fishing license and validation card for each and every diver who is harvesting or attempting to harvest geoducks from that tract must be physically on board the harvesting vessel, and evidence of the geoduck tract license for the specific tract must be prominently displayed on board the vessel. It is the responsibility of the holder of the harvest agreement to ensure that the required number of validation cards are on board the harvesting vessel during geoduck harvesting.) Each geoduck gear license authorizes the use of two water jets or other units of geoduck harvest gear. Gear must meet the requirements of WAC 220-52-019(2). A geoduck gear license card is a "license card" under WAC 220-69-270.

(6) The director may suspend or revoke a geoduck gear license used in violation of commercial diving safety regulations, including 29 C.F.R. Part 1910, Subpart T, adopted under the Occupational Safety and Health Act of 1970. The procedures of chapter 34.05 RCW apply to such suspensions or revocations. If there is a substantial probability that a violation of commercial diving safety regulations could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the director may suspend the license immediately until the violation has been corrected. The director shall not revoke a geoduck gear license if the holder of the harvesting agreement corrects the violation within ten days of receiving written notice of the violation.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

WAC 220-52-075 Shellfish harvest logs. It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, shrimp, squid, octopus, or sand shrimp fishing or operator of mechanical clam digging device to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, sea cucumbers, sea urchins, shrimp, squid, octopus, scallops, clams, or sand shrimp aboard. The vessel operator must submit the harvest logs for inspection upon request by authorized department of fisheries representatives. The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing activity occurred, except that commercial sea cucumber harvest logs must be received for each month of the season provided for in WAC 220-52-072 regardless of whether harvest activity occurred during the month, and all

shellfish harvesters must submit a log that must be received by the tenth day following the termination of commercial fishing activity showing that shellfish harvest has terminated for the year.

(1) Vessel operators engaged in commercial harvest of shrimp or crawfish with shellfish pot or ring net gear must record the vessel Washington department of fisheries boat registration number, number of pots or ring nets pulled, date pulled, soak time, and gear location before leaving the catch area where taken, and weights must be recorded upon landing or sale. In addition, vessel operators engaged in commercial harvest of shrimp in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, or 27C (Hood Canal) must record the total number of pots they have in the water and the total number of buoys attached to those pots, and the department's copy of the completed harvest log must be submitted weekly, postmarked no later than Friday and showing harvest activity for the period Thursday of the week previous to submission through Wednesday of the week the harvest log is submitted.

(2) Vessel operators engaged in commercial harvest of shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Vessel operators engaged in commercial harvest of sea urchins or sea cucumbers must record the vessel identity, date, location, and the approximate number of sea urchins or sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Vessel operators engaged in commercial harvest of clams with mechanical digging devices must record the vessel identity, location, and date of harvest before the end of each day's fishing and the weights by clam species must be recorded upon landing or sale.

(5) Vessel operators engaged in commercial harvest of scallops (~~with dredge or trawl gear~~) must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow or dive hour before leaving the catch area where taken.

(6) Vessel operators engaged in commercial harvest of squid, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type, catch area, starting and ending time of fishing, and numbers of other species caught and returned. Weights of squid must be recorded on landing or sale.

(7) Vessel operators engaged in commercial harvest of octopus, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type and amount, catch area and hours fished. Weights of octopus must be recorded on landing or sale.

(8) Vessel operators engaged in commercial harvest of sand shrimp, except when taken incidental to any other lawful fishery, must record the location or identification number of the harvest tract, date of harvest, number of trenches pumped, average length and width of trenches (yards), total number of sand shrimp retained (dozens), total

number of sand shrimp sold (dozens), and the name of the sand shrimp buyer.

AMENDATORY SECTION (Amending Order 92-28, filed 5/12/92, effective 6/12/92)

**WAC 220-48-005 Puget Sound bottomfish—General provisions.** (1) It is unlawful to possess any English sole less than 12 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(2) It is unlawful to possess any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(3) It is unlawful to possess lingcod taken with any commercial gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 24A, 24B, 24C, 24D, 25B, 25C, 25D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to possess any lingcod less than 26 inches in length or greater than 40 inches in length taken by any commercial gear in all state waters east of the mouth of the Sekiu River.

(5) It is unlawful to possess lingcod taken with any commercial gear from December 1 through April 14 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29.

(6) It is unlawful to possess lingcod taken by any commercial gear from June 16 through April 30 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, and 25E.

(7) It is unlawful to possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC (~~(220-52-053,)~~ 220-52-063(~~7~~)) and 220-52-066(~~7~~ 220-52-069, and 220-52-074)).

AMENDATORY SECTION (Amending Order 87-187, filed 11/6/87)

**WAC 220-52-050 Shrimp fishery—Coastal waters.** It is unlawful to fish for or possess shrimp taken for commercial purposes from coastal waters except as provided for in this section:

(1) **Trawl gear:**

(a) **Season** - Open to trawl fishing April 1 through October 31 of each year.

(b) **Gear restrictions** - The following gear is prohibited:

(i) Shrimp trawl gear having a mesh size greater than two inches (~~(or smaller than one and three eighths inches)~~) in the intermediate or codend. (~~(At least seventy five percent of the meshes measured randomly throughout the net by means of a metal tapered gauge must fit on the gauge for compliance.)~~) It is lawful to have mesh larger than two inches in the wings or body of the trawl.

(ii) (~~Shrimp trawl gear having a lined or double layered codend, except it is lawful to employ a lifting bag or additional layer of webbing if the lifting bag webbing is not less than three inch mesh not smaller in circumference than the shrimp trawl at its greatest circumference.~~)

(iii) ~~Shrimp trawl gear employing layers of protective webbing or chafing gear over the codend unless such~~

~~webbing is attached at only one strip around the circumference of the codend, trails freely, and has a minimum mesh of three inches.~~

~~(iv)) It is unlawful for any fisherman to be in possession of any gear ((described in (i) through (iii) above)) having mesh size greater than two inches in the intermediate or codend while any shrimp are aboard the vessel.~~

**(2) Shellfish pot gear:**

(a) **Season** - Open to shellfish pot gear fishing the entire year.

(b) **Gear restrictions** - No mesh restriction.

**(3) Minimum number of shrimp per pound:**

The count must average no more than 160 shrimp per pound for a minimum of two samples increasing at a rate of one sample per one thousand pounds landed or in possession up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession. This subsection applies only to loads of 3,000 pounds of shrimp or more.

**WSR 93-15-069**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed July 16, 1993, 8:07 a.m.]

Date of Adoption: July 16, 1993.

Purpose: To amend WAC 16-218-001, 16-218-010, 16-218-02001 and add a new section WAC 16-218-030 to increase fees for certification and analyses required for hops, hop extract, hop pellets and/or hop powder; and establish a schedule of fees for other certificates as requested/required by the industry.

Citation of Existing Rules Affected by this Order: Amending chapter 16-218 WAC, Hops—Certification analyses—Fees.

Statutory Authority for Adoption: RCW 22.09.830(2).

Pursuant to notice filed as WSR 93-12-134 on June 2, 1993.

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

July 16, 1993

John M. King

Acting Director

**AMENDATORY SECTION** (Amending Order 1156, filed 7/1/70)

**WAC 16-218-001 Promulgation.** I, ~~((Donald W. Moss))~~ Peter J. Goldmark, director of agriculture of the state of Washington, by virtue of the authority vested in me under chapter 22.09 RCW, ~~((after due notice as provided under chapters 42.32 and 34.04 RCW and a public hearing held in Yakima, Washington on June 24, 1970, do hereby))~~ promulgate the following regulations relating to schedule of fees for the certification analyses of hops.

**AMENDATORY SECTION** (Amending Order 1905, filed 8/15/86)

**WAC 16-218-010 Schedule of fees for physical grading.** The schedule of fees, payable to the department for certification of hops pursuant to the standards established

by the Federal Grain Inspection Service of the United States Department of Agriculture shall be as follows:

(1) Lot inspection. One dollar and ~~((thirteen))~~ twenty-five cents per bale in each lot, minimum charge shall be thirty dollars.

(2) Sample inspection. Thirty-five dollars per unofficial sample submitted.

(3) Supplemental certificates. Five dollars per certificate.

(4) Appeal inspection. Charges for appeal inspections shall be made by the Federal Grain Inspection Service, Portland, Oregon, and payment for appeal inspections shall be made to them.

~~((5))~~ ~~((Retyping certificates. A charge of five dollars shall be made for retyping certificates if through no fault of the inspection service the information is submitted incorrectly.~~

~~((6))~~ Extra copies. A charge of two dollars per set shall be made for typing extra copies of a certificate when requested by the original applicant or other financially interested party.

~~((7))~~ (6) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

**AMENDATORY SECTION** (Amending Order 1905, filed 8/15/86)

**WAC 16-218-02001 Schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder.** The following is the schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder:

(1) Official samples of hops drawn by department personnel shall be composited either from the cores drawn for grade analysis, or from cores specifically drawn on a schedule for brewing value only. Charges for analysis are: Thirty-five cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric, and ASBC or EBC conductometric methods. An official brewing value certificate shall be used.

(2) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily

accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

(3) The following fees shall be charged by the department for samples submitted to the chemical and hop laboratory for analysis:

(a) ASBC spectro . . . . .	<del>(\$25.00)</del>
	\$30.00
(b) ASBC conducto . . . . .	\$30.00
(c) EBC conducto . . . . .	\$30.00
(d) EBC conducto (Wollmer, Zurich, Mebak, Verzele, Ganzlin and hard and/or soft resins) . . . . .	<del>(\$45.00)</del>
	\$60.00
(e) Spectro of tannins, Wollmer, etc. . . . .	<del>(\$45.00)</del>
	\$55.00
(f) Methylene chloride . . . . .	<del>(\$75.00)</del>
	\$80.00
(g) Tannin . . . . .	<del>(\$30.00)</del>
	\$55.00
(h) Ash . . . . .	<del>(\$15.00)</del>
	\$20.00
(i) SO <sub>2</sub> . . . . .	\$25.00
(j) H <sub>2</sub> O . . . . .	\$10.00
(k) HPLC . . . . .	\$100.00
<u>(l) Oil . . . . .</u>	<u>\$25.00</u>
<u>(m) Wort test, particle size . . . . .</u>	<u>\$10.00</u>

(4) A fee shall be charged by the department for any other analysis not listed in this section such as (~~oil analysis~~) isoconversion products from alpha and beta resins(±) and possible adulterants such as residues. Fees shall be based on labor costs, laboratory equipment costs, chemical and material costs, administrative and overhead costs.

NEW SECTION

**WAC 16-218-030 Schedule of fees for certificates.**

The fees for issuance of certificates relating to hops or hop products shall be:

- (1) State phytosanitary certificates . . . . . \$25.00
- (2) Other certificates attesting to origin, compliance with standards of other states or nations or specifications of contracts, or conditions of production or processing . . \$20.00

**WSR 93-15-074**

**PERMANENT RULES**

**WASHINGTON STATE PATROL**

[Filed July 19, 1993, 10:50 a.m.]

Date of Adoption: July 16, 1993.

Purpose: An administrative law judge shall replace the chief as a member of the disability review board.

Citation of Existing Rules Affected by this Order: Amending WAC 446-40-070.

Statutory Authority for Adoption: RCW 43.43.040.

Pursuant to notice filed as WSR 93-10-001 on April 21, 1993.

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

July 16, 1993  
Roger W. Bruett  
Chief

AMENDATORY SECTION (Amending Order 82-6, filed 10/21/82)

**WAC 446-40-070 The board—Responsibilities and functions.** (1) The board shall consist of (~~the chief~~) an administrative law judge and three members appointed by the chief, two of whom shall be appointed annually. The (~~chief~~) administrative law judge shall be the presiding officer and shall make all necessary rulings in the course of the hearing, but shall not participate in the deliberations or preparation of findings and recommendations by the board. The third member shall be appointed each time the board is convened and shall be of the same rank as the member whose case the board is hearing.

(2) The board shall inquire into all pertinent matters relating to the disability retirement questions before the board.

(3) The board shall obtain and review reports or testimony of mental or physical examinations of the member and shall advise the chief whether, in its opinion, the member is mentally or physically capable of continuing in active service or of resuming active service.

(4) When reviewing the case of a member in disability retirement status, the board shall recommend whether disability retirement should be continued or whether the member shall be directed to return to active duty.

(5) When reviewing an application by a member or the personnel officer for disability retirement status, the board shall recommend whether the chief should deny or grant the application.

(6) When the board recommends that a member presently in disability retirement status should return to active duty, or that a request for disability retirement should be denied, the board shall also make findings based on the evidence before it whether the member is physically or mentally capable of performing any specific assignment while on active duty. Where the board finds the member has a physical or mental impairment or disability, it shall describe such impairment or disability and the expected duration thereof, and shall recommend specific job assignments within the department which the member is mentally and physically capable of performing in his/her present condition.

(7) When the board recommends that the application for disability retirement status should be granted, it shall also determine whether the departmental member was injured or incapacitated while in the performance of his/her official duties or while on standby or available for duty.

**WSR 93-15-075**

**PERMANENT RULES**

**WASHINGTON STATE PATROL**

[Filed July 19, 1993, 10:52 a.m.]

Date of Adoption: July 16, 1993.

Purpose: Will allow the etching of vehicle identification numbers on the glass of windows in vehicles for identification purposes. Will also limit the size and placement of this etching.

Citation of Existing Rules Affected by this Order: Amending WAC 204-82A-070.

Statutory Authority for Adoption: RCW 46.37.005.

PERMANENT

Pursuant to notice filed as WSR 93-10-002 on April 21, 1993.

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

July 16, 1993

Roger W. Bruett  
Chief

**AMENDATORY SECTION** (Amending WSR 90-18-048, filed 8/30/90, effective 9/30/90)

**WAC 204-82A-070 Physical alteration of motor vehicle glazing material prohibited.** Window glazing, manufactured and installed in accordance with federal motor vehicle safety standards shall not be etched or otherwise permanently altered if such glazing is installed in the windshield or any other window location of a motor vehicle passenger compartment. The only exception to this rule is the etching of the vehicle identification number permissible with the following provisions:

(1) The maximum height of the letters or numbers shall not exceed one-half inch.

(2) The etched vehicle identification number shall not be located in any position as to interfere with the vision of the occupant(s).

#### WSR 93-15-124

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3541—Filed July 21, 1993, 11:32 a.m.]

Date of Adoption: July 21, 1993.

Purpose: Provides minimum licensing standards for a new category of child care: Overnight youth shelters designed to provide shelter for street kids. Current licensing standards for other types of facilities are not appropriate or are excessive for shelters providing overnight care. New chapter 388-160 WAC.

Statutory Authority for Adoption: Chapter 74.15 RCW.

Pursuant to notice filed as WSR 93-15-039 on July 13, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-160-020(6) clarifies that programs providing 24-hour per day domiciliary care do not fall under the requirements. WAC 388-160-410 provides services and protection for baby. WAC 388-160-420 states the board complies with all existing nonprofit board laws and rules. WAC 388-160-430 reflects information realistically obtained at intake. WAC 388-160-450 is deleted from permanent filing.

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

July 21, 1993

Rosemary Carr  
Acting Director  
Administrative Services

### Chapter 388-160 WAC MINIMUM LICENSING REQUIREMENTS FOR OVERNIGHT YOUTH SHELTERS

#### NEW SECTION

**WAC 388-160-010 Authority.** The following minimum licensing requirements for overnight youth shelter rules are adopted under chapter 74.15 RCW, Agencies for Care of Children, Expectant Mothers, Developmentally Disabled.

#### NEW SECTION

**WAC 388-160-020 Definitions.** (1) Terms defined under this chapter shall have the same meanings as definitions described under chapter 74.15 RCW, except as otherwise provided herein.

(2) "Capacity" means the maximum number of persons under care at a given moment in time.

(3) "Child" and "juvenile" means any person under the chronological age of eighteen years of age.

(4) "Department" means the department of social and health services.

(5) "Full-time care provider" or "full-time care facility" means a foster family home, group care facility, maternity home, crisis residential center, and juvenile detention facility for a child or expectant mothers.

(6) "Overnight youth shelter" means a licensed facility operated by a nonprofit agency providing overnight shelter to a homeless or runaway youth because of family problems or dysfunctions. Overnight youth shelters do not provide domiciliary care during daytime hours.

(7) "Youth" means a child or young adult through twenty years of age.

#### NEW SECTION

**WAC 388-160-030 Exceptions to rules.** (1) In individual cases the department, at its discretion for good cause, may waive specific requirements and may approve alternative methods of achieving the intent of specific requirements.

(2) The department may neither waive specific requirements nor approve alternate methods of achieving the content of specific requirements if it jeopardizes the safety or welfare of the person in care, as described under subsection (1) of this section.

(3) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of the license. The licensee may apply anew for the waiver when reapplying for a license.

(4) The department may limit or restrict a license issued to a licensee or applicant in conjunction with a waiver.

(5) The licensee or applicant applying for a waiver shall do so in writing and the licensee shall maintain a copy of the waiver.

(6) The department's denial of a licensee's or applicant's waiver request shall not be subject to appeal under chapter 34.05 RCW.

NEW SECTION

**WAC 388-160-040 Effect of local ordinances.** (1) The department shall issue or deny a license on the basis of an applicant's compliance with the department's minimum licensing requirements.

(2) The department shall not enforce local ordinances, such as zoning regulations and local building codes.

NEW SECTION

**WAC 388-160-050 Fire standards.** Overnight youth shelters shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for fire prevention and the protection of life and property against fire as required under RCW 74.15.050 and WAC 212-12-001.

NEW SECTION

**WAC 388-160-060 Certification of exempt agency.** An agency legally exempt from licensing may not be licensed. However, at the agency's request, the department may certify an agency as meeting licensing and other pertinent requirements to enable an agency to be eligible for the receipt of funds or for other legitimate purposes if the department's investigation finds the agency in compliance with the licensing requirements. In such cases, unless otherwise clearly evident from the text, the department's requirements and procedures for an agency's licensing apply equally to certification.

NEW SECTION

**WAC 388-160-070 Application or reapplication for license or certification—Investigation.** (1) A person or organization applying for a license or for certification under this chapter shall:

(a) Submit the application on forms prescribed by the department;

(b) Comply with department procedures;

(c) Initiate the application in the name of the person or legal entity responsible for the agency's operation; and

(d) Include with the application:

(i) Employment and educational history of the person charged with the active management of the agency;

(ii) Completed forms enabling the department to:

(A) Perform a criminal history check;

(B) Check the department's master files for each staff or volunteer of the agency having unmonitored access to the child, expectant mother, or developmentally disabled person; and

(C) Share this information with the applicant or licensee.

(2) The department may:

(a) Require additional information from the applicant, licensee, their staff, and persons having access to a child under care as the department deems necessary including, but not limited to:

(i) Sexual deviancy evaluations;

(ii) Substance and alcohol abuse evaluations;

(iii) Psychiatric evaluations;

(iv) Psychological evaluations; and

(v) Medical evaluations.

(b) Perform corollary investigations of the applicant, licensee, and their staff, and as the department deems necessary, including accessing of criminal histories and law enforcement files.

NEW SECTION

**WAC 388-160-080 Limitations on licenses and dual licensure.** The department shall not issue a license to an applicant for both an overnight youth shelter and another category of care which the department licenses or is licensed by another department. The department may authorize an exception only if it is clearly evident that care of one category of client does not interfere with the safety and quality of care provided to other client categories.

NEW SECTION

**WAC 388-160-090 General qualifications of licensee, applicant, and persons on the premises.** (1) The applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or applicant shall demonstrate that the licensee or applicant, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) The licensee, applicant, staff, and other person on the premises shall not have been:

(a) Convicted of, found a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; or

(b) Found to:

(i) Be a perpetrator of substantiated or founded child abuse; or

(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to a child in care meet the qualifications under subsections (1), (2), and (3) of this section. The department may require the licensee or person on the premises to provide additional information including, but not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

NEW SECTION

**WAC 388-160-100 Age of licensee.** An applicant for an overnight youth shelter license under this chapter shall be twenty-one or more years of age.

NEW SECTION

**WAC 388-160-110 Posting of license.** All licensees shall post the license issued under this chapter at the overnight youth shelter in a place accessible and conspicuous to the public.

NEW SECTION

**WAC 388-160-120 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. The department shall consider such persons separately and jointly as applicants or licensees and if any one be deemed disqualified by the department under chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) The department shall disqualify any person engaging in illegal use of drugs or excessive use of alcohol;

(b) The department shall disqualify any person who has been convicted of an offense listed under chapter 388-330 WAC;

(c) The department shall disqualify any person convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, when:

(i) The person's conviction is reasonably related to the person's competency to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of a child, an expectant mother, or a developmentally disabled adult; or

(ii) Had a license to operate such an agency suspended or revoked.

(2) An applicant of an overnight youth shelter may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision and license the applicant as described under subdivision (1)(d) of this section.

(3) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation, including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's or provider's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for, or be in contact with, the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department, department of health, or state fire marshal to inspect the premises;

(i) Refusal to permit:

(A) Authorized representatives of the department and the department of health to have access to the records necessary for the operation of the agency; or

(B) The department representatives to interview agency staff and clients.

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(4) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(5) The department shall deny, suspend, or revoke a licensee's license when the applicant, licensee, or person on the premises is a perpetrator of child abuse or has been convicted of a crime as listed under WAC 388-330-030(1). The department may grant a licensee or provider a waiver if it is demonstrated by clear, cogent, and convincing evidence that such person is rehabilitated and is able to comply with licensing requirements. In making this determination, the department shall consider:

(a) The seriousness and circumstances of the person's illegal act;

(b) The number of crimes of which the person was convicted;

(c) The amount of time passed since the person committed the illegal act;

(d) The age of the person at the time of convictions;

(e) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those services ordered by a court;

(f) The behavior of the person since the illegal act was committed;

(g) Recommendations of persons closely associated with the person;

(h) The duties the person would perform at the agency, and the vulnerability of the persons under care; and

(i) Other evidence of rehabilitation.

If the department licenses or approves a person under this section, the department may place limitations or conditions on the person in the performance of the person's duties at the agency.

(6) The department's notice of a denial, revocation, suspension, or modification of a license shall be governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issues and law involved;

(B) The grounds for contesting the department decision;

and

(C) A copy of the department decision.

(b) The proceeding shall be governed by the Administrative Procedure Act chapter 34.05 RCW, RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

#### NEW SECTION

**WAC 388-160-130 Licensed capacity.** (1) The number of persons for whom the department will license an agency is dependent upon the evaluation of:

(a) The physical accommodations of the agency;

(b) The numbers and skills of the licensee, staff, family members and volunteers; and

(c) The ages and characteristics of the persons to be served.

(2) The department shall not license an agency for the care of more persons than permitted by the rules regarding the category of care for which the license is sought.

(3) The department may license an agency for the care of fewer persons than normally permitted by the rules based on the evaluation of items listed under subsection (1) of this section.

#### NEW SECTION

**WAC 388-160-140 Discrimination prohibited.** The licensee shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination in employment practices and client services as described under chapter 49.60 RCW.

#### NEW SECTION

**WAC 388-160-150 Religious activities.** The overnight youth shelter licensee shall:

(1) Respect the rights of persons in care to observe the tenets of the person's faith and shall facilitate those rights consistent with state and federal laws;

(2) Not punish a person in care for exercising these rights;

(3) Submit to the department a written description of any religious policies and practices.

#### NEW SECTION

**WAC 388-160-160 Discipline.** (1) The overnight youth shelter licensee shall state disciplinary practices in writing. Discipline shall be a responsibility of the licensee or staff, and shall not be prescribed or administered by persons under care. Discipline shall be based on an understanding of the person's needs and stage of development. A person's discipline shall be designed to help the person develop inner control, acceptable behavior, and respect for the rights of others.

(2) The licensee shall ensure a person's discipline is fair, reasonable, consistent, and related to the person's behavior. A licensee shall not administer cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline.

#### NEW SECTION

**WAC 388-160-170 Corporal punishment.** (1) Corporal punishment is prohibited.

(2) Prohibited corporal punishment shall not include the use of such amounts of physical restraint as may be reasonable and necessary to:

(a) Protect a person on the premises from physical injury;

(b) Obtain possession of a weapon or other dangerous object; and

(c) Protect property from serious damage.

(3) The licensee of an overnight youth shelter shall not use mechanical restraints including, but not limited to:

(a) Handcuffs;

(b) Belt restraints; and

(c) Locked time-out rooms.

(4) The licensee shall not use physical restraints which could be injurious including, but not limited to:

(a) Large adult sitting on or straddling a small child;

(b) Sleeper holds;

(c) Arm twisting;

(d) Hair holds; and

(e) Throwing a child or youth against a wall, furniture, or other large immobile object.

(5) Staff employed in a facility where it may be necessary to restrain a child shall be trained in the use of appropriate restraining techniques.

#### NEW SECTION

**WAC 388-160-180 Abuse, neglect, or exploitation.** An overnight youth shelter licensee shall protect persons, while in the licensee's care, from child abuse or neglect as defined under RCW 26.44.020(12).

#### NEW SECTION

**WAC 388-160-190 Site and telephone.** An overnight youth shelter licensee shall locate the shelter on a well-drained site free from hazardous conditions and accessible to other facilities necessary to carry out its program. The licensee shall ensure the shelter has one or more telephones on the premises accessible for emergency use at all times.



NEW SECTION

**WAC 388-160-200 Equipment, safety, and maintenance.** (1) An overnight youth shelter licensee shall:

(a) Maintain the physical plant, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair;

(b) Provide handrails on stairs as determined necessary by the department;

(c) Have available one or more emergency light sources, such as a flashlight, in operational condition; and

(d) Provide toilet rooms and other rooms subject to moisture with washable, moisture impervious floors.

(2) Shelter staff members shall have a means to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by youth should an emergency need arise.

NEW SECTION

**WAC 388-160-210 Firearms and other weapons.** An overnight youth shelter licensee shall ensure no firearms or other weapons are on the premises except those confiscated and secured from youth upon admission and these shall be locked up.

NEW SECTION

**WAC 388-160-220 Prohibited substances.** (1) During operating hours when youth are in care, the overnight shelter licensee, staff, and volunteers on shelter premises or caring for youth off-site shall not be under the influence of, consume, or possess an:

(a) Alcoholic beverage; or

(b) Illegal drug.

(2) The overnight shelter licensee shall prohibit smoking in:

(a) A transport vehicle when shelter staff are transporting youth in care; and

(b) The shelter when youth are in care; except, the licensee may permit a person to smoke only in a designated smoking room which is ventilated to the outside in such a manner that passive tobacco smoke cannot contaminate the indoor shelter air.

NEW SECTION

**WAC 388-160-230 Storage.** An overnight youth shelter provider shall ensure a shelter provides:

(1) Suitable space as needed for the storage of:

(a) Clothing and personal possessions of youth in care;

(b) Records and files;

(c) Cots;

(d) Mats and bedding; and

(e) Cleaning supplies and other materials.

(2) A secure area for cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels, which is inaccessible to youth. The provider shall ensure all containers filled from a stock supply bear a label identifying the product name and concentration.

NEW SECTION

**WAC 388-160-240 Bedrooms and sleeping areas.** An overnight youth shelter licensee shall ensure the shelter:

(1) Provides sleeping areas not less than fifty square feet per occupant of unobstructed floor area with ceiling height of not less than seven feet, six inches;

(2) Not use hallways and kitchens as sleeping rooms;

(3) Maintains a space not less than thirty inches between sleeping youths;

(4) Provides sleeping areas separated by a visual barrier five or more feet high for each sex of youth in care; and

(5) In facilities caring for youth sixteen through twenty years of age, separates youths under eighteen years of age from youths eighteen through twenty years of age by a supervised open space or a physical barrier to prevent contact.

NEW SECTION

**WAC 388-160-250 Kitchen facilities.** An overnight youth shelter licensee shall ensure the shelter providing food service:

(1) Provides for the proper storage, preparation, and service of food to meet the needs of the program;

(2) Has facilities and implements practices as required under chapter 246-215 WAC, rules and regulations of the state board of health, which governs food service sanitation.

NEW SECTION

**WAC 388-160-260 Housekeeping sink.** An overnight youth shelter shall have and use:

(1) A method of drawing clean mop water; and

(2) An appropriate method of waste water disposal.

NEW SECTION

**WAC 388-160-270 Laundry.** An overnight youth shelter shall:

(1) Provide for separate storage of soiled linen and clean linen;

(2) Have access to laundry washing and drying facilities, which may include using on-premises or off-site equipment;

(3) Locate laundry equipment, if on the premises, in an area separate from the kitchen; and

(4) Sanitize laundry using a hot water temperature of at least one hundred thirty degrees Fahrenheit or an effective chemical method, or have the laundry done by a commercial service.

NEW SECTION

**WAC 388-160-280 Toilets, handwashing sinks, and bathing facilities.** An overnight youth shelter shall provide:

(1) Two or more indoor flush-type toilets, each with one nearby handwashing sink with hot and cold running water;

(2) Toilets and handwashing sinks in a ratio of one toilet and sink for each eight persons on the premises plus the major fraction thereof, allowing four additional persons before requiring additional fixtures;

(3) Privacy for persons of the opposite sex at toilets, and bathing facilities, if provided;

(4) Hot and cold running water not exceeding one hundred twenty degrees Fahrenheit at handwashing sinks, and bathing facilities, if provided;

(5) A conveniently located grab bar or nonslip floor surfaces in bathing facilities, if provided;

(6) Urinals in lieu of toilets only if the urinals do not replace more than one-third of the total required toilets; and

(7) Soap and individual towels, disposable towels, or other approved single-use hand drying devices at handwashing sinks, and any bathing facilities if bathing facilities are provided.

#### NEW SECTION

**WAC 388-160-290 Lighting.** An overnight youth shelter shall provide and locate fixtures for the comfort and safety of the youth in care.

#### NEW SECTION

**WAC 388-160-300 Pest control.** An overnight youth shelter shall keep the premises free from rodents, flies, cockroaches, and other insects.

#### NEW SECTION

**WAC 388-160-310 Sewage and liquid wastes.** An overnight youth shelter shall discharge sewage and liquid wastes into:

- (1) A public sewer system; or
- (2) A local health authority or department approved independent sewage system.

#### NEW SECTION

**WAC 388-160-320 Water supply.** An overnight youth shelter shall provide:

- (1) A potable water supply approved by the local health authority or department; and
- (2) Disposable paper cups, individual drinking cups or glasses, or inclined-jet drinking fountains.

#### NEW SECTION

**WAC 388-160-340 Health and emergency policies and procedures.** An overnight youth shelter shall have:

- (1) Current written health policies and procedures including, but not limited to, first aid, infection control, care of minor illnesses, and general health practices and actions to be taken in event of medical and other emergencies;
- (2) These health policies and procedures readily available for staff orientation and for implementation; and
- (3) Emergency phone numbers posted next to the phone.

#### NEW SECTION

**WAC 388-160-350 First aid.** An overnight youth shelter shall:

- (1) Have one or more persons having completed a current basic Red Cross first-aid course or a department-approved first-aid course, and current training in cardiopulmonary resuscitation (CPR) present at all times youth are in care;

(2) Maintain documentation of persons having completed the first aid and CPR training on the premises; and

(3) Keep first-aid supplies readily available to shelter staff.

#### NEW SECTION

**WAC 388-160-360 Medication management.** An overnight youth shelter shall:

(1) Secure any medication brought into the shelter by a youth so it is unavailable to other youth in care;

(2) Supervise self-administration of a medication according to the prescription or manufacturer's label on the original medication container; and

(3) Return a medication of a youth when the youth leaves the facility, or properly dispose of the medication if left behind by the youth.

#### NEW SECTION

**WAC 388-160-370 Staff health.** Each licensee, employee, adult volunteer, and other adult persons having regular contact with persons in care shall have a tuberculin skin test, by the Mantoux method, upon overnight youth shelter employment or licensing unless medically contraindicated.

(1) A person whose TB skin test is positive (ten millimeters or more induration) shall have a chest X-ray within ninety days following the skin test.

(2) A person shall not require a routine periodic retesting or X-ray (biennial or otherwise) after the entry testing.

(3) A person shall not require an entry test whose TB skin test has been documented as negative (less than ten millimeters) within the last two years, and such person shall not require a routine periodic retesting or biennial X-ray or otherwise.

#### NEW SECTION

**WAC 388-160-380 HIV/AIDS education and training.** An overnight youth shelter shall provide or arrange for appropriate education and training of employees on the prevention, transmission, and treatment of HIV and AIDS as prescribed by the department of health. Such education and training shall be consistent with the curriculum manual *KNOW-HIV/AIDS Prevention Education for Health Care Facility Employees*, January 1991, published by the Washington state HIV/AIDS program, department of health.

#### NEW SECTION

**WAC 388-160-390 Nutrition.** An overnight youth shelter providing meals shall consider the age, cultural background, and nutritional requirements of youth served when preparing meals.

#### NEW SECTION

**WAC 388-160-400 Bedding.** An overnight youth shelter providing youth sleeping equipment and bedding shall maintain the equipment and bedding in good repair and in a clean and sanitary manner. The shelter shall accept the use

of sleeping and bedding equipment personally provided by youth in care.

#### NEW SECTION

**WAC 388-160-410 Overnight youth shelters—Purpose and limitations.** The purpose of the overnight youth shelter shall be to provide youth an emergency sleeping arrangement. The overnight youth shelter shall make every effort to refer a youth to appropriate services. The overnight youth shelter providing shelter for a teen parent with child shall assure adequate quarters and services for infants and very young children. The overnight youth shelter may be licensed to provide care for either:

- (1) Children from thirteen through seventeen years of age; or
- (2) Youths sixteen through twenty years of age.

#### NEW SECTION

**WAC 388-160-420 Governing body/citizens board for overnight youth shelters.** (1) Every overnight youth shelter shall have a governing body/citizens board which shall comply with all laws and rules concerning nonprofit boards of directors.

(2) The shelter facility shall keep on file a list of the current membership of the governing body citizens board.

#### NEW SECTION

**WAC 388-160-430 Intake.** (1) An overnight youth shelter shall provide an intake consisting of an initial assessment of entering youth and shall include, but not be limited to:

- (a) Recent history;
  - (b) Outstanding warrants;
  - (c) Where the youngster has been;
  - (d) Physical and medical needs, including medication;
- and
- (e) Whether parents are aware of the youth's whereabouts.

(2) If the youth returns to the overnight shelter, the shelter shall provide a second intake to evaluate the youth's needs including:

- (a) Family and living situation (Does parent want youth at home?);
- (b) Criminal involvement;
- (c) Behavioral problems;
- (d) School status;
- (e) Adult to contact, if one is available;
- (f) Immediate need for counseling;
- (g) Capability for self-care; and
- (h) Options for the near future.

(3) The overnight youth shelter shall notify the department of social and health services (DSHS) or the police of an unaccompanied child under thirteen years of age who is requesting service.

#### NEW SECTION

**WAC 388-160-440 Groupings.** (1) The overnight youth shelter shall provide sleeping areas for males and females which are separated by partitions.

(2) In facilities caring for youths sixteen through twenty years of age, sleep areas for those sixteen and seventeen years of age shall be spatially separated from those eighteen through twenty years of age to the extent permitted by the configurations of the facility.

#### NEW SECTION

**WAC 388-160-460 Staffing.** (1) An overnight youth shelter shall adhere to the following staff/child ratios:

(a) A shelter licensed for youths thirteen through seventeen years of age exclusively shall have a staff/child ratio of 1:8;

(b) A shelter caring for youths sixteen through twenty years of age on the premises shall have a staff/child ratio of 1:6.

(2) All shelters shall have two or more adult staff on the premises at all times (at least one of whom is a fully trained lead counselor) when children are present.

(3) All shelters shall have two or more awake staff present while youths are asleep.

(4) If fewer than six youths are in care, there may be only one awake staff on duty provided that the staff is a fully trained lead counselor.

#### NEW SECTION

**WAC 388-160-470 Supervision of youth.** In an open or dormitory type setting, an overnight youth shelter staff person shall be within visual and auditory range of youths at all times when the youths are within the shelter.

#### NEW SECTION

**WAC 388-160-480 Child care workers—Qualifications.** (1) All overnight youth shelter child care staff and volunteers shall:

- (a) Be twenty-one or more years of age;
- (b) Have completed a criminal history check;
- (c) Have completed a TB test, as required under WAC 388-73-142; and
- (d) Have complete AIDs training as required under WAC 388-73-143.

(2) Overnight youth shelter child care workers shall be of both sexes to reflect the population in care.

(3) One person with full training plus having one year's experience with high-risk adolescents shall be present at all times that youths are in care as described under section 500 (1) and (2) of this chapter.

#### NEW SECTION

**WAC 388-160-490 Program supervision.** (1) The department shall require every overnight youth shelter to have a program supervisor.

- (a) The program supervisor shall have a:
  - (i) Master's degree in social work or a related field and one year's experience with high-risk adolescents; or
  - (ii) Bachelor's degree and three years' experience with high-risk adolescents.

(b) The program supervisor shall provide two hours of supervision to youth shelter child care staff or volunteers for each forty hours that staff work.

(2) A master's degree level person with counseling experience with high-risk/troubled adolescents shall be on call at all times when the overnight youth shelter is open or when children are present. This person may be on staff or contract or available by written agreement.

#### NEW SECTION

**WAC 388-160-500 Training.** (1) All overnight youth shelter staff and volunteers shall receive training before providing care for youth. The overnight youth shelter shall ensure this training includes, but is not limited to:

- (a) Job responsibilities;
- (b) Agency administration;
- (c) Supervision of youths;
- (d) Behavior management;
- (e) Fire safety procedures;
- (f) AIDS training;
- (g) Cultural sensitivities; and
- (h) Handling emergency situations.

(2) An overnight youth shelter shall also offer or make available to staff and volunteers in-service training to cover policies appropriate to each position, to include supervisory skills, adolescent development and problems, and meeting the needs of youths. The shelter's training should include, but not be limited to sexual abuse, predatory behavior, substance abuse, depression, mental health, and teen suicide.

#### NEW SECTION

**WAC 388-160-510 Services.** (1) At a minimum, all overnight youth shelters shall offer the following services to all clients:

(a) Client intake including demographic information and emergency contacts (phone number), presenting problems (school status, medical problems, family situation, suicide evaluation, history of assaultive/predatory behavior, and drug/alcohol involvement);

(b) Individual crisis intervention;

(c) Assistance in accessing emergency resources, including child protective services (CPS) and emergency medical services; and

(d) Resource information;

(2) An overnight youth shelter shall provide resource information as needed for appropriate educational, vocational, placement, housing, medical, substance abuse, mental health, other treatment agencies, and food program, or to DSHS office.

(3) If appropriate ancillary services are not provided by the licensed program, the overnight youth shelter licensee shall demonstrate working relationships with organizations providing services to targeted young people.

#### NEW SECTION

**WAC 388-160-520 Client records and information—Overnight youth shelters.** The overnight youth shelter shall maintain records and information concerning persons in care in such a manner as to preserve their confidentiality. The shelter shall maintain records giving the following information on each youth under care in the same shelter in which the youth is sheltered:

- (1) Identifying information, including:

- (a) Name;
- (b) Birth date;
- (c) Date of admission;
- (d) Ethnicity; and
- (e) Other appropriate information.

(2) Names, addresses, and telephone numbers, if any, of parents' or other persons' home or business to contact in case of emergency;

(3) Dates and kinds of illnesses and accidents, medications and treatments prescribed, the time they are given, and by whom; and

(4) Daily log of attendance, admission, referrals, exit, and important information.

#### NEW SECTION

**WAC 388-160-530 Personnel policies and records—Overnight youth shelters.** (1) Each overnight youth shelter employee and volunteer having unsupervised or regular access to the youth or child in care shall complete and submit to the licensee or director by the date of hire:

(a) An employment application on a department-prescribed form, or its equivalent; and

(b) A criminal history and background inquiry form.

(i) The licensee shall submit this form to the department for the employee and volunteer, within seven calendar days of the employee's first day of employment, permitting a criminal and background history check.

(ii) The department shall discuss the inquiry information with the licensee or director, when applicable.

(2) The overnight youth shelter licensee employing five or more persons shall have written personnel policies describing staff benefits, if any, duties, and qualifications.

(3) The overnight youth shelter licensee shall maintain a personnel recordkeeping system, having on file for the licensee, staff person, and volunteer:

(a) An employment application, including work and education history;

(b) Documentation of criminal history and background inquiry form submission;

(c) A record of a negative Mantoux, tuberculin skin tests results, X-ray, or an exemption to the skin test or X-ray;

(d) Documentation of HIV/AIDS education and training;

(e) A record of participation in staff development training;

(f) Documentation of orientation program completion;

(g) Documentation of a valid food handler permit, when applicable;

(h) Documentation of current first aid and CPR training, when applicable; and

(i) Telephone number of "on-call" master degree level person with other emergency telephone numbers.

#### NEW SECTION

**WAC 388-160-540 Reporting of death, injury, illness, epidemic, or child abuse.** The overnight youth shelter licensee or staff shall report immediately:

(1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the parent if contact information is known, licensor, and child's social worker, if any;

(2) An instance when the licensee or staff has reason to suspect the occurrence of physical, sexual, or emotional child abuse, neglect, or child exploitation, by telephone, to child protective services (CPS) or local law enforcement as required under chapter 26.44 RCW; and

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

#### NEW SECTION

**WAC 388-160-560 Reporting circumstantial changes.** An overnight youth shelter's license shall be valid only for the address and organization named on the license. The overnight youth shelter licensee shall promptly report to the licensor major changes in staff, program, or premises affecting the shelter classification, delivery of safe and appropriate services, or continued eligibility for licensure. The overnight youth shelter licensee shall include as a major change:

- (1) Shelter address, location, space, or phone number;
- (2) Maximum number, age ranges, and sex of children the licensee wishes to serve as compared to current license specifications;
- (3) Number or qualifications of the shelter's staffing pattern that may affect staff competencies to implement the specified program, including:
  - (a) Change in ownership, chief executive, director, or program supervisor; and
  - (b) The death, retirement, or incapacity of the licensee.
- (4) Name of licensed corporations, or name by which the overnight youth shelter is commonly known, or changes in the shelter's articles of incorporation and bylaws;
- (5) Occurrence of a fire, major structural change, or damage to the premises; and
- (6) Plans for major remodeling of the shelter, including planned use of space not previously department approved.



**WSR 93-15-003**  
**EMERGENCY RULES**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Filed July 7, 1993, 3:53 p.m.]

Date of Adoption: June 29, 1993.

Purpose: Requires signature gatherers to report their expenditures in a certain way, new WAC 390-16-044.

Statutory Authority for Adoption: Chapter 42.17 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: To implement statute that went into effect on May 7.

Effective Date of Rule: Immediately.

July 6, 1993  
 Graham E. Johnson  
 Executive Director

**NEW SECTION**

**WAC 390-16-044 Statewide ballot issue signature gathering expense; reporting.** (1) A political committee making expenditures for the purpose of soliciting or procuring signatures on petitions to place an initiative or referendum on a statewide ballot shall report the total expenditures for the reporting period on Schedule A to form C-4. An attachment to the Schedule A shall include, per RCW 42.17.090 (1)(g), the name, address, and amount paid to each person for the services, and the date of each payment.

(2) When the expenditure in (1) is to a person who employs others to secure signatures, the information on the attachment to Schedule A shall be supplemented with such additional attachments as may be necessary to detail the name and address of each and every other person paid, the amount paid to each, and the date of each payment.

**WSR 93-15-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 93-60—Filed July 8, 1993, 10:32 a.m.]

Date of Adoption: July 8, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-24-02000T; and amending WAC 220-24-020.

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: This rule is adopted at the recommendation of the Pacific Fisheries Management Council and is intended to harvest available salmon, while

providing protection for coho salmon through gear and landing limitations. The Columbia River mouth closed area protects milling salmon.

Effective Date of Rule: Immediately.

July 8, 1993  
 Judith Merchant  
 Deputy  
 for Robert Turner  
 Director

**NEW SECTION**

**WAC 220-24-02000U Commercial salmon troll.** Notwithstanding the provisions of WAC 220-24-010, 220-24-020 and WAC 220-24-030, effective immediately until further notice it is unlawful to fish for or possess salmon taken for commercial purposes with troll gear from those waters west of the Bonilla-Tatoosh, the Pacific Ocean and waters west of the Buoy 10 Line at the mouth of the Columbia River except as provided for in this section:

(1) Fishing is authorized from 12:01 a.m., July 14, 1993 through 11:59 p.m. July 17, 1993 in these waters except fishing is not allowed in Washington waters within Conservation Zone 1, described as those waters surrounding the mouth of the Columbia River inside a line projected six miles due west from North Head along 46 18 00 N latitude to 124 13 18 W longitude, then southerly along a line 167 true to 46 11 06 N latitude and 124 11 00 W (the Columbia River Buoy) then northeast along the red buoy line to the tip of the south jetty.

(2) All salmon taken in the fishery provided for herein must be sold by 11:59 p.m. July 18, 1993, and must be sold within the Salmon Management and Catch Reporting Area where taken or in an immediately adjacent closed Salmon Management and Catch Reporting Area.

(3) No vessel may land more than 50 coho salmon in the fishery provided for herein.

(4) Lawful terminal gear is restricted to four spreads per line and whole bait with a six-inch minimum size or plugs with a six-inch minimum size. A plug is defined as an artificial fish lure made of wood or hard plastic with one or more hooks attached. Plug length means the length of the wood or plastic portion of the lure, and is calculated independently of any hinge, attachment device or hook. Lures commonly known as "spoons", "wobblers", and "dodgers", and flexible plastic lures, including "hootchies", "skirts", and "curleytails" are not considered plugs, and may not be used. A plug may have a metal attachment affixed to the body of the plug to provide direction or stability, but may not have any metal attachment, such as a spoon, wobbler, or dodger, or any flexible plastic attachment, such as hootchies, skirts, or curleytails, that serves as an attractant. Flashers, dodgers, or other attractants may not be used.

(5) No chinook salmon smaller than 28 inches in total length nor coho salmon smaller than 16 inches in total length may be taken or retained in the fishery provided for herein. Except that frozen salmon taken in this fishery may be landed pursuant to WAC 220-20-015.

(6) It is unlawful to fish for or possess salmon taken for commercial purposes with gear other than troll gear.

(7) It is unlawful to land salmon taken south of Cape Falcon in any port north of Cape Falcon, except when the

waters north of Cape Falcon are closed. it is unlawful to land chinook taken south of Cape Falcon that are less than 26 inches in length.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-24-02000T Commercial salmon troll. (93-28)

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

**WSR 93-15-012  
EMERGENCY RULES  
DEPARTMENT OF HEALTH**  
[Filed July 8, 1993, 3:00 p.m.]

Date of Adoption: July 8, 1993.

Purpose: Establish standards to ensure that state public health service account funds are not used to supplant local support for public health programs.

Statutory Authority for Adoption: Chapter 24, Laws of 1993 1st sp. sess.

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: The state operating budget which takes effect July 1, appropriates funds to local health departments. If the normal rule-making process is used payment to local health departments will be delayed.

Effective Date of Rule: Immediately.

July 8, 1993  
Mimi L. Fields MD, MPH  
Deputy Secretary  
for Bruce Miyahara  
Secretary

**NEW SECTION**

**WAC 246-05-001 Purpose.** The purpose of this chapter is to ensure that the appropriations to local health departments, described in Chapter 24, Laws of 1993, First Extraordinary Session, will not be used to replace current local support for public health programs.

**NEW SECTION**

**WAC 246-05-010 Definitions.** "Department" means the department of health.

"Secretary" means the secretary of health, or the secretary's designee.

"Local health department" means the city, town, county or district which provides public health services to persons within the area.

**NEW SECTION**

**WAC 246-05-030 Assurance of nonsupplanting.** Funds shall not be allocated by the secretary unless the authorized agent of the local health department provides assurance of compliance to the secretary that, "State funds received pursuant to Chapter 24, Laws of 1993, First Extraordinary Session shall be used solely to expand and complement, but not supplant, local support for public health programs."

**WSR 93-15-015  
EMERGENCY RULES  
DEPARTMENT OF FISHERIES**  
[Order 93-62—Filed July 8, 1993, 4:44 p.m.]

Date of Adoption: July 8, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500R; and amending WAC 220-56-255.

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 halibut are available and these interim rules are adopted until permanent rules can take effect.

Effective Date of Rule: Immediately.

July 8, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-25500S Halibut—Seasons.** Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for, or possess halibut except:

(1) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: July 2 through September 30 or until the quota has been taken Fridays and Saturdays only.

(2) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: open through July 18, open 12:01 a.m. Thursday through 11:59 p.m. Tuesday of each week during the open period (closed Wednesdays).

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500R Halibut—Seasons. (93-43)

EMERGENCY



**WSR 93-15-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 93-61—Filed July 8, 1993, 4:46 p.m.]

Date of Adoption: July 8, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-56-19100A; and amending WAC 220-56-191, 220-57-370, and 220-57-425.

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 salmon are available and these interim rules are adopted until permanent rules can take effect.

Effective Date of Rule: Immediately.

July 8, 1993  
 Judith Freeman  
 Deputy  
 for Robert Turner  
 Director

**NEW SECTION**

**WAC 220-56-19100B 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:

(a) May 1 through June 15 - Special daily bag limit of two salmon, except that all chinook salmon greater than 30 inches in length and all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(b) June 16 through July 15 - Special daily bag limit of two salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(c) July 16 through September 6 - Special daily bag limit of two salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(d) September 7 through October 31 - Closed to salmon angling.

(e) November 1 through April 30 - Bag Limit H, except that after April 15, all chinook greater than 30 inches in length must be released.

(2) Catch Record Card Area 7:

(a) November 1 through June 30 - Bag Limit H, except during the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.

(b) July 1 through October 31 - Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(3) Catch Record Card Area 8-1:

(a) November 1 through June 30 - Bag Limit H.

(b) July 1 through September 6 - Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(c) September 7 through October 31 - Closed to salmon angling.

(4) Catch Record Card Area 8-2:

(a) November 1 through June 30 - Bag Limit H.

(b) July 1 through October 31 - Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(5) Catch Record Card Area 9:

(a) November 1 through June 30 - Bag Limit H.

(b) July 1 through September 6 - Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(c) September 7 through September 30 - Closed to salmon angling except:

(i) Fishing allowed when fishing from the Edmonds Public Fishing Pier - Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(ii) Fishing for pink salmon allowed in those waters west of Whidbey Island from Bush Point to Lagoon Point and within one-quarter mile of the shoreline - Special daily bag limit of 2 pink salmon and all other salmon must be released. In the fishery provided for in this subsection, terminal gear is limited to pink or red artificial squid lures with barbless hook(s). Either a single hook with single or double points or not more than two single hooks may be used. A flasher or dodger may be used. Bait of any kind is prohibited.

(d) October 1 through October 31 - Special daily bag limit of 2 salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches in length, but there is no minimum size for other salmon.

(6) Catch Record Card Areas 10, 11, and 13 - Bag Limit G.

(7) Catch Record Card Area 12 - Special daily bag limit of 3 salmon of which no more than 2 may be chinook salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.

(8) 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.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

EMERGENCY

WAC 220-56-19100A Puget Sound salmon-salt-water seasons and bag limits. (93-48)

**NEW SECTION**

**WAC 220-57-37000E Puyallup River.** Notwithstanding the provisions of WAC 220-57-370, it is unlawful to fish for salmon except:

(1) Bag Limit A - July 16, 1993 until further notice in those waters downstream from the mouth of the Carbon River to the 11th Street Bridge.

**NEW SECTION**

**WAC 220-57-42500A Skagit River.** Notwithstanding the provisions of WAC 220-57-425, it is unlawful to fish for salmon except:

(1) Bag Limit A - July 1 through July 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length, coho salmon and sockeye salmon must be released immediately.

(2) Special Bag Limit of six salmon per day, not more than three of which may be adult salmon - August 1 until further notice: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length, coho salmon and sockeye salmon must be released immediately.

(3) Bag Limit A - June 16 through July 31: Downstream from Gilligan Creek. Not more than one of the adult salmon may be a chinook salmon. Coho salmon and sockeye salmon must be released immediately.

**WSR 93-15-017**

**EMERGENCY RULES**

**DEPARTMENT OF FISHERIES**

[Order 93-63—Filed July 8, 1993, 4:47 p.m.]

Date of Adoption: July 8, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19000Q; and amending WAC 220-56-190.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The closure of waters outside of the 25 fathom line in Catch Record Card Area 2 is rescinded effective July 11, 1993, in accordance with Pacific Fishery Management Council recommendation.

Effective Date of Rule: Immediately.

July 8, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-19000R Coastal salmon - Saltwater seasons and bag limits.** Notwithstanding the provisions of WAC 220-56-180 and WAC 220-56-190, effective immediately until further notice it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 1, 2, 3, and 4, except as provided for in this section:

(1) Areas and times open to salmon angling are as follows:

(a) Catch Record Card Area 4 - July 12 through September 30 unless closed by emergency regulation upon attainment of the sub- or overall-area coho quota. Closed to salmon angling each Friday and Saturday. Bag limit F except that no more than six salmon may be retained in any seven consecutive days.

(b) Catch Record Card Area 3 - July 5 through September 30, unless closed by emergency regulation upon attainment of the sub- or overall-area coho quota. Closed to salmon angling each Friday and Saturday. Bag limit F except that no more than six salmon may be retained in any seven consecutive days.

(c) Catch Record Area 2 - July 11 through September 30, unless closed by emergency regulation upon attainment of the sub- or overall-area coho quota. Closed to salmon angling each Friday and Saturday. Bag limit F except that no more than four salmon may be retained in any seven consecutive days.

(d) Catch Record Card Area 1, excluding waters of Columbia River Mouth Conservation Zone 1 (as defined in WAC 220-56-195) - July 5 through September 9, unless closed by emergency regulation upon attainment of the sub- or overall-area coho quota. Closed to salmon angling each Friday and Saturday. Angling from the north jetty of the Columbia River is open seven days per week during the fishery provided for in this subsection. Bag limit F except that no more than four salmon may be retained in any seven consecutive days.

(e) For purposes of this section, all salmon retained from Catch Record Card Areas 1, 2, 3, and 4 during the entire coastal saltwater salmon season, and salmon retained from Grays Harbor and Willapa Bay Catch Record Card Areas 2-1 and 2-2 prior to August 16, count as part of the cumulative catch for each consecutive seven day period.

(2) Terminal gear is limited to single point barbless hooks only.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-56-19000Q Coastal salmon-saltwater seasons and bag limits. (93-53)

**WSR 93-15-018**

**EMERGENCY RULES**

**PERSONNEL RESOURCES BOARD**

[Order 427—Filed July 9, 1993, 10:48 a.m.]

Date of Adoption: July 8, 1993.

EMERGENCY

Citation of Existing Rules Affected by this Order: New WAC 356-26-075.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.150.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency adoption is to readily accommodate agencies and employees during an agency merger, with the ability to utilize staff in affected agencies as promotional candidates.

Effective Date of Rule: Immediately.

July 9, 1993  
Dennis Karras  
Secretary

**NEW SECTION**

**WAC 356-26-075 Certification—Registers—Exception—Agencies merging.** When agencies, or portions of agencies are merging, the appointing authorities may request the director to certify affected employees of each agency as agency promotional provided:

- (1) That the written request to the director shall specify:
  - (a) the agencies, or portions of the agencies, affected by the merger;
  - (b) the effective date of the merger;
  - (c) the affected employee organizations are notified.
- (2) The appointing authority shall notify the employees of the affected divisions or agencies as soon as possible following the written approval by the director.
- (3) This section is not intended to modify any requirements contained in collective bargaining agreements.

**WSR 93-15-020  
EMERGENCY RULES  
HORSE RACING COMMISSION**  
[Filed July 9, 1993, 2:25 p.m.]

Date of Adoption: July 1, 1993.

Purpose: To alleviate a licensed person from being detained in a detention stall for a four hour period after the administration of medication shot.

Citation of Existing Rules Affected by this Order: Amending WAC 260-70-025.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To benefit the public and industry, immediate amendment of this rule is necessary to enable the stewards to oversee the horse bleeder medication program in a more cost effective manner.

Effective Date of Rule: Immediately.

July 9, 1993  
Bruce Batson  
Executive Secretary

**AMENDATORY SECTION** (Amending Resolution No. 87-03, filed 7/8/87)

**WAC 260-70-025 Bleeder list.** A horse which during the race or following the race, or which during exercise or following exercise is found to be hemorrhaging from one or both nostrils or is found to have bled into the trachea is eligible to be placed on a bleeder list and treated on race day to prevent bleeding during its race. In order to obtain authorization for race day treatment of the bleeder, the trainer must obtain a certificate of examination from the commission veterinarian and the horse is then placed on the official bleeder list. The commission veterinarian must, by examination, and/or in consultation with the stewards, establish that the horse did in fact hemorrhage from one or both nostrils or that an endoscopic examination in the test barn or receiving barn showed observable amounts of free blood in the respiratory tract. When confirmed by the commission veterinarian, the horse shall be placed on the bleeder list which is maintained by the commission veterinarian. Once on the list, a horse shall be removed from the bleeder list only upon the directions of the commission veterinarian, who must certify in writing to the commission his recommendation for removal of the horse from the list. The list is a state-wide list that applies only at all race meetings at Longacres, Playfair, and Yakima Meadows and not at any other track.

If the commission so orders, horses placed on the bleeders list shall (~~Once a horse is placed on the bleeder list, the horse must~~) be assigned to a prerace security stall, to be known as a detention stall, no later than four hours prior to the scheduled post time for any race in which it is entered to start. The detention stall is assigned by the commission veterinarian and may at his discretion be the stall regularly assigned that horse for its customary stabling. Once placed in the detention stall, a horse (~~must~~) shall remain there until it is taken to the receiving barn or to the paddock to be saddled or harnessed for the race, except that the stewards may permit horses to leave the secured stall to engage in exercise blowouts or warm-up heats. If the horse on the bleeder list is assigned as a detention stall its regular stall, that stall (~~must~~) shall be posted and the stall (~~must~~) shall be under direct observation of a responsible, licensed employee of the trainer or the owner.

Where facilities permit, the commission veterinarian may designate a secured area and assign stalls within that secured area to those horses on the bleeder list who are entered to race that day or night.

**WSR 93-15-021  
EMERGENCY RULES  
HORSE RACING COMMISSION**  
[Filed July 9, 1993, 2:27 p.m.]

Date of Adoption: July 1, 1993.

EMERGENCY

Purpose: To define the steward's ability to assign detention stalls.

Citation of Existing Rules Affected by this Order: Amending WAC 260-70-028.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To benefit the public and industry, immediate amendment of this rule is necessary to enable the stewards to oversee the horse bleeder medication program in a more cost effective manner.

Effective Date of Rule: Immediately.

July 9, 1993  
Bruce Batson  
Executive Secretary

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

**WAC 260-70-028 Detention stall.** If so ordered by the commission, a ((Every)) trainer whose horse is on the bleeder list and is to be administered bleeder medication in accordance with the rules, ((must)) shall obtain a detention stall assignment from the commission veterinarian and will be provided a detention stall sign. The trainer ((must)) shall post the detention stall sign in a readily visible location at the detention stall to be used and the trainer must have a responsible, licensed person remain in close proximity to that stall between the time the horse has been administered the bleeder medication and the time it leaves for the receiving barn or paddock in preparation for a race. Close proximity means that the licensed person ((must)) shall be in a position to observe and to prevent any unauthorized person from approaching the horse. If the horse is found to be unattended during that period or found to have been tampered with during that period, the trainer will be deemed negligent in the performing of required duties.

No unauthorized person shall approach the posted detention stall. If any unauthorized person does approach the posted detention stall, a report of the incident is to be made immediately to the commission veterinarian or to the stewards.

**WSR 93-15-022**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 93-64—Filed July 9, 1993, 3:22 p.m.]

Date of Adoption: July 9, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000R and 220-56-38000L; and amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

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

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

Reasons for this Finding: The inseason assessment shows the allowable harvest of clams has been taken.

Effective Date of Rule: Immediately.

July 9, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-56-35000T Clam area closures.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, the following areas are closed to clam harvest:

- (1) Camano Island State Park
- (2) Illahee State Park
- (3) Mystery Bay
- (4) Port Townsend Ship Canal
- (5) Saltwater State Park
- (6) Twanoh State Park
- (7) West Dewatto (DNR 44A)

NEW SECTION

**WAC 220-56-38000M Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, the following area is closed to oyster harvest:

- (1) West Dewatto (DNR 44A)

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-56-35000R Clam area closures. (93-21)
- WAC 220-56-38000L Oysters—Areas and seasons. (93-24)

**WSR 93-15-032**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 93-65—Filed July 12, 1993, 3:42 p.m.]

Date of Adoption: July 12, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-350 and 220-56-380.

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: Inseason assessment shows there are still harvestable clams and oysters available.

Effective Date of Rule: Immediately.

July 12, 1993  
Loren J. Stern  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-35000U Hardshell clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350:

- (1) Effective immediately until further notice, it is lawful to take or possess hardshell clams taken for personal use from Fort Flagler State Park.
- (2) Effective immediately until further notice, it is lawful to take or possess hardshell clams taken for personal use from Oak Bay East.
- (3) Effective immediately until further notice, it is lawful to take or possess hardshell clams taken for personal use from Oak Bay West.
- (4) Effective immediately until further notice, it is lawful to take or possess hardshell clams taken for personal use from Shine Tidelands.

**NEW SECTION**

**WAC 220-56-38000N Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380:

- (1) Effective immediately until further notice, it is lawful to take or possess oysters taken for personal use from Kitsap State Park.

**WSR 93-15-048  
EMERGENCY RULES  
DEPARTMENT OF  
NATURAL RESOURCES**

[Order 615—Filed July 14, 1993, 3:38 p.m.]

Date of Adoption: July 6, 1993.

Purpose: Establish regions of extra fire hazard which are closed to entry due to the condition of the forest slash.

Statutory Authority for Adoption: RCW 76.04.305.

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: Certain areas of the state are particularly exposed to fire danger due to the continuous acres of slash. In order to prevent a fire from starting whereby lives and property would be at risk, it is necessary to post these lands as closed to entry.

Effective Date of Rule: Immediately.

July 6, 1993  
Kaleen Cottingham  
Department Supervisor

**NEW SECTION**

**WAC 332-26-050 Northwest regional closures**

Whatcom County: Township 39 North, Range 6 East: Section 12 All; Section 13 All. Township 39 North, Range 7 East: Section 7 All; Section 8 SW1/4; Section 17 All; Section 18 All; Section 19 N1/2; Section 20 N1/2. Township 37 North, Range 5 East: Section 30 NE1/4 SW1/4. Township 37 North, Range 6 East: Section 10 E1/2 W1/2; Section 15 Portions of the S1/2; Section 20 SE1/4, E1/2 SW1/4, NW1/4 SW1/4; Section 21 All; Section 22 All; Section 23 SW1/4 SW1/4; Section 25 SW1/4; Section 26 S1/2, W1/2 NW1/4; Section 27 All; Section 28 All; Section 29 All except W1/2 NW1/4, NW1/4 SW1/4, S1/2 SW1/4; Section 32 N1/2 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4; Section 33 All; Section 34 All; Section 35 All. Township 37 North, Range 3 East: Section 3 All; Section 4 SE1/4; Section 9 NE1/4, N1/2 SE1/4; Section 10 All; Section 11 W1/2 SW1/4, E1/2 NW1/4, W1/2 NE1/4; Section 15 N1/2 NE1/4, S1/2 NE1/4 NW1/4; Section 27 S1/2 SW1/4, N1/2 SE1/4; Section 28 SW1/4, S1/2 SE1/4; Section 29 SE1/4, S1/2 NE1/4; Section 32 E1/2; Section 33 W1/2, W1/2 E1/2, NE1/4 NE1/4; Section 34 NW1/4 NW1/4, NW1/4 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4; Section 35 W1/2, NW1/4 SE1/4 West of Summerland Road.

Skagit County: Township 36 North, Range 5 East: Section 3 NE1/4 NW1/4, N1/2 NE1/4; Section 12 SW1/4; Section 13 NW1/4, SE1/4; Section 14 NE1/4; Section 30 SE1/4. Township 36 North, Range 6 East: Section 1 All except SE1/4; Section 2 All; Section 3 All; Section 4 E1/2 NE1/4, E1/2 SW1/4, SE1/4; Section 7 SW1/4 except NE1/4 SW1/4; Section 9 N1/2; Section 10 N1/2, N1/2 S1/2; Section 11 NW1/4, SE1/4 NE1/4, N1/2 NE1/4, NW1/4 SW1/4. Section 17 SE1/4, S1/2 NW1/4; Section 19 SE1/4; Section 22 NW1/4; Section 23 NW1/4; Section 29 NW1/4, N1/2 NE1/4, N1/2 SW1/4; Section 33 E1/2, SW1/4, SW1/4 SE1/4. Township 36 North, Range 7 East: Section 2 W1/2, W1/2 SE1/4; Section 11 All; Section 13 NW1/4, NW1/4 SW1/4; Section 14 NW1/4 SE1/4, S1/2 NE1/4; Section 19 SW1/4. Township 36 North, Range 8 East: Section 2 All except corridor along Baker Lake Road; Section 3 E1/2 SW1/4, E1/2 NW1/4; Section 19 S1/2 NE1/4, S1/2 NW1/4; Section 22 NW1/4; Section 26 SW1/4 SW1/4; Section 27 E1/2, E1/2 W1/2; Section 28 SW1/4, SW1/4 SE1/4; Section 31 S1/2 SW1/4, SW1/4 SE1/4; Section 33 W1/2 W1/2, NE1/4 NW1/4, NE1/4 SW1/4, SW1/4 NE1/4, NW1/4 SE1/4; Section 34 W1/2 NE1/4, NW1/4 SE1/4, S1/2 NW1/4, N1/2 SW1/4; Township 36 North, Range 9 East: Section 5 W1/2; Section 6 SE1/4 NE1/4, NE1/4 SW1/4, E1/2 SE1/4, NW1/4 SE1/4; Section 7 E1/2 NW1/4, NE1/4 NE1/4; Section 17 NW1/4 NW1/4; Section 18 E1/2, SE1/4 NW1/4, N1/2 SW1/4; Section 19 N1/2 NE1/4, SE1/4 NE1/4, SE1/4 NW1/4, NE1/4 SW1/4, S1/2 SE1/4; Section 30 W1/2; Section 31 NW1/4, NW1/4 NE1/4, N1/2 SW1/4. Township 35 North, Range 5 East: Section 3 N1/2 N1/2; Section 4 N1/2. Township 35 North, Range 6 East: Section 4 E1/2 NW1/4; Section 6 N1/2 S1/2, N1/2 N1/2. Township 35 North, Range 8 East: Section 4 N1/2 NW1/4; Section 5 SE1/4, NW1/4, N1/2 SW1/4, N1/2 NE1/4; Section 17 SE1/4; Section 21 SW1/4 SW1/4; Section 22 N1/2; Section 25 NE1/4 SE1/4, NE1/4; Section 26 S1/2; Section 27 S1/2; Section 28 S1/2 NE1/4, S1/2; Section 32 S1/2 except the

EMERGENCY

NW1/4 SW1/4; Section 33 All; Section 34 All; Section 35 N1/2. Township 35 North, Range 9 East: Section 17 W1/2 NW1/4 SW1/4; Section 18 SE1/4 NE1/4, NE1/4 SE1/4, E1/2 NW1/4, NE1/4 SW1/4, W1/2 NE1/4, W1/2 SE1/4 North of Highway 20, SE1/4 SE1/4 North of Highway 20; Section 20 SW1/4; Section 29 SW1/4, NW1/4 SE1/4, W1/2 NE1/4 SE1/4; Section 32 N1/2. Township 35 North, Range 10 East: Section 13 E1/2 SE1/4; Section 24 NE1/4, W1/2, NW1/4; Section 25 E1/2 E1/2; Section 26 SW1/4 SW1/4, SE1/4; Section 27 S1/2 SE1/4 South of the Rockport-Cascade Road; Section 33 E1/2 NE1/4, SE1/4; Section 34 N1/2 NE1/4, N1/2 SE1/4, SW1/4 NW1/4, NW1/4 SW1/4, SW1/4 NE1/4 North of Rockport-Cascade Road; Section 35 All. Township 35 North, Range 11 East: Section 11 SW1/4 North of Cascade River Road; Section 15 N1/2 North of Cascade River Road, S1/2 South of Cascade River Park; Section 17 S1/2; Section 18 S1/2 SE1/4, W1/2 SW1/4; Section 19 All; Section 20 NE1/4, NW1/4; Section 21 N1/2, N1/2 S1/2; Section 22 N1/2 NE1/4, NW1/4, N1/2 SW1/4; Section 29 SE1/4, N1/2 NE1/4; Section 30 NW1/4 SW1/4; Section 32 NW1/4 NE1/4, NE1/4 SW1/4. Township 34 North, Range 9 East: Section 2 West of Sauk Valley Road; Section 3 NW1/4 NE1/4, S1/2 NE1/4, N1/2 SE1/4, SE1/4 SE1/4; Section 10 N1/2 NW1/4; Section 13 SW1/4; Section 23 E1/2 SE1/4; Section 26 S1/2; Section 35 NE1/4; Township 34 North, Range 10 East: Section 4 NW1/4 West of the Powerlines; Section 5 SW1/4, S1/2 N1/2; Section 6 S1/2 SW1/4, SW1/4 SE1/4, SE1/4 NE1/4; Section 7 NW1/4, NW1/4 NE1/4; Section 18 W1/2 NW1/4, NW1/4 SW1/4; Section 30 S1/2 West of Sauk River. Township 33 North, Range 10 East: Section 6 W1/2, SW1/4 NE1/4, NE1/4 East of Highway 530; Section 14 S1/2 SW1/4; Section 15 E1/2; Section 22 SE1/4, NE1/4 NE1/4, S1/2 NE1/4; Section 23 W1/2 W1/2, NE1/4 NW1/4, SE1/4 SW1/4; Section 25 All; Section 26 All except W1/2 SW1/4; Section 27 W1/2 SE1/4, E1/2 NE1/4; Section 34 E1/2, E1/2 SW1/4, SW1/4 SW1/4 South of Sturgeon Road; Section 35 All. Township 33 North, Range 6 East: Section 14 All Lying South of Pilchuck Creek; Section 15 All Lying South of Pilchuck Creek; Section 17 S1/2 S1/2 All Lying South of Pilchuck and Lake Creeks; Section 20 NE1/4, NE1/4 SE1/4; Section 21 SW1/4 NW1/4, SW1/4, W1/2 SE1/4, NE1/4 Lying West of South Shore Drive; Section 22 NE1/4; Section 23 NW1/4, N1/2 SW1/4, SW1/4 SW1/4; Section 26 E1/2 NW1/4 NW1/4 of Tract C - Cavanaugh; Section 28 NW1/4, W1/2 NE1/4, S1/2 NE1/4 NE1/4; Section 29 N1/2; Section 30 N1/2 NE1/4, NE1/4 NW1/4, N1/2 SE1/4. Township 33 North, Range 5 East: Section 19 NW1/4, SW1/4 NE1/4. Township 33 North, Range 4 East: Section 10 SE1/4, S1/2 NE1/4, SE1/4 NW1/4, W1/2 SW1/4; Section 11 S1/2 except for the N1/2 NE1/4 SE1/4 belonging to Devils Lake Corp., NE1/4 except for portion of S1/2 SE1/4 NE1/4 belonging to Devils Lake Corp.; Section 12 W1/2 except that property owned belonging to Devils Lake Corp.; Section 13 All except S1/2 S1/2 NW1/4 belonging to Devils Lake Corp.; Section 14 NE1/4, W1/2 NW1/4, E1/2 SE1/4, S1/2 SW1/4, NW1/4 NW1/4; Section 15 SE1/4, N1/2 N1/2; Section 22 NE1/4, N1/2 SE1/4 lying North of Highway 534; Section 23 N1/2, N1/2 S1/2, N1/2 SW1/4, SE1/4; Section 24 N1/2, N1/2 SW1/4, SW1/4 SW1/4.

Snohomish County: Township 29 North, Range 7 East: Section 13 All; 14 All. Township 30 North, Range 7 East:

Section 4 NW1/4 SW1/4; Section 5 NE1/4 SE1/4. Township 30 North, Range 7 East: Section 9 South of South Fork Stillaguamish River; Section 10 South of South Fork Stillaguamish River; Section 12 South of South Fork Stillaguamish River; Section 13 All; Section 14 South of South Fork Stillaguamish River; Section 15 South of South Fork Stillaguamish River; Section 16 All except W1/2 SW1/2; Section 22 All; Section 23 All except E1/2 W1/2; Section 24 All; Section 25 All; Section 26 All; Section 27 E1/2 NW1/4, NE1/4, N1/2 SE1/4, SE1/4 SE1/4; Section 28 NE1/4; Section 35 N1/2 NE1/4, E1/2 NW1/4. Township 28 North, Range 7 East: Section 6 SW1/4 SE1/4 Lying South of Storm Lake Road; Section 7 NW1/4 NE1/4. Township 28 North, Range 8 East: Section 3 N1/2 NW1/4.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this Notice by issuing a news release to the newspapers for general circulation in the Region and to radio and television stations serving the Region, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight Wednesday, July 24, 1993, to midnight Friday, October 15, 1993.

JENNIFER BELCHER  
Commissioner of Public Lands

**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 332-26-010 Southwest regional closures**  
Cowlitz County: Township 8 North, Range 3 East, W.M.: Part of SW1/4NE1/4; SE1/4 Section 20; Part of W1/2 Section 28; Part of NE1/4; NW1/4; S1/2SW1/4; SE1/4 Section 29; Part of SE1/4NE1/4 Section 31; Part of N1/2; SE1/4; N1/2SW1/4; NE1/4SW1/4SW1/4 Section 32; Part of W1/2NW1/4; NE1/4NW1/4; SW1/4; S1/2NE1/4;NWSE1/4 Section 33.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general

circulation in the region, and to radio and television stations serving the region, specifying the date and time of the suspension and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective midnight, July 24, 1993, to midnight, October 16, 1993.

JENNIFER BELCHER  
Commissioner of Public Lands

#### NEW SECTION

**WAC 332-26-040 Central region closures** Lewis County: Township 13 North, Range 3 East: all Section 1. Township 14 North, Range 2 East: all Section 23; all Section 24; N1/2 Section 25; N1/2 Section 26. Township 14 North, Range 3 East: S1/2 Section 5; all Section 8; all Section 9; all Section 10; all Section 11; all Section 13; all Section 14; all Section 15; all Section 16; all Section 17; all Section 18; all Section 19; all Section 20; all Section 21; all Section 23; all Section 25; all Section 27; all Section 35. Township 13 North, Range 5 East: pt. NW1/4 lying west of Hwy. 7 Section 5. Township 14 North, Range 5 East: SW1/4SE1/4 Section 17; all Section 18; all Section 19; W1/2, W1/2SE1/4 Section 20; NW1/4, N1/2SW1/4, pt. W1/2NE1/4 lying west of Hwy 7, pt NW1/4SE1/4 lying west of Hwy 7 Section 29.

Grays Harbor County: Township 21 North, Range 6 West: pt. S1/2 lying SE of 500 Road, pt. lying west of 6883 Road, pt. lying south of 6885 Road Section 18; W1/2 except that portion lying west of 500 Road and the portion lying east of the 6893 Road, E1/2E1/2 except that portion lying east of 6800 Road Section 19; pt. NW1/4 lying NW of 6800 Road Section 30. Township 21 North Range 7 West: pt. E1/2E1/2 lying east of 6875 Road Section 24; pt. N1/2SW1/4, S1/2NW1/4, pt. E1/2 lying west of 6875 Road Section 25; NE1/4NE1/4SE1/4 Section 26.

Thurston County: Township 15 North Range 1 West: SW1/4SW1/4 Section 9; all Section 16; pt. SE1/4 lying east of road Section 17; SE1/4 Section 20; E1/2, W1/2 except W1/2NW1/4 Section 21; W3/4 Section 22.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general circulation in the region and to radio and television stations

serving the region, specifying the date and time of the suspension and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective midnight, Tuesday, July 24, 1993, to midnight, October 16, 1993.

JENNIFER BELCHER  
Commissioner of Public Lands

#### NEW SECTION

**WAC 332-26-060 South Puget Sound closures** King County: Township 20 North, Range 8 East: E1/2, SE1/4, Section 10; All of Section 11; Part of the NE1/4, Part of the NW1/4, All of the SW1/4, Part of the SE1/4, Section 12; All Section 13; All Section 14; NE1/4, Section 22; All Section 23 and 24. Township 20 North, Range 10 East: All Section 31, All Section 33. Township 19 North, Range 11 East: All Section 19; All Section 21. Township 19 North, Range 10 East: All Section 1; All Section 7; All Section 9; All Section 11; All Section 13; All Section 15; All Section 17; N1/2, Section 19; N1/4, Section 21; N1/2, Section 23. Township 19 North, Range 9 East: All Section 1; All Section 12; Part Section 13.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general circulation in the region and to radio and television stations serving the region, specifying the date and time of the suspension and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective midnight, July 24, 1993, to midnight, October 16, 1993.

JENNIFER BELCHER  
Commissioner of Public Lands

**WSR 93-15-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 93-67—Filed July 14, 1993, 4:20 p.m.]

Date of Adoption: July 14, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are immediately available in the Priest Rapids Reservoir. This regulation is consistent with the Yakima Indian Nation Fishery regulations.

Effective Date of Rule: Immediately.

July 14, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-32-05100X Columbia River salmon seasons above Bonneville.** Notwithstanding the provisions of WAC 220-32-051, 220-32-052, 220-32-053, 220-32-056, 220-32-057 and 220-32-058, effective immediately it is unlawful to fish for or possess salmon or shad taken for commercial purposes from the Columbia River, upstream from a line at Bonneville Dam except for those individuals possessing treaty fishing rights under the Yakima Tribal National may fish or possess salmon and shad under the following provisions:

(1) Open: For sockeye salmon, chinook salmon and shad. Fishing may occur in Priest Rapids Reservoir from 1/2 mile upstream of Priest Rapids Dam to 3/4 mile below Wanapum Dam (marked by the overhead power line that crosses the river from bank to bank.) Fishers may fish in any section of the river within these boundaries. Nets may be placed on either bank or in mid-river. Neither boats nor nets may be landed on Goose Island Wildlife Sanctuary. Any other species except sturgeon may be retained for subsistence purposes. Sturgeon may not be retained for any purpose.

(2) Time: Noon Wednesday July 14, 1993 to 6:00 p.m. Saturday July 17, 1993.

(3) Area Closures: Safety Zone and Boat Restriction Zones as marked by buoy lines or markers.

(4) Gear: Floating set or drift gillnets not exceeding 400' in length. Mesh size shall be no larger than 4 1/2" stretch measure.

(5) All fish must be sold in accordance with Yakima Tribal Fishery Regulations. The sale of sturgeon is prohibited.

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 93-15-059**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed July 15, 1993, 10:28 a.m.]

Date of Adoption: July 9, 1993.

Purpose: WAC 415-108-671 and 415-112-561, to implement early retirement, chapter 519, Laws of 1993.

Statutory Authority for Adoption: RCW 41.50.050.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Early retirement rules must be effective during the early retirement window period, which began on May 18, 1993, and expires on December 31, 1993.

Effective Date of Rule: Immediately.

July 13, 1993  
Sheryl Wilson  
Director

NEW SECTION

**WAC 415-108-671 Administration of early retirement.** (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.40 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible for early retirement unless that member meets the application, age and service, and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

EMERGENCY



(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering early retirement:

(a) The following persons shall be considered to be employed by an employer in an eligible position on March 1, 1993:

(i) Persons in an eligible plan I position who reported for work or otherwise provided service to an employer on March 1, 1993;

(ii) Persons who were on paid leave from an eligible plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from an eligible plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in an eligible plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to have been employed by an employer in an eligible position on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993.

(c) For purposes of administering chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 4 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 4 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 4 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department regarding early retirement prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory retirement deadline; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the

statutory deadline date to retire under the provisions of early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the applicable statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

(6) If a person who retires under early retirement and subsequently enters an eligible position inadvertently or otherwise, he or she shall reenter membership and have his or her pension benefits suspended pursuant to RCW 41.40.150. That person will not be eligible for retirement until he or she qualifies under RCW 41.40.180.

#### NEW SECTION

**WAC 415-112-561 Administration of early retirement.** (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.32 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible to retire under early retirement unless that member meets the application, age and service, and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993:

(a) The following persons shall be considered to be employed by an employer on March 1, 1993:

(i) Persons in a plan I position who reported for work or otherwise provided service to an employer on March 1, 1993, in a position other than as a substitute teacher;

(ii) Persons who were on paid leave from a plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from a plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in a plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to be employed by an employer on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993;

(iii) Persons working as substitute teachers on March 1, 1993.

(c) For purposes of chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 6 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 6 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline, that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory deadline date; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the statutory deadline date to retire under early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

### WSR 93-15-061

#### EMERGENCY RULES

#### LIQUOR CONTROL BOARD

[Filed July 15, 1993, 12:50 p.m., effective July 25, 1993]

Date of Adoption: July 14, 1993.

Purpose: To implement chapter 511, Laws of 1993 and set forth rules pertaining to the issuance and implementation

of the Class M liquor license for small motels not currently licensed by the board. WAC 314-15-010, 314-15-020, 314-15-030, 314-15-040, and 314-15-050 are shown below.

Statutory Authority for Adoption: RCW 66.08.030.

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 law goes into effect July 25, 1993. There was insufficient lead time to pursue normal hearing schedules. The board will, however, commence with formal, permanent rule-making procedures thereby providing the opportunity for public input through the hearing process. The emergency rules were given review by the proponents of the new law and permanent rules will follow the emergency rules closely.

Effective Date of Rule: July 25, 1993.

July 14, 1993  
Mike Murphy  
Board Member

#### [NEW SECTION]

**WAC 314-15-010 Class M motel—Definition—General provisions—Fee** (1) Pursuant to the provisions of Chapter 511, Laws of 1993, there shall be a license designated as a Class M license which will allow a motel with 3 or more rooms to sell spirits, beer and wine by the bottle to registered guests who are at least twenty-one years of age. The annual fee for such license shall be three hundred dollars per year. Such license will be issued only to those motel establishments that do not have a licensed restaurant included as part of the motel property.

(2) "Motel" means a facility or place offering three or more self contained units (rooms) designated by number, letter, or some other method of identification to travelers and transient guests.

(3) A class M licensed motel may sell liquor in no more than one-half of its guest rooms under the following conditions:

(a) no rooms are offered to guests on less than daily rental basis,

(b) all liquor must be stored in locked honor bars in rooms with overnight sleeping accommodations,

(c) each honor bar must also contain snack food,

(d) any liquor sold is for consumption in the guest room only by persons of legal age,

(e) spirits must be sold in individual bottles not to exceed fifty milliliters in size,

(f) beer may be sold only in individual cans or bottles not to exceed twelve ounces in size,

(g) wine may be sold only in individual bottles not to exceed one hundred eighty-seven milliliters in size.

(4) The class M licensee must provide the board with a list of all rooms by number, letter or other form of identification which contain honor bars.

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

**[NEW SECTION]**

**WAC 314-15-020 Purchase of liquor—Class M.** (1) All liquor sold by a class M licensee must be purchased from an authorized source. All spirits must be purchased from the board. Beer and wine must be purchased from a licensed beer or wine wholesaler or the board.

(2) No class M licensee shall buy or accept delivery of beer or wine from a beer or wine wholesaler except for cash paid at the time of the delivery thereof; PROVIDED, That a Class M licensee may pay cash prior to delivery of the beer or wine purchased. Failure by the licensee to keep accurate accounting records which result in the extension of or receipt of credit from a wholesaler through the use of a prior cash deposit which is overextended is a violation.

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

**[NEW SECTION]**

**WAC 314-15-030 Sale of liquor—Class M.** (1) Before a guest may be provided access to the honor bar the licensee will require proof of age from the guest requesting the use of the honor bar pursuant to RCW 66.16.040. The guest must complete a declaration, under penalty of perjury, verifying that:

(a) the guest is twenty-one years of age or older,  
 (b) no one under twenty-one years of age will have access to the liquor in the honor bar.

(2) For the purposes of Chapter 511, Laws of 1993, Section 1 the declaration referred to in section 1 above shall be considered an affidavit.

(3) Where there may be a question of a registered guest's right to purchase liquor, by reason of age, the licensee shall require the guest to complete a certification card as provided in RCW 66.20.190.

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

**[NEW SECTION]**

**WAC 314-15-040 Security and storage of liquor—Definition of honor bar—Class M.** (1) All liquor stored in a class M licensed premises shall be either locked in an honor bar or locked in a secured liquor storage room. No person under twenty-one years of age shall have access to the honor bar(s), liquor storage room, or keys, combinations etc. to the locked liquor facilities.

(2) An "Honor Bar" for the purposes of a class M licensed motel is considered to be any cabinet, box, cooler or refrigerator which can be opened only with a key, combination, magnetic card or other device particular to that cabinet and which is secured within a guest room.

(3) Replenishment of a liquor honor bar or storage room may be made only during those hours when liquor may legally be sold, and only by employees of the class M licensed motel who are twenty-one years of age or older; PROVIDED, HOWEVER, beer and wine wholesalers may deliver, price and stock product only in the storage room.

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

**[NEW SECTION]**

**WAC 314-15-050 Records—Class M.** (1) Each class M licensee shall keep books and records which will clearly reflect all financial transactions and the financial condition of the business. Failure to keep and maintain adequate records as described in this section is a violation.

(2) Every class M licensed motel will keep originals or copies of all purchase invoices and other memoranda covering all purchases and sales of liquor showing (a) items purchased and sold, (b) quantities thereof, (c) from whom purchased and (d) purchase and sale date. These records shall be filed separately and kept apart from all other records and, as nearly as possible, shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and copying.

(3) All records will be available for inspection and copying by representatives of the board for a period of two years.

(4) A class M licensee may maintain records within an automatic data processing system PROVIDED the system includes a method for producing legible records that will provide the same information required of that type of records required in section (2) above.

(5) All records maintained, either manually or with a data processing system must provide:

(a) an audit trail so that details underlying the summary accounting data may be identified and made available upon request.

(b) the opportunity to trace any transaction back to the original source or forward to a final total. If printouts are not made when a transaction is processed, the system must have the ability to reconstruct these transactions.

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

**WSR 93-15-062  
 EMERGENCY RULES  
 LIQUOR CONTROL BOARD**

[Filed July 15, 1993, 12:52 p.m., effective July 25, 1993]

Date of Adoption: July 14, 1993.

Purpose: To implement chapter 507, Laws of 1993 pertaining to the enforcement of the prohibition of sales of tobacco products to minors under the age of 18. Adoption of WAC 314-10-010, 314-10-020, 314-10-030, 314-10-050, 314-10-060, 314-10-070, 314-10-080, 314-10-090, 314-10-100, and 314-10-110 as described below.

Statutory Authority for Adoption: RCW 66.08.030.

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 law goes into effect July 25, 1993. There was insufficient lead time to allow for normal hearing schedule to be followed. The board will commence formal rule-making procedures within the next 60 days to provide the public with an opportunity for public

hearing and input into the permanent rules. Assistance in the formulation of the emergency rules was given by the Department of Health in compliance with chapter 507, Laws of 1993.

Effective Date of Rule: July 25, 1993.

July 14, 1993  
Mike Murphy  
Board Member

**[NEW SECTION]**

**WAC 314-10-010 General—Liquor control board responsibilities.** (1) The Liquor Control Board shall regulate all sales and distribution of tobacco products pursuant to Chapter 507, Laws of 1993. The Liquor Control Board shall report all tobacco enforcement activity in a manner agreed by the Department of Health and the Liquor Control Board on a quarterly basis or as set forth in the interagency agreement.

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

**[NEW SECTION]**

**WAC 314-10-020 General—Applicable to all tobacco license holders** (1) All persons who hold a tobacco license as authorized by RCW 82.24.520 or 82.24.530 will:

(a) display the license or a copy of the license in a prominent location at the business where tobacco products are sold, and

(b) display a sign or signs provided by the Liquor Control Board concerning the prohibition of tobacco sales to persons under 18 years of age in a manner that allows the sign to be clearly visible to anyone purchasing tobacco products from the licensee at the point of purchase.

(2) No one is allowed to give or distribute cigarettes or other tobacco products to another person by coupon unless the coupon redemption requires an in-person transaction in a retail store.

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

**[NEW SECTION]**

**WAC 314-10-030 Tobacco mechanical dispensing machines—Licensees without a liquor license—Records.** (1) Tobacco licensees who do not hold a liquor license and use a mechanical dispensing machine (vending machine) must provide to the Board a listing denoting the address and specific location of each tobacco vending machine.

(2) The tobacco licensee with a vending machine(s) must notify the Board in writing of any new proposed location(s) for a tobacco vending machine 10 working days in advance of the move.

(3) Vending machines which dispense tobacco products may only be located in establishments where minors are prohibited, or in industrial worksites where minors are not employed in such locations. The vending machines used to dispense tobacco products must be located at least 10 feet from each entrance and/or exit.

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

**[NEW SECTION]**

**WAC 314-10-050 Sales to persons under 18 years of age** (1) No tobacco licensee may sell or give or in any way provide tobacco products to any person under 18 years of age.

(2) Any person attempting to purchase tobacco products must present identification to show he/she is at least 18 years of age upon the request of any tobacco licensee, employee of a tobacco licensee or enforcement officer as defined by RCW 7.80.040.

(3) All identification used to prove age must be official issued and contain the bearer's age, signature and photograph. The only forms of identification which are acceptable as proof of age for the purchase of tobacco products are:

(a) a liquor control authority card of identification issued by a state of the United States or province of Canada,

(b) a driver's license, instruction permit or identification card issued by a state of the United States or province of Canada,

(c) a United State military identification card,

(d) a passport, or

(e) a merchant marine identification card issued by the United States Coast Guard.

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

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

**[NEW SECTION]**

**WAC 314-10-060 Persons under 18 years old attempting to purchase/obtaining tobacco products** (1) Any person whom a peace officer or enforcement officer has reasonable grounds to believe is under 18 years of age who purchases or attempts to purchase, or attempts to obtain or obtains tobacco products may be detained for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. A person under 18 years of age who is cited for attempting to purchase or purchasing tobacco products is subject to a fine as set by 7.80 RCW or participation in a smoking cessation program or both.

(a) This provision does not apply to a person under the age of 18 who, with parental authorization, is participating in a controlled purchase as a part of a liquor control board, law enforcement, or local health department activity.

(2) Tobacco products possessed by persons under the age of eighteen years are considered contraband and may be seized by an enforcement officer as defined in RCW 7.80.040.

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

**[NEW SECTION]**

**WAC 314-10-070 Packaging** (1) All cigarettes must be sold in the manufacturer's original, unopened package or container with proper tax stamps attached as required by RCW 82.24.060. Any sale of cigarettes in other than the original container is a violation of this title.

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

**[NEW SECTION]**

**WAC 314-10-080 Parents and guardians may not provide tobacco.** No person, including parents or legal guardians of persons under 18 years of age may authorize any minor to purchase or obtain tobacco products.

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

**[NEW SECTION]**

**WAC 314-10-090 Tobacco sampling—Licenses** (1) No person may engage in providing tobacco samples within Washington State without a valid sampler's license. A firm contracting with a tobacco manufacturer to distribute samples of a manufacturer's product is deemed to be the person engaged in the business of sampling. The Liquor Control Board will issue any sampler's licenses.

(2) The annual fee for a manufacturer's samplers license within the state is \$500 and is designated a class T1 license. The fee for individual persons providing samples of tobacco products is \$50 and is designated a class T2 license. All sampler's licenses expire on the 30th day of June each year and must be renewed annually.

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

**[NEW SECTION]**

**WAC 314-10-100 Samplers license—Distribution of tobacco products.** (1) The sampler's license entitles the licensee, and employees or agents of the licensee, to distribute samples at any lawful location in the state during the term of the license. The person engaged in sampling shall carry the Class T2 license or a copy of the license at all times and produce same at the request of an enforcement officer as defined in RCW 7.80.040.

(2) No person may distribute or offer to distribute samples in a public place. This prohibition does not apply to: (a) an area to which persons under 18 years of age are denied admission, (b) a store or concession to which a cigarette retailers license has been issued or (c) at or adjacent to a production, repair or outdoor construction site or facility.

(3) Notwithstanding (2) above, no person may distribute or offer to distribute samples within or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility where that facility is being used primarily by persons under 18 years of age for recreational, educational or other purposes.

(4) Class T1 and T2 licensees shall provide the Board, upon request, the locations, dates and times sampling activities will take place.

(5) All T1 and T2 licensees must provide to the Department of Health, in a format prescribed by the department, a listing of the location, date, hours and quantities of tobacco products distributed in the state for the previous six months.

(a) A report for the period covering January 1st through June 30th of each year is due by no later than July 31st of each year.

(b) A report for the period covering July 1st through December 31st is due by no later than January 30th of the immediately following year.

(c) The Board may take administrative action against any tobacco sampler who fails to submit the required reports to the Department of Health.

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

**[NEW SECTION]**

**WAC 314-10-110 Suspension notices, posting or advertising of—Other closing notices prohibited.** (1) Licensees are required to maintain compliance with all tobacco laws and regulations during any period of suspension. Whenever the board shall suspend the license of any licensee, the board shall on the date the suspension becomes effective cause to be posted in a conspicuous place on or about the licensed premises a notice in a form to be prescribed by the board, stating that the license or licenses have been suspended by order of the board because of violation of the Washington State laws or the regulations.

(2) During the period of suspension:

(a) No person shall remove, alter, cover, or in any way disturb the posted notice(s) of suspension;

(b) No person shall place, permit or allow to be placed in, at, or upon the licensed premises, any notice or statement of reasons or purpose indicating that the premises have been closed or that sale of tobacco products has been discontinued for any reason other than as stated in the notice of suspension; PROVIDED FURTHER, that the prohibition of this subsection shall apply to any nearby or adjacent property, such as a parking lot area that is owned by or under the control of the licensee.

(c) Neither the licensee nor his/her or its employees shall advertise, either by newspaper, radio, television, handbill, brochure, flyer or by any means whatever, that the licensed premises are closed or discontinuing the sale of tobacco products for any reason(s) other than those stated in the Board's suspension notices.

(3) A tobacco licensee may operate the business during the period of suspension provided there is no sale, delivery, service, consumption, removal or receipt of tobacco products.

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

**WSR 93-15-068**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 93-68—Filed July 15, 1993, 4:20 p.m.]

Date of Adoption: July 15, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-25500T; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of halibut will have been taken in Catch Areas 3 and 4. This regulation conforms to the regulations of the International Halibut Commission.

Effective Date of Rule: Immediately.

July 15, 1993  
Loren J. Stern  
for Robert Turner  
Director

NEW SECTION

**WAC 220-56-25500T Halibut—Seasons.** Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for, or possess halibut except:

(1) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: Open through 11:59 p.m. July 17, 1993. Open Friday and Saturdays only.

(2) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: Open through 11:59 p.m. July 18, 1993.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500S Halibut—Seasons. (93-62)

**WSR 93-15-071**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**  
[Filed July 17, 1993, 10:42 a.m.]

Date of Adoption: July 1, 1993.

Purpose: To protect the marbled murrelet, which was listed as a federally threatened species on October 1, 1992; the board held preproposal public meetings in January 1993 and has accepted two alternative proposed rules for county/agency review per RCW 76.09.040(2).

Citation of Existing Rules Affected by this Order:  
Amending WAC 222-16-010 and 222-16-080.

Statutory Authority for Adoption: RCW 76.09.040 and 34.05.350.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department meets the requirements of WAC 222-16-080(4) by submitting to the board a proposed list of critical wildlife habitats (state) for the marbled murrelet. This species will be protected during the permanent rule adoption process.

Effective Date of Rule: Immediately.

July 16, 1993  
Jennifer M. Belcher  
Commissioner of Public Lands

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce and may be associated with open water.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

EMERGENCY

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Department"** means the department of natural resources.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T.

40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.



**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the

limits of construction or dumping over the side and outside the limits of construction.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"**Stop work order**" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"**Suitable marbled murrelet habitat**" means timber stands with all of the following characteristics: At least ten acres in size; within fifty miles of marine waters; the dominant trees average more than one hundred fifty years old; at least forty percent of the dominant trees are Douglas-Fir, Western Hemlock, Western Red Cedar or Sitka Spruce; less than sixty percent of the dominant trees are Silver Fir or Mountain Hemlock; most dominant trees are greater than or equal to thirty-two inches dbh with a mean dominant tree diameter greater than or equal to thirty-five inches dbh; or any habitat containing status 1, 2, or 3 marbled murrelet sites.

"**Threatened or endangered species**" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

"**Western Washington**" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This

does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile

of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3

or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet - aerial application of chemicals or blasting within 0.25 mile of a known status 1, 2, or 3 marbled murrelet site between the dates of April 1 and September 15; and at all times of the year, harvesting or road construction in suitable marbled murrelet habitat within 0.25 mile of a known status 1, 2, or 3 marbled murrelet site documented by the department of wildlife, or within three hundred feet of the outer edge of suitable marbled murrelet habitat within 0.25 mile of a known status 1, 2, or 3 marbled murrelet site documented by the department of wildlife.

This rule is intended to be interim and shall be changed as necessary upon completion of a state of federal recovery plan for the marbled murrelet.

The department shall rely upon the department of wildlife for the determination of status for marbled murrelet sites based on the following definitions:

Status 1 Nests - stands where actual nest platforms are located.

Status 2 Nest sites - stands where downy chicks or eggs or egg shells are found.

Status 3 Occupied sites - stands where marbled murrelets are observed flying through, into or out of forest canopy.

Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats

(state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

**WSR 93-15-073**  
**EMERGENCY RULES**  
**LAKE WASHINGTON**  
**TECHNICAL COLLEGE**  
 [Filed July 19, 1993, 10:19 a.m.]

Date of Adoption: July 14, 1993.

Purpose: To set forth policies governing refund of tuition and special course/program connected fees that comply with revised 484B Title IV institutional refund policy.

Citation of Existing Rules Affected by this Order: Amending WAC 495D-135-040.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Reasons for this Finding: To be in compliance with the revised 484B Title IV institutional refunds policy.

Effective Date of Rule: Immediately.

July 14, 1993

Gary D. Cohn

Vice-President

AMENDATORY SECTION (Amending WSR 93-01-084, filed 12/15/92)

**WAC 495D-135-040 Tuition and special course/program connected fees refund policy.** Upon withdrawal from college or reduction in class load and the completion of all applicable fee refund forms, the student may receive a tuition and/or fee refund under the following conditions:

(1) A full refund of general tuition fees, operating fees, special course/program connected fees, and services and activities fees will be made if the student has properly withdrawn prior to the first class session, except that a registration cost shall be retained from such fees.

(2) A full refund will be made when courses or programs are cancelled by the college.

(3) An eighty percent refund will be made on or after the first class session and on or prior to the fifth class session of the term, or student's registration period of less than a term, upon withdrawal or termination from a full-time or part-time preparatory occupational course. When a registration is for a first-time student, his or her refund may be calculated on a pro rata basis consistent with applicable federal rules.

(4) A fifty percent refund will be made after the fifth class session and up to the twentieth class session of the term, or student's registration period if less than a term, upon withdrawal or termination from a full-time or part-time preparatory occupational course. When a registration is for a first-time student, his or her refund may be calculated on a pro rata basis consistent with applicable federal rules.

(5) Refunds will be made through the second scheduled class meeting for part-time supplemental occupational courses.

(6) Refund requests must be made in person or in writing. Refund requests may not be made by telephone.

(7) Refund processing procedures shall be established by the president.

(8) Exceptions may be made at the president's discretion for students who withdraw for bona fide medical reasons or when called into the military service.

(9) The college shall charge a registration cost set by the president for refund and transfer processing.

(10) Refunds of less than five dollars will not be made.

(11) Students who have paid fees for equipment or material which have a return/refund value must obtain written verification and approval on an appropriate form from the instructor or staff person who is responsible for the return/refund.

(12) Fees which are nonrefundable and not subject to this policy will be set by the president and identified as such in the quarterly course schedule and/or course announcement.

**WSR 93-15-088**

**EMERGENCY RULES**

**OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

[Filed July 20, 1993, 1:52 p.m.]

Date of Adoption: July 20, 1993.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting opportunities.

Citation of Existing Rules Affected by this Order: WAC 326-30-042 Annual goals.

Statutory Authority for Adoption: RCW 39.19.030(7).

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 office files this emergency rule so that participation goals remain in effect while information is analyzed for purposes of adopting the permanent rule.

Effective Date of Rule: Immediately.

July 20, 1993  
James A. Medina  
Director

NEW SECTION

**WAC 326-30-042 Annual goals.** The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, 1993, through June 30, 1994

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

**WSR 93-15-097**

**EMERGENCY RULES**

**DEPARTMENT OF FISHERIES**

[Order 93-69—Filed July 20, 1993, 4:45 p.m.]

Date of Adoption: July 20, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-02000U; and amending WAC 220-24-020.

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: This rule is adopted at the recommendation of the Pacific Fisheries Management Council and is intended to harvest available salmon, while providing protection for coho salmon through gear and landing limitations. The Columbia River mouth closed area protects milling salmon.

Effective Date of Rule: Immediately.

July 20, 1993  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-24-02000V Commercial salmon troll.**

Notwithstanding the provisions of WAC 220-24-010, 220-24-020 and WAC 220-24-030, effective immediately until further notice it is unlawful to fish for or possess salmon taken for commercial purposes with troll gear from those waters west of the Bonilla-Tatoosh, the Pacific Ocean and waters west of Buoy 10 Line at the mouth of the Columbia River except as provided for in this section:

(1) Fishing is authorized from 12:01 a.m., July 21, 1993 through 11:59 p.m. July 24, 1993 in these waters except fishing is not allowed in Washington waters within Conservation Zone 1, described as those waters surrounding the mouth of the Columbia River inside a line projected six miles due west from North Head along 46 18 00 N latitude to 124 13 18 W longitude, then southerly along a line 167 true to 46 11 06 N latitude and 124 11 00 W (the Columbia River Buoy) then northeast along the red buoy line to the tip of the south jetty.

(2) All salmon taken in the fishery provided for herein must be sold by 11:59 p.m. July 25, 1993, and must be sold within the Salmon Management and Catch Reporting Area where taken or in an immediately adjacent closed Salmon Management and Catch Reporting Area.

(3) No vessel may land more than 50 coho salmon in the fishery provided for herein.

(4) Lawful terminal gear is restricted to four spreads per line and whole bait with a six-inch minimum size or plugs with a six-inch minimum size. A plug is defined as an artificial fish lure made of wood or hard plastic with one or more hooks attached. Plug length means the length of the

EMERGENCY

wood or plastic portion of the lure, and is calculated independently of any hinge, attachment device or hook. Lures commonly known as "spoon", "wobblers", and "dodgers", and flexible plastic lures, including "hootchies", "skirts", and "curleytails" are not considered plugs, and may not be used. A plug may have a metal attachment affixed to the body of the plug to provide direction or stability, but may not have any metal attachment, such as a spoon, wobbler, or dodger, or a flexible plastic attachment, such as hootchies, skirts, or curleytails, that serves as an attractant. Flashers, dodgers, or other attractants may not be used.

(5) No chinook salmon smaller than 28 inches in total length nor coho salmon smaller than 16 inches in total length may be taken or retained in the fishery provided for herein. Except that frozen salmon taken in this fishery may be landed pursuant to WAC 220-20-015.

(6) It is unlawful to fish for or possess salmon taken for commercial purposes with gear other than troll gear.

(7) It is unlawful to land salmon taken south of Cape Falcon in any port north of Cape Falcon, except when the waters north of Cape Falcon are closed. It is unlawful to land chinook taken south of Cape Falcon that are less than 26 inches in length.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-02000U      Commercial salmon troll.  
(93-60)

#### **WSR 93-15-098**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 93-70—Filed July 20, 1993, 4:47 p.m.]

Date of Adoption: July 20, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05100X; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are immediately available in the Priest Rapids Reservoir. This regulation is consistent with the Yakima Indian Nation Fishery regulations.

Effective Date of Rule: Immediately.

July 20, 1993  
Gene DiDonato  
for Robert Turner  
Director

#### NEW SECTION

**WAC 220-32-05100Y Columbia River salmon seasons above Bonneville.** Notwithstanding the provisions of WAC 220-32-051, 220-32-052, 220-32-053, 220-32-056, 220-32-057 and 220-32-058, effective immediately it is unlawful to fish for or possess salmon or shad taken for commercial purposes from the Columbia River, upstream from a line at Bonneville Dam except for those individuals possessing treaty fishing rights under the Yakima Tribal National may fish or possess salmon and shad under the following provisions:

(1) Open: For sockeye salmon, chinook salmon and shad. Fishing may occur in Priest Rapids Reservoir from 1/2 mile upstream of Priest Rapids Dam to 3/4 mile below Wanapum Dam (marked by the overhead power line that crosses the river from bank to bank.) Fishers may fish in any section of the river within these boundaries. Nets may be placed on either bank or in mid-river. Neither boats nor nets may be landed on Goose Island Wildlife Sanctuary. Any other species except sturgeon may be retained for subsistence purposes. Sturgeon may not be retained for any purpose.

(2) Time: Noon Tuesday July 20, 1993 to 6:00 p.m. Saturday July 24, 1993.

(3) Area Closures: Safety Zone and Boat Restriction Zones as marked by buoy lines or markers.

(4) Gear: Floating set or drift gillnets not exceeding 400' in length. Mesh size shall be no larger than 4 1/2" stretch measure.

(5) All fish must be sold in accordance with Yakima Tribal Fishery Regulations. The sale of sturgeon is prohibited.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100X      Columbia River salmon  
seasons above Bonneville.  
(93-67)

**WSR 93-14-132**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
 [Filed July 7, 1993, 11:25 a.m.]

Notice of hearing and proposed adoption of rule 350-60.  
 In the matter of adopting administrative rules relating to appeals from decisions under county ordinances.

The Columbia River Gorge Commission proposes to adopt rules relating to appeals from decisions under county ordinances, 350-60, at its regularly scheduled meeting on August 24, 1993, at 10:45 a.m., Waucoma Center Auditorium, 902 Wasco Avenue, Hood River, Oregon.

The chair of the commission will preside over and conduct the hearing.

Adoption: Rule 350-60. The commission is the proponent of these proposed rules.

No prior notice given.

Summary of Rules: The rules set forth the process in which an affected party may appeal to the Columbia River Gorge Commission a decision made by a county governing body implementing the Columbia River Gorge National Scenic Area Management Plan through county land use ordinances.

Statement of Need: The National Scenic Area Act contemplates the gorge commission shall act in an appellate role once land use ordinances have been adopted by counties in the gorge or, when the gorge commission has adopted such ordinances to implement the act; and the public needs a detailed process for appeals to the Columbia River Gorge Commission.

Statutory Authority: Authority to adopt the rules as proposed derives from the Scenic Area Act (16 U.S.C. § 544 et. seq. and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et. seq. as well as state law.

Documents Relied Upon: The proposed rule is based on the Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act (16 U.S.C. § 544 et. seq.). Copies of these documents are available at the Columbia River Gorge Commission office.

Statement of Anticipated Effects: The proposed rule provides an appeal process from decisions made by a county governing body in implementing the Management Plan for the Columbia River Gorge National Scenic Area Act through land use ordinances as required by the National Scenic Area Act.

Fiscal Impact Statement: The proposed rule will not have an adverse fiscal impact on the public or local government. The rule provides a process for appeals from decisions of a county governing body which will ensure an efficient review process consistent with the act.

Availability of Rule: The proposed rule is available on request from Jan Brending, Rules Coordinator, Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

Public Comment: Interested persons may comment orally or in writing at the hearing. Written comment received at the commission's office by August 20, 1993, will also be considered. Comment may be made to Jan

Breeding, Rules Coordinator, Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

**COLUMBIA RIVER GORGE COMMISSION**  
**PROPOSED RULE**  
**Chapter 350**  
**Division 60**  
**Appeals From Decisions Under County Ordinances**

**350-60-000. Purpose.**

The purpose of this division is to define the process and standards used by the Columbia River Gorge Commission in hearing appeals from decisions relating to the implementation of the Columbia River Gorge National Scenic Area Act ("National Scenic Act" or "Act"). The rule applies to appeals from decisions under a county ordinance consistent with the Act.

**350-60-010. Authority.**

The National Scenic Act authorizes appeals to the Gorge Commission by a person or entity adversely affected by a final action or order of a county.

**350-60-020. Scope.**

Scope of Rules: All proceedings commenced by Notice of Intent to Appeal and Petition shall be governed by these rules.

Appeals commenced by a Notice of Appeal filed under the Final Interim Guidelines shall continue to be governed by Commission Rule 350-20 as adopted December 1, 1987, and the Final Interim Guidelines.

**350-60-030. Application.**

These rules are intended to promote the efficient review of land use decisions in accordance with the National Scenic Act while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice.

**350-60-040. Definitions.**

In these rules, unless the context or subject matter requires otherwise:

(1) "Applicant" means the person who requested that the governing body take an action which resulted in a land use decision.

(2) "Commission" means the Columbia River Gorge Commission or any member thereof.

(3) "Counties" means Multnomah, Hood River and Wasco Counties, Oregon; and Clark, Skamania and Klickitat Counties, Washington.

(4) "Days" means calendar days.

(5) "File" means to deliver to Commission offices by personal delivery or by mail, not by fax. To be considered

filed, a document must be received at Commission offices by 5:00 p.m.

(6) "Final decision": A decision is final when it is reduced to writing and bears the necessary signatures of the governing body decisionmaker(s).

(7) "Governing body" means a county governing body.

(8) "Land use decision" means a final decision by the governing body of a county in the National Scenic Area based on the National Scenic Act.

(9) "Notice" means the Notice of Intent to Appeal and Petition and refers to the document which must be filed with the Commission in order to begin a review proceeding.

(10) "Party" means the petitioner, the applicant if different from the petitioner, the governing body, and any person who intervenes.

(11) "Transmit" means to send with the United States Postal Service by first class mail or to deliver in person.

### **350-60-050. Notice of Intent to Appeal and Petition.**

(1) Filing: The Notice of Intent to Appeal and Petition shall be filed with the Commission on or before the 30th day after the date the decision sought to be reviewed becomes final. A Notice filed thereafter shall not be deemed timely filed and the appeal shall be dismissed.

(2) Service of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be filed with the Commission and served on the governing body, the governing body's legal counsel, and all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice of Intent to Appeal and Petition is required to be filed.

(3) Contents of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be substantially in the form set forth in Exhibit 1 and shall contain:

(a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and the name of the governing body, identifying the governing body as respondent;

(b) Below the caption the heading "Notice of Intent to Appeal and Petition";

(c) The full title of the decision to be reviewed as it appears on the final decision;

(d) The date the decision to be reviewed became final;

(e) A concise description of the decision to be reviewed;

(f) The name, address and telephone number of each of the following:

(A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner.

(B) The governing body and the governing body's legal counsel;

(C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the governing body, the applicant's address and telephone number may be omitted and the name, address and telephone number of the applicant's attorney shall be included;

(D) Any other person to whom written notice of the land use decision was mailed as shown on the governing body's records. The telephone number may be omitted for any such person.

(g) A statement advising all persons, other than the governing body, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to 350-60-140.

(h) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: A filing fee and deposit for costs may be charged by the Columbia River Gorge Commission.

### **350-60-060 Record.**

(1) Contents of Record: The record shall include the following:

(a) The final decision including findings of fact and conclusion of law;

(b) All transcripts, testimony and all exhibits, maps, documents or other written materials included as part of the record during the course of the governing body's proceeding;

(c) Minutes of the meetings conducted by the governing body as required by law. A verbatim transcript of audiotape recordings shall not be required, but if a transcript has been prepared, it shall be included.

(2) Transmittal of Record: The governing body shall within 30 days after service of the Notice on the governing body, transmit to the Commission the original or a certified copy, and two copies of the record of the proceeding under review. The governing body may, however, retain any large maps or documents which are difficult to duplicate, until the date of oral argument.

(3) Service of Record: Contemporaneously with transmittal, the governing body shall serve a copy of the record, exclusive of large maps and other documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated, and all other parties.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice, and the Commission's numerical designation for the case, and shall indicate the numerical designation given the land use decision by the governing body;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map or document retained by the governing body under subsection (2) of this rule;

(C) Be securely fastened;

(D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item on top.

(b) A record which does not conform to the preceding requirements shall not be accepted by the Commission.



**350-60-070 Objections to the Record.**

(1) Before filing an objection to the record, a party shall attempt to resolve the matter with the governing body's legal counsel. If the governing body amends the record in response to an objection, the date the amendment is received by the Commission shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

(2) An objection to the record shall be filed with the Commission within 10 days following service of the record on the person filing the objection. Objections may be made on the following grounds:

(a) The record does not include all materials included as part of the record during the proceedings before the governing body. The omitted item(s) shall be specified, as well as the basis for the claim that the item(s) are part of the record.

(b) The record contains material not included as part of the record during the proceedings before the governing body. The item(s) not included as part of the record during the proceedings before the governing body shall be specified, as well as the basis for the claim that the item(s) are not part of the record.

(c) The minutes or transcripts of meetings or hearings are incomplete or do not accurately reflect the proceedings.

(3) An objection on grounds that the minutes or transcripts are incomplete or inaccurate shall demonstrate with particularity how the minutes or transcripts are defective and shall explain with particularity why the defect is material. Upon such demonstration, the Commission shall require the governing body to produce additional evidence to prove the accuracy of the contested minutes or transcripts. If the evidence regarding contested minutes is in an audiotape recording, a transcript of the relevant portion shall be submitted.

(4) The Commission may conduct a telephone conference with the parties to consider any objections to the record.

(5) If an objection to the record is filed, the time limits for all further procedures under these rules shall be suspended. When the objection is resolved, the Commission shall issue a letter or order declaring the record settled and setting forth the schedule for subsequent events. Unless otherwise provided by the Commission, the date of the Commission's letter or order shall be deemed the date of receipt of the record for purposes of computing subsequent time limits.

**350-60-080 Request for Review.**

(1) Filing and Service of Request: The Request for Review shall be filed with the Commission within 30 days after the date the record is received by the Commission. The Request shall also be served on the governing body and any party who has filed a motion to intervene. Failure to file a Request for Review within the time required by this section shall result in dismissal of the appeal.

(2) Specifications of Request: The Request for Review shall

(a) Begin with a table of contents;

(b) Not exceed 50 pages, exclusive of appendices, unless permission for a longer Request is given by the Commission. If a Request for Review exceeding the 50 page limit is filed without permission, the Commission shall

notify the author, and a revised brief satisfying the 50 pages limit shall be filed within three (3) days of notification by the Commission.

(c) Have a blue cover page, stating the full title of the proceeding, and the names, addresses and telephone numbers of all parties unrepresented by attorney. If a party is represented by an attorney, the name, address and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify the petitioner(s) filing the Request. An intervenor shall be designated as either petitioner or respondent.

(d) Be typewritten, in pica type, and double spaced;

(e) Be signed on the last page by the author.

(3) Contents of Request: The Request for Review shall

(a) State the facts that establish petitioner's standing;

(b) Present a clear and concise statement of the case, in the following order, with separate section headings:

(A) The nature of the land use decision and the relief sought by petitioner;

(B) A summary of the arguments appearing under the assignments of error in the body of the Request;

(C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found.

(c) State why the challenged decision is a land use decision subject to the Commission's jurisdiction;

(d) Set forth each assignment of error under a separate heading. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;

(e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law;

(f) Contain a copy of any management plan provisions, comprehensive plan provision, ordinance or other provision of local law cited in the Request, unless the provision is quoted verbatim in the Request.

**350-60-090 Special Request Review Process.**

(1) Where the petitioner contends the land use decision eliminates all beneficial use of the property, the petitioner must meet the requirements for request for review in Rule 350-60-080 and the requirements for Special Request for Review as follows:

(a) Set out the pertinent portions of the ordinance that applies;

(b) Describe how the ordinance impacts the use of the property;

(c) Attach copies of any documents (maps, deeds, easements, etc.) that are relevant; and

(d) Explain why the use must be allowed to provide beneficial use of the property.

(2) The Commission, in its "Final Opinion and Order", shall

(a) Address the subject of beneficial use in its findings of fact and conclusions.

(b) Specify the factual and/or legal principals relied on in support of the decision.

(c) Where appropriate, propose options for use for the property owner, or other options available to the petitioner.

(d) Approve, where appropriate, based on the specific facts and circumstances of the case, a use to ensure the

property is not subject to what would otherwise constitute a taking if the Forest Service or the federal government does not provide just compensation for a designation it made.

### **350-60-100 Respondent's Brief.**

(1) **Filing and Service of Brief:** Respondent's brief shall be filed within 50 days after the date the record is received by the Commission. A copy of the respondent's brief shall be served on the petitioner or lead petitioner and all intervenors.

(2) **Specifications of Brief:** Respondent's brief shall conform to the specifications of the Request for Review, except that the brief shall have a red cover. If there is more than one respondent, the cover page shall specify which respondent is filing the brief.

#### **(3) Contents of Brief:**

(a) The respondent's brief shall follow the form prescribed for the Request for Review. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein, and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where support for the facts alleged can be found.

(b) Respondent shall accept or challenge petitioner's statement of the Commission's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

### **350-60-110 Reply Brief.**

A reply brief may not be filed.

### **350-60-120 Oral Argument.**

(1) The hearing before the Commission shall be on the record submitted by the county, as long as the county has based its decision upon a record made at an adjudicative hearing open to participation by persons adversely affected or aggrieved.

(2) Only parties who have submitted briefs shall be allowed to present oral argument to the Commission.

(3) If a party waives the right to present oral argument, the Commission shall consider the case based on that party's brief and the brief and oral arguments presented by other parties. The parties may, with consent of the Commission, stipulate to submit a case to the Commission on briefs without oral argument.

(4) The Commission shall inform the parties of the time and place of oral argument. Unless the Commission otherwise orders, petitioner(s) shall be allowed 30 minutes for oral argument, which may be divided between the initial presentation and rebuttal. Multiple petitioners shall share the thirty minutes for argument. The respondent(s) shall be allowed 30 minutes to respond. The Commission shall tape record all arguments, but any party may also arrange at its own expense to record the argument in the same or other manner.

### **350-60-130 Evidentiary Hearings.**

(1) **Grounds for Hearing:** The Commission may, upon written motion, conduct an evidentiary hearing in the case of disputed allegations in the parties' briefs concerning standing, ex parte contacts or other procedural irregularities not shown in the record and which, if proved, would warrant reversal or remand of the decision. An evidentiary hearing may also be held upon motion or at the direction of the Commission to consider disputes regarding the content of the record or requests for stays.

(2) **Motions for Hearings:** A motion for an evidentiary hearing shall be filed with the Commission and served on all parties 60 days in advance of oral argument. The motion shall contain a statement explaining with particularity what facts the moving party will present at the hearing and how those facts will affect the outcome of the review proceeding. Whenever possible such facts shall be presented by affidavit with the motion.

#### **(3) Conduct of hearing:**

(a) Insofar as the Commission finds it practical, the hearing shall be conducted in the following order:

(A) The moving party shall present its evidence including that of any witnesses;

(B) The other party(ies) shall have the opportunity to present evidence disputing that of the moving party;

(C) The moving party shall present rebuttal evidence;

(b) Any witness is subject to cross examination by opposing parties;

(c) Any member of the Commission may question any witness;

(d) The burden of presenting evidence in support of a fact or proposition rests on the proponent of the fact or proposition;

(e) The Commission may continue a hearing, and may set time limits for any hearing;

(f) Exhibits shall be marked to identify the party offering the exhibits. The exhibits shall be preserved by the Commission as part of the record.

#### **(4) Evidentiary Rules:**

(a) Evidence of a type commonly relied upon reasonably prudent person in conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All evidence not objected to, shall be received by the Commission, subject to the Commission's power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the Commission. Rulings on the admissibility of such evidence, if not made at the hearing, shall be made at or before the time a final order is issued.

(5) **Prehearing Conference:** The Commission, on its own motion or at the request of any party, may call a prehearing conference to consider:

(a) Simplification of the issues;

(b) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;

(c) Limitation of the number of witnesses;

(d) The form and substance of any prehearing order;

(e) Such other matters as may aid in the disposition of the appeal.

(6) Proposed Prehearing Order: The Commission with or without a prehearing conference, may require that the parties prepare and sign a proposed prehearing order to be filed with the Commission on or before a date specified by the Commission. The order shall contain:

- (a) A statement of contentions of law of each party;
- (b) A concise statement of all contentions of fact to be proved by each party;
- (c) A statement of all agreed facts;
- (d) A list of witnesses and a summary of their testimony;
- (e) A list of exhibits and a statement of the contents of each;
- (f) Such other matters as the Commission may require in order to expedite the hearing and appeal.

(7) Effect on Time Limits: The filing of a motion for evidentiary hearing shall suspend the time limits for all other events in the review proceedings, including the issuance of the Commission's final order. If the Commission grants an evidentiary hearing, the time limits for other events shall remain suspended until the close of the hearing. Unless the parties agree otherwise, the Commission shall schedule any evidentiary hearing after the order granting the motion for evidentiary hearing is issued. If the Commission denies a motion for an evidentiary hearing, the time for all other events will begin to run on the date the Commission issues its order denying the motion, or on such other date as is specified in that order.

(8) Depositions: On petition of any party at least 14 days before an evidentiary hearing, the Commission may order testimony of any witness to be taken by deposition in the same manner prescribed for depositions in civil actions. Depositions may also be taken by the use of audio or audio visual recordings. The petition for deposition shall set forth:

- (a) The name and address of the witness whose testimony is desired;
- (b) A showing of relevance and materiality of the testimony;
- (c) A request for an order that the testimony of the witness be taken.

(9) Subpoenas: If the Commission orders an evidentiary hearing, the Commission shall issue subpoenas to any party to the appeal upon written request and upon a showing that the witness or the documents to be subpoenaed will provide relevant evidence. Witnesses appearing pursuant to subpoena, other than parties or employees of the Commission, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

#### **350-60-140. Intervention.**

(1) Standing to Intervene: The applicant and any person who appeared before the county may intervene in a review proceeding before the Commission. Status as an intervenor is recognized when a motion to intervene is filed, but the Commission may deny that status at any time prior to issuance of its final order.

(2) Motion to Intervene: In the interests of promoting timely resolution of appeals, a motion to intervene shall be filed as soon as is practicable after the Notice of Intent to

Appeal and Petition is filed pursuant to 350-60-050. The motion to intervene (exhibit 3) shall:

- (a) State whether the party is intervening on the side of the petitioner or the respondent;
  - (b) State the facts which show the party is entitled to intervene, supporting the statement with affidavits, citations to the record or other proof;
  - (c) Be served upon the Commission and all parties.
- (3) Intervenor's Brief:
- (a) If intervention is sought as a petitioner, the brief shall be filed within the time limit for filing the Request for Review, and shall satisfy the requirements for a Request for Review in 350-60-080.
  - (b) If intervention is sought as a respondent, the brief shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in 350-60-100.
  - (4) Objections to a motion to intervene shall be filed within 7 days of the motion.

#### **350-60-150. Amicus Participation.**

(1) A person or organization may appear as amicus only by permission of the Commission on written motion. The motion shall set forth the specific interest of the movant and state reasons why a review of relevant issues would be significantly aided by participation of the amicus. A copy of the motion shall be served on all parties to the proceeding.

(2) Appearance as amicus shall be by brief only, unless the Commission specifically requests oral argument. An amicus brief shall be subject to the same rules as those governing briefs of parties to the appeal and shall be filed within the time required for filing respondent's brief. An amicus brief shall be submitted at the time the respondent's brief is due unless a later date is authorized by the Commission. No filing fee is required. An amicus brief shall have a green cover.

#### **350-60-160. Consolidation.**

The Commission, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s).

#### **350-60-170. Extensions of Time.**

- (1) In no event shall the time limit for the filing of the Notice of Intent to Appeal and Petition be extended.
- (2) In no event shall the time limit for the filing of the Request for Review be extended without the written consent of all parties.
- (3) All other time limits may be extended upon written consent of all parties, the Commission's motion or motion of a party.
- (4) A motion for extension of time shall state the reasons for granting the extension and must be filed with the Commission within the time required for performance of the act for which an extension of time is requested.
- (5) Any agreement by the parties for an extension of time shall automatically extend the time for issuance of the

Commission's final order by an amount of time equal to the extension agreed to by the parties.

(6) In the event the Commission extends the deadline for issuance of its final order without consent of the parties, it shall enter the specific findings to explain such action.

**350-60-180. Stays.**

(1) A motion for a stay of a land use decision shall include:

(a) A statement setting forth movant's right to standing to appeal the decision;

(b) A statement explaining why the challenged decision is subject to the Commission's jurisdiction;

(c) A statement of facts and reasons for issuing a stay, demonstrating a claim of error in the decision and specifying how the movant will suffer irreparable harm if a stay is not granted;

(d) A suggested expedited briefing schedule;

(e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.

(2) A copy of a motion for stay shall be served on the governing body and the applicant for the land use decision, if any, on the same day the motion is filed with the Commission.

(3) Unless otherwise ordered by the Commission, a response to a motion for a stay of a land use decision shall be filed within 10 days after the motion is filed and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.

(4) The Commission shall base its decision on the stay, including the right to a stay, or conditions of any stay order, upon evidence presented. Evidence may be attached to the motion in the form of affidavits, documents or other materials, or presented at an evidentiary hearing which may be convened at the discretion of the Commission and follow the process in 350-60-130.

**350-60-190. Final Order of Commission.**

(1) An Order of the Commission is final when the cover page of the order containing the caption of the appeal:

(a) States "Final Opinion and Order";

(b) Contains findings of fact and conclusions of law or incorporates them from the record below.

(c) Addresses the Special Request for Review Process under Rule 350-60-090, where applicable.

(d) Indicates whether the decision being reviewed is dismissed, affirmed, reversed or remanded;

(e) Contains the date of the final order; and

(f) Is date stamped by the Commission.

(2) The order shall be mailed to all parties.

(3) When an order of the Commission becomes final it shall be made available to interested members of the public. The Commission may charge a reasonable fee for copies of its final orders or other orders furnished to members of the public.

(4) Notwithstanding subsections (1)(a) and (b) of this section, an order granting a motion to dismiss an appeal is a final order.

**350-60-200. Reversal or Remand of Land Use Decisions.**

(1) The Commission shall reverse a land use decision when:

(a) The governing body exceeded its jurisdiction;

(b) The decision is unconstitutional;

(c) The decision violates a provision of applicable law and is prohibited as a matter of law; or

(d) The decision was clearly erroneous or arbitrary and capricious.

(2) The Commission shall remand a land use decision for further proceedings when:

(a) The findings are insufficient to support the decision;

(b) The decision is not supported by substantial evidence in the whole record;

(c) The decision is flawed by procedural errors that prejudice the substantial rights of the petitioner(s); or

(d) The decision improperly construes the applicable law.

EXHIBIT 1  
(350-60-050)

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CRGC No.
	)	
Tahoma County,	)	
	)	
Respondent.	)	

NOTICE OF INTENT TO APPEAL AND PETITION

I.

Notice is hereby given that petitioner intends to appeal that land use decision of respondent entitled [INDICATE TITLE OF LAND USE DECISION], which became final on [INDICATE DATE] and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE OF THE DECISION]

II.

Petitioner, Jane Clark, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Respondent, Tahoma County, has as its mailing address and telephone number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER] and has, as its legal counsel: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER].

MISCELLANEOUS

III.

Applicant, John Developer, was represented in the proceeding below by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Other persons mailed written notice of the land use decision by Tahoma County, as indicated by its records in this matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE NUMBER OF ALL PERSONS WHOM THE GOVERNING BODY'S RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND USE DECISION. THE TELEPHONE NUMBERS OF SUCH PERSONS MAY BE OMITTED]. NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding as required by CR 350-60-140.

\_\_\_\_\_  
Petitioner (each petitioner must sign)

or

\_\_\_\_\_  
Attorney for Petitioner(s)

CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal and Petition on all persons listed in paragraphs II and III of this Notice pursuant to CR 350-60-050(2) by (a) first class mail or (b) personal delivery. [INDICATE WHICH]

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

EXHIBIT 2  
(350-60-060)

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EXHIBIT 3  
(350-60-140)

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark, )  
 )  
 Petitioner, )  
 )  
 vs. ) CRGC No.  
 )  
 Tahoma County, )  
 )  
 Respondent. )

MOTION TO INTERVENE

I.

John Smith moves to intervene on the side of (a) Petitioner or (b) Respondent [INDICATE WHICH] in the above-captioned appeal. Mr. Smith's (or his attorney's) address and phone number are as follows: [INDICATE ADDRESS AND PHONE NUMBER].

II.

The facts establishing movant's right to intervene are as follows: [SET FORTH STATEMENT OF FACTS].

III. [OPTIONAL]

In support of this motion, John Smith relies on the attached affidavit, Memorandum of Law or both.

_____ Date	_____ John Smith
or	
	_____ Barbara Neil, Attorney for John Smith

[Add Certificates of Filing and Service on separate page. See forms in Exhibits 4 and 5.]

MISCELLANEOUS

**EXHIBIT 4**

**CERTIFICATE OF FILING**  
[For Document Other Than  
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I filed the original of this [IDENTIFY DOCUMENT], together with [INDICATE NUMBER OF COPIES] copies, with the Columbia River Gorge Commission, 288 E. Jewett Blvd., P.O. Box 730, White Salmon, WA 98672, by (a) first class mail or (b) personal delivery [INDICATE WHICH].

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

**EXHIBIT 5**

**CERTIFICATE OF SERVICE**  
[For Document Other Than  
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this [IDENTIFY DOCUMENT] by (a) first class mail or (b) personal delivery [INDICATE WHICH] on the following persons: [LIST NAME AND ADDRESS OF EACH PARTY OR THE PARTY'S ATTORNEY].

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

**WSR 93-15-001**  
**GOVERNOR'S TIMBER TEAM**  
[Filed July 7, 1993, 2:55 p.m.]

PUBLIC NOTICE

REINSTATEMENT OF GOVERNOR'S LOG EXPORT REGULATIONS

By letter dated July 6, 1993, to U.S. Secretary of Commerce, Ronald H. Brown, and in accordance with the Forest Resources Conservation and Shortage Relief Amendments Act of 1993 (P.L. 103-45), Governor Mike Lowry has notified the Secretary of Commerce of the existence of the governor's log export rules (chapter 240-15 WAC) which were in effect prior to May 4, 1993. The letter requests approval of the governor's rules for the nine month interim period pending adoption of federal rules, and for permanent approval of the governor's rules beyond the nine month period in lieu of the federal rules. As provided in the act, these rules shall be reinstated and shall become effective on July 7, 1993, pending final approval by the Secretary.

July 7, 1993  
Tom Bristow  
Director  
Governor's Timber Team

**WSR 93-15-005**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
[Memorandum—July 7, 1993]

There have been several further changes in the facilities/dates in which the regular monthly meetings of the Puget Sound Water Quality Authority will be held for the year ending December 1993. The months that have been altered are July, September, October and December. Please note the change of address for the Port of Seattle, as well as the addition of October 19 and December 16 meetings.

The meetings generally start at 9:30 a.m.; any variation from this starting time will be announced in advance. Persons interested in more information about the meetings are invited to call Duane Fagergren at 493-9306 (in Lacey) or 1-800-54-SOUND.

July 21, 1993	LaConner	Swinomish Health Services Building "The Social Services Building" 1759 Reservation Road LaConner
August 18, 1993	Federal Way	Federal Way Water & Sewer Golf Fun Conference Room 31531 1st Avenue South Federal Way
September 15, 1993	Puyallup	Pierce County Library South Hill Branch 15420 Meridian East Puyallup, WA 98373
October 19, 1993 and October 20, 1993	Port Angeles	Clallam County Public Utility District 2431 East Highway 101 Port Angeles
November 17, 1993	Kirkland	Kirkland Library 406 Kirkland Avenue Kirkland
December 15, 1993 and December 16, 1993	Seattle	Port of Seattle Commission Chambers 2711 Alaskan Way Pier 69 Seattle

**WSR 93-15-006**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
[Memorandum—July 6, 1993]

**BOARD OF TRUSTEES**  
**COMMUNITY COLLEGE DISTRICT NO. 4**  
**SKAGIT VALLEY COLLEGE**

Notice in change of time of regular meeting

Skagit Valley College 2405 College Way Mount Vernon, WA 98273	July 12, 1993, 7:30 p.m. Board Room, Campus Center Annex
---------------------------------------------------------------------	-------------------------------------------------------------

The regular July meeting of the board of trustees will be changed from 3:00 p.m. to 7:30 p.m. on July 12, 1993.

MISCELLANEOUS

**WSR 93-15-007**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Wine Commission)  
 [Memorandum—July 6, 1993]

There is a change in date for the next meeting of the Washington Wine Commission. We had originally given notice for our meeting to be held on Thursday, August 5, 1993, but we will now be meeting one week earlier, on July 29th.

The meeting time of 9 a.m. and location of the Red Lion Inn/Pasco remain unchanged.

**WSR 93-15-028**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING**  
**AND EDUCATION**  
**COORDINATING BOARD**  
 [Memorandum—July 9, 1993]

MEETING NOTICE

WASHINGTON STATE  
 WORKFORCE TRAINING AND EDUCATION COORDINATING  
 BOARD  
 JULY 28-29, 1993  
 NORTH SEATTLE COMMUNITY COLLEGE  
 9600 COLLEGE WAY NORTH  
 SEATTLE, WASHINGTON

July 28, 1:00 - 3:00 p.m., College Center Room 3352 (Joint Committee Meeting), the Planning and Coordination (P/C) Committee and the Outcomes and Evaluation (O/E) Committee of the Workforce Training and Education Coordinating Board (WTECB) will meet jointly to review the SBCTC plan for the use of the HB 1988 funds.

3:00 - 5:00 p.m., College Center Room 3352, the P/C committee will meet to discuss and make recommendations on the Carl Perkins leadership funds, the SBCTC plan for 1988, and the comprehensive plan.

3:00 - 5:00 p.m., College Center Room 3353, the O/E committee will discuss the status/progress on the targets of excellence and the schedule for review and action on the SBCTC plan for evaluation of HB 1988 activities.

July 29, 9:30 a.m., College Center Room 2153, the Workforce Coordinating Board will hold its regular business meeting on Thursday, July 29, beginning at 9:30 a.m. The meeting will be held in the College Center Room 2153 at the North Seattle Community College.

Primary agenda items will include the reports by the chair and executive director; WTECB's 93-94 budget, agency organization and staffing; a comprehensive plan update and a report on the NCSL project. The board will also take action on the SBCTC plan for HB 1988 and the Carl Perkins leadership funds. In addition, there will be a presentation on the Employment Security Department restructuring, and a video on Kiosks will be shown.

People needing special accommodations, please call Deifi Stolz at (206) 753-5677 or SCAN 234-5677.

**WSR 93-15-029**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—July 12, 1993]

The board of trustees of Bellingham Technical College will not meet in a regularly scheduled meeting in July. The next board of trustees meeting will be August 19, 1993.

**WSR 93-15-030**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND**  
**TRADE CENTER**  
 [Memorandum—July 8, 1993]

NOTICE OF REGULAR AND SPECIAL PUBLIC MEETINGS

A regular meeting of the board of directors of the Washington State Convention and Trade Center (WSCTC) will be held on Friday, July 16 at 10:30 a.m. at the Inn at Semiahmoo, 9565 Semiahmoo Parkway, Blaine, WA.

A special meeting of the WSCTC board of directors will be held at Semiahmoo on Saturday, July 17 at 9:00 a.m. The purpose of the special meeting is to discuss the feasibility of potential expansion of the convention center.

If you have any questions regarding these meetings, please call 447-5000.

**WSR 93-15-033**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—July 12, 1993]

Board of Trustees Meeting  
 July 15, 1993  
 SKB 103  
 8:00 a.m. - 8:55 a.m.

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

**WSR 93-15-063**  
**NOTICE OF PUBLIC HEARING**  
**LIQUOR CONTROL BOARD**  
 [Memorandum—July 15, 1993]

The Washington State Liquor Control Board will conduct a public hearing to determine whether or not it should allow the sale of Crazy Horse beer in Washington. The board originally denied a request for label approval in May 1992. The manufacturer, G. Heileman Brewing Company dba Hornell Brewing Company of LaCrosse, Wisconsin has asked for reconsideration of the denial. The board has determined a public hearing to gain citizen input will help determine whether or not the product's label is in bad taste or offensive.

The hearing will be on Wednesday, August 25, 1993, beginning at 9:30 a.m. in Hearing Room "A" of the O'Brien

Building on the Capitol Campus. Persons unable to attend may submit written materials to the board by directing the material to M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080. Deadline for written materials is August 20.

The Liquor Control Board denied the request for label approval because it believed associating Native Americans with liquor was not in good taste. WAC 314-52-015 states that "All liquor advertising shall be modest, dignified and in good taste and shall not contain. . .any statement, picture, illustration, design, device or representation which is undignified, obscene, indecent or in bad taste. . ."

The public is invited to attend the hearing and make presentations on the issue of whether or not the product should be approved for sale within the state.

**WSR 93-15-072**  
**NOTICE OF PUBLIC MEETINGS**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
 [Memorandum—July 14, 1993]

The board of trustees of Community College District 24 will attend an informational orientation for new board members, Thursday, July 29, 1993, 8:00 - 11:00 a.m., in the boardroom of Building 25 on our campus.

**WSR 93-15-078**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Board on Fitting and Dispensing of Hearing Aids)  
 (Board of Massage)  
 [Memorandum—July 14, 1993]

BOARD ON FITTING AND DISPENSING OF HEARING AIDS

Meeting Date: August 6, 1993, at \*:30 a.m.  
 Name and Address of Facility: Doubletree Inn at Southcenter, 205 Strander Boulevard, Seattle, WA 98188.  
 DOH Contact Name: Janice K. Boden.  
 Phone: 753-1817.  
 Brief Description: Rules and disciplinary meeting, business meeting.

BOARD OF MASSAGE

Meeting Date: August 15, 1993, at afternoon/closed session; and August 16, 1993, at 9:15 a.m./open meeting.  
 Name and Address of Facility: Tacoma Public Library, Cascade Room A, 1102 Tacoma Avenue South, Tacoma, WA 98401.  
 DOH Contact Name: Janice K. Boden.  
 Phone: 753-1817.  
 Brief Description: Rules, exam appeals, business meeting.

**WSR 93-15-094**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—July 20, 1993]

The Washington State Human Rights Commission will hold its August regular commission meeting in Seattle, Washington on August 25 and 26, 1993. The meeting on August 25, will be a public hearing on proposed rule making regarding chapters 162-12, 162-18, 162-22, 162-26 and 162-30 WAC. The public hearing will be held at the Library for the Blind and Physically Handicapped, Meeting Room, 821 Lenora, Seattle, from 3:00 p.m. to 7:30 p.m. The regular business meeting on August 26, will be held at the same location, beginning at 9:00 a.m. The date of the intended adoption of the rules is August 26, 1993.

**WSR 93-15-095**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—July 19, 1993]

The August 1993 Washington State Transportation Commission meeting will be held at 1:00 p.m. on Wednesday, August 18, and 9:00 a.m. on Thursday, August 19, 1993 in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Wednesday, August 18, in the Transportation Building, Rooms 1D2 and 1D22, Olympia, Washington.

The September 1993 Washington State Transportation Commission meeting will be held at 1:30 p.m. on Wednesday, September 15, and 9:00 a.m. on Thursday, September 16, 1993, at the Red Lion Hotel, 2525 North 20th, Pasco, WA. There also will be subcommittee meetings at 9:00 a.m., Wednesday, September 15, in the Red Lion Hotel.

**WSR 93-15-096**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—July 19, 1993]

The November 1993 Washington State Transportation Commission meeting dates have been changed as follows:

From: Wednesday and Thursday, November 17 and 18  
 To: Monday and Tuesday, November 22 and 23

The location of the meetings remains unchanged; they will be held at the Longview/Kelso Red Lion Inn, beginning at 9:00 a.m. each morning.

**WSR 93-15-116**  
**ATTORNEY GENERAL'S OPINION**  
 [Filed July 21, 1993, 10:40 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S**  
**OPINION**  
**WASHINGTON ATTORNEY GENERAL**



The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by August 18, 1993. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by August 18, 1993, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (206) 753-4114 or by writing to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, Washington 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests.

**93-5-1 Request by Representative Lynn Kessler**

Questions related to the authority of a public port district to provide pilotage services for vessels engaged in domestic and foreign commerce.

**93-5-5 Request by Barbara Herman, Administrator, Office of Marine Safety**

Questions related to the authority of the Office of Marine Safety to adopt regulations establishing an emergency response system and fee structure for the Strait of Juan de Fuca.

**93-6-4 Request by Brian Sonntag, State Auditor**

Questions related to the authority of the State Auditor to require that certain telephone records be maintained by the Legislature and other legislative entities such as the Legislative Transportation Committee and the Legislative Budget Committee relating to the use of the state telephone network (SCAN).

**93-6-12 Request by Senator Linda Smith**

Question related to the interpretation of RCW 9.41.280(1), as amended by Laws of 1993, ch. 347, § 1, which prohibits a person from carrying firearms onto areas of facilities while being used exclusively by public or private schools.



## Table of WAC Sections Affected

### KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- 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 #	WAC #		WSR #	WAC #		WSR #
4-24-010	REP-P	93-08-089	4-25-360	REP	93-12-064	16-10-020	NEW-P	93-04-113
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4-24-080	REP-P	93-08-089	4-25-710	NEW	93-12-071	16-201-100	NEW-P	93-12-044
4-24-080	REP	93-12-064	4-25-720	NEW-P	93-08-099	16-201-110	NEW-P	93-12-044
4-24-090	REP-P	93-08-089	4-25-720	NEW	93-12-070	16-201-120	NEW-P	93-12-044
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4-24-110	REP-P	93-08-089	4-25-730	NEW	93-12-068	16-201-160	NEW-P	93-12-044
4-24-110	REP	93-12-064	4-25-740	NEW-P	93-08-102	16-201-170	NEW-P	93-12-044
4-24-120	REP-P	93-08-089	4-25-740	NEW	93-12-067	16-201-180	NEW-P	93-12-044
4-24-120	REP	93-12-064	4-25-755	NEW-P	93-08-103	16-201-190	NEW-P	93-12-044
4-24-131	REP-P	93-08-089	4-25-755	NEW	93-12-066	16-201-200	NEW-P	93-12-044
4-24-131	REP	93-12-064	4-25-760	NEW-P	93-08-104	16-201-210	NEW-P	93-12-044
4-24-140	REP-P	93-08-089	4-25-760	NEW	93-12-065	16-201-220	NEW-P	93-12-044
4-24-140	REP	93-12-064	10-04-020	AMD-P	93-07-097	16-201-230	NEW-P	93-12-044
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4-24-150	REP	93-12-064	10-08-150	AMD-P	93-07-096	16-201-250	NEW-P	93-12-044
4-25-010	REP-P	93-08-089	10-08-150	AMD	93-10-097	16-201-260	NEW-P	93-12-044
4-25-010	REP	93-12-064	16-08-021	AMD-P	93-07-021	16-201-270	NEW-P	93-12-044
4-25-040	REP-P	93-08-089	16-08-021	AMD-E	93-07-022	16-201-280	NEW-P	93-12-044
4-25-040	REP	93-12-064	16-08-021	AMD	93-10-059	16-201-290	NEW-P	93-12-044
4-25-140	REP-P	93-08-089	16-08-022	NEW-P	93-07-021	16-218-001	AMD-P	93-12-134
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4-25-141	REP-P	93-08-089	16-08-022	NEW	93-10-059	16-218-010	AMD-P	93-12-134
4-25-141	REP	93-12-064	16-08-141	AMD-P	93-07-021	16-218-010	AMD	93-15-069
4-25-142	REP-P	93-08-089	16-08-141	AMD-E	93-07-022	16-218-02001	AMD-P	93-12-134
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Table of WAC Sections Affected

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16-219-025	NEW-P	93-12-128	16-229-470	NEW-P	93-12-044	50-14-080	AMD	93-13-142
16-219-025	NEW-E	93-13-038	16-229-480	NEW-P	93-12-044	50-14-090	AMD-P	93-11-087
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16-228-905	NEW-P	93-06-075	16-230-300	REP-E	93-12-038	51-04-018	AMD-W	93-14-017
16-228-905	NEW	93-10-047	16-230-300	REP-P	93-12-129	51-04-020	AMD-W	93-14-017
16-228-910	NEW-P	93-04-114	16-354-020	AMD-P	93-13-090	51-04-025	AMD-W	93-14-017
16-228-910	NEW-W	93-06-007	16-400-210	AMD-E	93-04-078	51-04-030	AMD-W	93-14-017
16-228-910	NEW-P	93-06-075	16-400-210	AMD-P	93-04-103	51-04-060	AMD-W	93-14-017
16-228-910	NEW	93-10-047	16-400-210	AMD	93-07-105	51-11-0101	AMD-P	93-08-077
16-228-915	NEW-P	93-04-114	16-403-220	AMD-P	93-13-141	51-11-0101	AMD-W	93-08-084
16-228-915	NEW-W	93-06-007	16-409-015	AMD-W	93-05-022	51-11-0200	AMD-P	93-08-077
16-228-915	NEW-P	93-06-075	16-409-065	REP-W	93-05-022	51-11-0201	AMD-P	93-08-077
16-228-915	NEW	93-10-047	16-409-075	AMD-W	93-05-022	51-11-0401	AMD-P	93-08-077
16-228-920	NEW-P	93-04-114	16-415	PREP	93-07-053	51-11-0401	AMD-W	93-08-084
16-228-920	NEW-W	93-06-007	16-432	PREP	93-07-053	51-11-0502	AMD-P	93-08-077
16-228-920	NEW-P	93-06-075	16-461-011	NEW-P	93-08-060	51-11-0502	AMD-W	93-08-084
16-228-920	NEW	93-10-047	16-461-011	NEW-W	93-12-047	51-11-0503	AMD-P	93-08-077
16-228-925	NEW-P	93-04-114	16-462-030	AMD-P	93-13-091	51-11-0503	AMD-W	93-08-084
16-228-925	NEW-W	93-06-007	16-532-120	AMD-P	93-06-083	51-11-0505	AMD-P	93-08-077
16-228-925	NEW-P	93-06-075	16-532-120	AMD	93-09-014	51-11-0505	AMD-W	93-08-084
16-228-925	NEW	93-10-047	16-555-010	AMD-P	93-04-094	51-11-0528	AMD-P	93-08-077
16-228-930	NEW-P	93-04-114	16-555-010	AMD	93-10-063	51-11-0528	AMD-W	93-08-084
16-228-930	NEW-W	93-06-007	16-555-020	AMD-P	93-04-094	51-11-0529	AMD-P	93-08-077
16-228-930	NEW-P	93-06-075	16-555-020	AMD	93-10-063	51-11-0529	AMD-W	93-08-084
16-228-930	NEW	93-10-047	16-570-040	AMD-P	93-07-085	51-11-0531	AMD-P	93-08-077
16-229-010	NEW-P	93-12-044	16-570-040	AMD	93-11-032	51-11-0531	AMD-W	93-08-084
16-229-015	NEW-P	93-12-044	16-602-020	AMD-P	93-15-099	51-11-0532	AMD-P	93-08-077
16-229-020	NEW-P	93-12-044	16-602-040	NEW-E	93-12-039	51-11-0532	AMD-W	93-08-084
16-229-025	NEW-P	93-12-044	16-602-040	NEW-P	93-15-100	51-11-0538	AMD-P	93-08-077
16-229-030	NEW-P	93-12-044	16-674-002	REP	93-03-079	51-11-0538	AMD-W	93-08-084
16-229-040	NEW-P	93-12-044	16-674-010	AMD	93-03-079	51-11-0539	AMD-P	93-08-077
16-229-050	NEW-P	93-12-044	16-674-020	REP	93-03-079	51-11-0539	AMD-W	93-08-084
16-229-060	NEW-P	93-12-044	16-674-060	NEW	93-03-079	51-11-0540	AMD-P	93-08-077
16-229-070	NEW-P	93-12-044	16-674-070	NEW	93-03-079	51-11-0540	AMD-W	93-08-084
16-229-080	NEW-P	93-12-044	16-674-080	NEW	93-03-079	51-11-0542	AMD-P	93-08-077
16-229-090	NEW-P	93-12-044	16-674-090	NEW	93-03-079	51-11-0542	AMD-W	93-08-084
16-229-100	NEW-P	93-12-044	16-674-100	NEW	93-03-079	51-11-0601	AMD-P	93-08-077
16-229-110	NEW-P	93-12-044	44-01-010	AMD-E	93-14-081	51-11-0601	AMD-W	93-08-084
16-229-120	NEW-P	93-12-044	44-01-020	AMD-E	93-14-081	51-11-0605	AMD-P	93-08-077
16-229-130	NEW-P	93-12-044	44-01-030	AMD-E	93-14-081	51-11-0605	AMD-W	93-08-084
16-229-140	NEW-P	93-12-044	44-01-100	AMD-E	93-14-081	51-11-0606	AMD-P	93-08-077
16-229-150	NEW-P	93-12-044	44-01-110	AMD-E	93-14-081	51-11-0606	AMD-W	93-08-084
16-229-160	NEW-P	93-12-044	44-01-120	AMD-E	93-14-081	51-11-0607	AMD-P	93-08-077
16-229-170	NEW-P	93-12-044	44-01-130	AMD-E	93-14-081	51-11-0607	AMD-W	93-08-084
16-229-180	NEW-P	93-12-044	44-01-140	AMD-E	93-14-081	51-11-0608	AMD-P	93-08-077
16-229-200	NEW-P	93-12-044	44-01-150	AMD-E	93-14-081	51-11-0608	AMD-W	93-08-084
16-229-210	NEW-P	93-12-044	44-01-160	AMD-E	93-14-081	51-11-0631	AMD-P	93-08-077
16-229-220	NEW-P	93-12-044	44-01-170	AMD-E	93-14-081	51-11-0631	AMD-W	93-08-084
16-229-230	NEW-P	93-12-044	44-10-030	AMD-E	93-07-017	51-11-0700	AMD-P	93-08-077
16-229-240	NEW-P	93-12-044	50-14-020	AMD-P	93-11-087	51-11-1000	AMD-P	93-08-077
16-229-250	NEW-P	93-12-044	50-14-020	AMD	93-13-142	51-11-1100	NEW-P	93-08-077
16-229-260	NEW-P	93-12-044	50-14-030	AMD-P	93-11-087	51-11-1101	NEW-W	93-08-084
16-229-270	NEW-P	93-12-044	50-14-030	AMD	93-13-142	51-11-1102	NEW-W	93-08-084
16-229-280	NEW-P	93-12-044	50-14-040	AMD-P	93-11-087	51-11-1103	NEW-W	93-08-084
16-229-300	NEW-P	93-12-044	50-14-040	AMD	93-13-142	51-11-1104	NEW-W	93-08-084
16-229-310	NEW-P	93-12-044	50-14-050	AMD-P	93-11-087	51-11-1105	NEW-W	93-08-084
16-229-400	NEW-P	93-12-044	50-14-050	AMD	93-13-142	51-11-1106	NEW-W	93-08-084
16-229-410	NEW-P	93-12-044	50-14-060	AMD-P	93-11-087	51-11-1107	NEW-W	93-08-084

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
51-11-1108	NEW-W	93-08-084	51-11-1503	NEW-W	93-08-084	67-35-055	REP	93-09-013
51-11-1109	NEW-W	93-08-084	51-11-1504	NEW-W	93-08-084	67-35-056	REP-P	93-06-048
51-11-1110	NEW-P	93-08-077	51-11-1505	NEW-W	93-08-084	67-35-056	REP	93-09-013
51-11-1120	NEW-P	93-08-077	51-11-1510	NEW-P	93-08-077	98-60-010	NEW-P	93-03-063
51-11-1130	NEW-P	93-08-077	51-11-1511	NEW-P	93-08-077	98-60-010	NEW	93-07-040
51-11-1131	NEW-P	93-08-077	51-11-1512	NEW-P	93-08-077	98-60-020	NEW-P	93-03-063
51-11-1132	NEW-P	93-08-077	51-11-1513	NEW-P	93-08-077	98-60-020	NEW	93-07-040
51-11-1133	NEW-P	93-08-077	51-11-1520	NEW-P	93-08-077	98-60-030	NEW-P	93-03-063
51-11-1134	NEW-P	93-08-077	51-11-1521	NEW-P	93-08-077	98-60-030	NEW	93-07-040
51-11-1140	NEW-P	93-08-077	51-11-1522	NEW-P	93-08-077	98-60-040	NEW-P	93-03-063
51-11-1141	NEW-P	93-08-077	51-11-1530	NEW-P	93-08-077	98-60-040	NEW	93-07-040
51-11-1142	NEW-P	93-08-077	51-11-1531	NEW-P	93-08-077	98-60-050	NEW-P	93-03-063
51-11-1143	NEW-P	93-08-077	51-11-1532	NEW-P	93-08-077	98-60-050	NEW	93-07-040
51-11-1144	NEW-P	93-08-077	51-11-1601	NEW-W	93-08-084	98-70-010	AMD-P	93-03-062
51-11-1150	NEW-P	93-08-077	51-11-1602	NEW-W	93-08-084	98-70-010	AMD	93-07-041
51-11-1160	NEW-P	93-08-077	51-11-1603	NEW-W	93-08-084	118-04-010	REP-P	93-15-087
51-11-1201	NEW-P	93-08-077	51-11-1604	NEW-W	93-08-084	118-04-020	NEW-P	93-15-087
51-11-1201	NEW-W	93-08-084	51-11-1605	NEW-W	93-08-084	118-04-030	REP-P	93-15-087
51-11-1210	NEW-P	93-08-077	51-11-1606	NEW-W	93-08-084	118-04-040	NEW-P	93-15-087
51-11-1301	NEW-P	93-08-077	51-11-1607	NEW-W	93-08-084	118-04-050	REP-P	93-15-087
51-11-1301	NEW-W	93-08-084	51-11-1608	NEW-W	93-08-084	118-04-060	NEW-P	93-15-087
51-11-1302	NEW-P	93-08-077	51-11-1701	NEW-P	93-08-077	118-04-070	REP-P	93-15-087
51-11-1302	NEW-W	93-08-084	51-11-1701	NEW-W	93-08-084	118-04-080	NEW-P	93-15-087
51-11-1303	NEW-P	93-08-077	51-11-1801	NEW-W	93-08-084	118-04-090	REP-P	93-15-087
51-11-1303	NEW-W	93-08-084	51-11-1901	NEW-W	93-08-084	118-04-100	NEW-P	93-15-087
51-11-1310	NEW-P	93-08-077	51-11-1902	NEW-W	93-08-084	118-04-110	REP-P	93-15-087
51-11-1311	NEW-P	93-08-077	51-11-2000	NEW-W	93-08-084	118-04-120	NEW-P	93-15-087
51-11-1312	NEW-P	93-08-077	51-11-2001	NEW-P	93-08-077	118-04-130	REP-P	93-15-087
51-11-1313	NEW-P	93-08-077	51-11-2001	NEW-W	93-08-084	118-04-140	REP-P	93-15-087
51-11-1314	NEW-P	93-08-077	51-11-2002	NEW-P	93-08-077	118-04-150	REP-P	93-15-087
51-11-1320	NEW-P	93-08-077	51-11-2002	NEW-W	93-08-084	118-04-160	NEW-P	93-15-087
51-11-1321	NEW-P	93-08-077	51-11-2003	NEW-P	93-08-077	118-04-170	REP-P	93-15-087
51-11-1322	NEW-P	93-08-077	51-11-2003	NEW-W	93-08-084	118-04-180	NEW-P	93-15-087
51-11-1323	NEW-P	93-08-077	51-11-2004	NEW-P	93-08-077	118-04-190	REP-P	93-15-087
51-11-1330	NEW-P	93-08-077	51-11-2004	NEW-W	93-08-084	118-04-200	NEW-P	93-15-087
51-11-1331	NEW-P	93-08-077	51-11-2005	NEW-P	93-08-077	118-04-210	REP-P	93-15-087
51-11-1332	NEW-P	93-08-077	51-11-2005	NEW-W	93-08-084	118-04-220	NEW-P	93-15-087
51-11-1333	NEW-P	93-08-077	51-11-2006	NEW-P	93-08-077	118-04-230	REP-P	93-15-087
51-11-1334	NEW-P	93-08-077	51-11-2006	NEW-W	93-08-084	118-04-240	NEW-P	93-15-087
51-11-1401	NEW-P	93-08-077	51-11-2007	NEW-P	93-08-077	118-04-250	REP-P	93-15-087
51-11-1401	NEW-W	93-08-084	51-11-2007	NEW-W	93-08-084	118-04-260	NEW-P	93-15-087
51-11-1402	NEW-P	93-08-077	51-11-2008	NEW-P	93-08-077	118-04-270	REP-P	93-15-087
51-11-1402	NEW-W	93-08-084	51-11-2008	NEW-W	93-08-084	118-04-280	NEW-P	93-15-087
51-11-1410	NEW-P	93-08-077	51-11-2009	NEW-P	93-08-077	118-04-290	REP-P	93-15-087
51-11-1411	NEW-P	93-08-077	51-11-2009	NEW-W	93-08-084	118-04-300	NEW-P	93-15-087
51-11-1412	NEW-P	93-08-077	51-11-99901	NEW-S	93-10-004	118-04-320	NEW-P	93-15-087
51-11-1413	NEW-P	93-08-077	51-11-99902	NEW-S	93-10-004	118-04-340	NEW-P	93-15-087
51-11-1414	NEW-P	93-08-077	51-11-99903	NEW-S	93-10-004	118-04-360	NEW-P	93-15-087
51-11-1415	NEW-P	93-08-077	51-11-99904	NEW-S	93-10-004	118-04-380	NEW-P	93-15-087
51-11-1420	NEW-P	93-08-077	51-13-101	AMD	93-02-056	118-04-400	NEW-P	93-15-087
51-11-1421	NEW-P	93-08-077	51-13-202	AMD	93-02-056	118-04-420	NEW-P	93-15-087
51-11-1422	NEW-P	93-08-077	51-13-300	AMD	93-02-056	131-16-091	AMD-P	93-10-103
51-11-1423	NEW-P	93-08-077	51-13-302	AMD	93-02-056	131-16-091	AMD	93-14-008
51-11-1424	NEW-P	93-08-077	51-13-303	AMD	93-02-056	131-16-092	AMD-P	93-10-103
51-11-1430	NEW-P	93-08-077	51-13-304	AMD	93-02-056	131-16-092	AMD	93-14-008
51-11-1431	NEW-P	93-08-077	51-13-401	AMD	93-02-056	131-16-093	AMD-P	93-10-103
51-11-1432	NEW-P	93-08-077	51-13-402	AMD	93-02-056	131-16-093	AMD	93-14-008
51-11-1433	NEW-P	93-08-077	51-13-502	AMD	93-02-056	131-47-010	NEW-E	93-09-047
51-11-1434	NEW-P	93-08-077	51-13-503	AMD	93-02-056	131-47-010	NEW-P	93-14-052
51-11-1435	NEW-P	93-08-077	55-01-001	AMD-E	93-14-089	131-47-010	NEW-E	93-14-053
51-11-1436	NEW-P	93-08-077	55-01-010	AMD-E	93-14-089	131-47-015	NEW-E	93-09-047
51-11-1437	NEW-P	93-08-077	55-01-020	AMD-E	93-14-089	131-47-015	NEW-P	93-14-052
51-11-1440	NEW-P	93-08-077	55-01-030	AMD-E	93-14-089	131-47-015	NEW-E	93-14-053
51-11-1441	NEW-P	93-08-077	55-01-040	AMD-E	93-14-089	131-47-020	NEW-E	93-09-047
51-11-1442	NEW-P	93-08-077	55-01-050	AMD-E	93-14-089	131-47-020	NEW-P	93-14-052
51-11-1450	NEW-P	93-08-077	55-01-060	AMD-E	93-14-089	131-47-020	NEW-E	93-14-053
51-11-1451	NEW-P	93-08-077	55-01-070	AMD-E	93-14-089	131-47-025	NEW-E	93-09-047
51-11-1452	NEW-P	93-08-077	55-01-080	AMD-E	93-14-089	131-47-025	NEW-P	93-14-052
51-11-1453	NEW-P	93-08-077	67-35-030	AMD-P	93-07-117	131-47-025	NEW-E	93-14-053
51-11-1454	NEW-P	93-08-077	67-35-030	AMD	93-10-067	131-47-030	NEW-E	93-09-047
51-11-1501	NEW-P	93-08-077	67-35-040	AMD-P	93-06-048	131-47-030	NEW-P	93-14-052
51-11-1501	NEW-W	93-08-084	67-35-040	AMD	93-09-013	131-47-030	NEW-E	93-14-053
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131-47-040	NEW-P	93-14-052	131-47-160	NEW-E	93-14-053	
131-47-040	NEW-E	93-14-053	137-47-165	NEW-E	93-09-047	
131-47-045	NEW-E	93-09-047	131-47-165	NEW-P	93-14-052	
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131-47-045	NEW-E	93-14-053	131-48-010	NEW-E	93-14-010	
131-47-050	NEW-E	93-09-047	131-48-020	NEW-E	93-14-010	
131-47-050	NEW-P	93-14-052	131-48-030	NEW-E	93-14-010	
131-47-050	NEW-E	93-14-053	131-48-040	NEW-E	93-14-010	
131-47-055	NEW-E	93-09-047	131-48-050	NEW-E	93-14-010	
131-47-055	NEW-P	93-14-052	131-48-060	NEW-E	93-14-010	
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131-47-065	NEW-E	93-14-053	131-48-130	NEW-E	93-14-010	
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131-47-075	NEW-E	93-09-047	132G-116-025	NEW	93-02-063	
131-47-075	NEW-P	93-14-052	132G-116-030	AMD	93-02-063	
131-47-075	NEW-E	93-14-053	132G-116-035	NEW	93-02-063	
131-47-080	NEW-E	93-09-047	132G-116-040	REP	93-02-063	
131-47-080	NEW-P	93-14-052	132G-116-045	NEW	93-02-063	
131-47-080	NEW-E	93-14-053	132G-116-050	REP	93-02-063	
131-47-085	NEW-E	93-09-047	132G-116-055	NEW	93-02-063	
131-47-085	NEW-P	93-14-052	132G-116-060	REP	93-02-063	
131-47-085	NEW-E	93-14-053	132G-116-080	AMD	93-02-063	
131-47-090	NEW-E	93-09-047	132G-116-090	AMD	93-02-063	
131-47-090	NEW-P	93-14-052	132G-116-095	NEW	93-02-063	
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131-47-095	NEW-E	93-09-047	132G-116-105	NEW	93-02-063	
131-47-095	NEW-P	93-14-052	132G-116-110	REP	93-02-063	
131-47-095	NEW-E	93-14-053	132G-116-115	NEW	93-02-063	
131-47-100	NEW-E	93-09-047	132G-116-120	REP	93-02-063	
131-47-100	NEW-P	93-14-052	132G-116-125	NEW	93-02-063	
131-47-100	NEW-E	93-14-053	132G-116-130	REP	93-02-063	
131-47-105	NEW-E	93-09-047	132G-116-135	NEW	93-02-063	
131-47-105	NEW-P	93-14-052	132G-116-140	REP	93-02-063	
131-47-105	NEW-E	93-14-053	132G-116-145	NEW	93-02-063	
131-47-110	NEW-E	93-09-047	132G-116-150	REP	93-02-063	
131-47-110	NEW-P	93-14-052	132G-116-155	NEW	93-02-063	
131-47-110	NEW-E	93-14-053	132G-116-160	REP	93-02-063	
131-47-115	NEW-E	93-09-047	132G-116-170	REP	93-02-063	
131-47-115	NEW-P	93-14-052	132G-116-175	NEW	93-02-063	
131-47-115	NEW-E	93-14-053	132G-116-180	REP	93-02-063	
131-47-120	NEW-E	93-09-047	132G-116-185	NEW	93-02-063	
131-47-120	NEW-P	93-14-052	132G-116-190	REP	93-02-063	
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131-47-135	NEW-E	93-09-047	132G-116-230	REP	93-02-063	
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173-164-020	REP	93-14-116	173-220-070	AMD-P	93-03-066	173-226-190	NEW	93-10-099
173-164-030	REP-P	93-09-064	173-220-070	AMD-E	93-03-067	173-226-200	NEW-P	93-03-066
173-164-030	REP	93-14-116	173-220-070	AMD	93-10-099	173-226-200	NEW-E	93-03-067
173-164-040	REP-P	93-09-064	173-220-090	AMD-P	93-03-066	173-226-200	NEW	93-10-099
173-164-040	REP	93-14-116	173-220-090	AMD-E	93-03-067	173-226-210	NEW-P	93-03-066
173-164-050	REP-P	93-09-064	173-220-090	AMD	93-10-099	173-226-210	NEW-E	93-03-067
173-164-050	REP	93-14-116	173-220-100	AMD-P	93-03-066	173-226-210	NEW	93-10-099
173-164-060	REP-P	93-09-064	173-220-100	AMD-E	93-03-067	173-226-220	NEW-P	93-03-066
173-164-060	REP	93-14-116	173-220-100	AMD	93-10-099	173-226-220	NEW-E	93-03-067
173-164-070	REP-P	93-09-064	173-220-110	AMD-P	93-03-066	173-226-220	NEW	93-10-099
173-164-070	REP	93-14-116	173-220-110	AMD-E	93-03-067	173-226-230	NEW-P	93-03-066
173-164-080	REP-P	93-09-064	173-220-110	AMD	93-10-099	173-226-230	NEW-E	93-03-067
173-164-080	REP	93-14-116	173-220-210	AMD-P	93-13-127	173-226-230	NEW	93-10-099
173-202-020	AMD-P	93-05-042	173-220-225	AMD-P	93-03-066	173-226-240	NEW-P	93-03-066
173-202-020	AMD-E	93-07-090	173-220-225	AMD-E	93-03-067	173-226-240	NEW-E	93-03-067
173-202-020	AMD	93-11-062	173-220-225	AMD	93-10-099	173-226-240	NEW	93-10-099
173-205	NEW-C	93-14-004	173-226-010	NEW-P	93-03-066	173-226-250	NEW-P	93-03-066
173-205-010	NEW-P	93-08-085	173-226-010	NEW-E	93-03-067	173-226-250	NEW-E	93-03-067
173-205-020	NEW-P	93-08-085	173-226-010	NEW	93-10-099	173-226-250	NEW	93-10-099
173-205-030	NEW-P	93-08-085	173-226-020	NEW-P	93-03-066	173-250-010	REP-P	93-09-064
173-205-040	NEW-P	93-08-085	173-226-020	NEW-E	93-03-067	173-250-010	REP	93-14-116
173-205-050	NEW-P	93-08-085	173-226-020	NEW	93-10-099	173-250-020	REP-P	93-09-064
173-205-060	NEW-P	93-08-085	173-226-030	NEW-P	93-03-066	173-250-020	REP	93-14-116
173-205-070	NEW-P	93-08-085	173-226-030	NEW-E	93-03-067	173-250-030	REP-P	93-09-064
173-205-080	NEW-P	93-08-085	173-226-030	NEW	93-10-099	173-250-030	REP	93-14-116
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173-205-100	NEW-P	93-08-085	173-226-040	NEW-E	93-03-067	173-250-040	REP	93-14-116
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173-303-020	AMD-P	93-12-109	173-303-9906	AMD-P	93-12-109	173-400-180	AMD-S	93-05-048
173-303-040	AMD-P	93-12-109	173-303-9907	AMD-P	93-12-109	173-400-230	AMD	93-05-044
173-303-045	AMD-P	93-12-109	173-303-9908	NEW-P	93-12-109	173-400-250	AMD-S	93-05-048
173-303-070	AMD-E	93-02-049	173-322-010	AMD-P	93-12-108	173-401	NEW-C	93-15-053
173-303-070	AMD	93-02-050	173-322-020	AMD-P	93-12-108	173-401-100	NEW-P	93-07-062
173-303-070	AMD-P	93-12-109	173-322-030	AMD-P	93-12-108	173-401-200	NEW-P	93-07-062
173-303-071	AMD-P	93-12-109	173-322-040	AMD-P	93-12-108	173-401-300	NEW-P	93-07-062
173-303-072	AMD-P	93-12-109	173-322-050	AMD-P	93-12-108	173-401-400	NEW-P	93-07-062
173-303-075	AMD-P	93-12-109	173-322-060	AMD-P	93-12-108	173-401-500	NEW-P	93-07-062
173-303-082	AMD-P	93-12-109	173-322-070	AMD-P	93-12-108	173-401-510	NEW-P	93-07-062
173-303-083	AMD-P	93-12-109	173-322-080	AMD-P	93-12-108	173-401-520	NEW-P	93-07-062
173-303-084	AMD-P	93-12-109	173-322-090	AMD-P	93-12-108	173-401-600	NEW-P	93-07-062
173-303-090	AMD-P	93-12-109	173-322-100	AMD-P	93-12-108	173-401-605	NEW-P	93-07-062
173-303-100	AMD-P	93-12-109	173-322-110	AMD-P	93-12-108	173-401-610	NEW-P	93-07-062
173-303-101	AMD-P	93-12-109	173-328-010	NEW	93-09-065	173-401-615	NEW-P	93-07-062
173-303-102	AMD-P	93-12-109	173-328-020	NEW	93-09-065	173-401-620	NEW-P	93-07-062
173-303-103	AMD-P	93-12-109	173-328-030	NEW	93-09-065	173-401-625	NEW-P	93-07-062
173-303-110	AMD-P	93-12-109	173-328-040	NEW	93-09-065	173-401-630	NEW-P	93-07-062
173-303-120	AMD-E	93-02-049	173-328-050	NEW	93-09-065	173-401-635	NEW-P	93-07-062
173-303-120	AMD	93-02-050	173-328-060	NEW	93-09-065	173-401-640	NEW-P	93-07-062
173-303-120	AMD-P	93-12-109	173-328-070	NEW	93-09-065	173-401-645	NEW-P	93-07-062
173-303-140	AMD-P	93-12-109	173-340-550	AMD-P	93-15-125	173-401-650	NEW-P	93-07-062
173-303-160	AMD-P	93-12-109	173-351-010	NEW-P	93-12-110	173-401-700	NEW-P	93-07-062
173-303-161	AMD-P	93-12-109	173-351-100	NEW-P	93-12-110	173-401-705	NEW-P	93-07-062
173-303-170	AMD-P	93-12-109	173-351-120	NEW-P	93-12-110	173-401-710	NEW-P	93-07-062
173-303-180	AMD-P	93-12-109	173-351-130	NEW-P	93-12-110	173-401-720	NEW-P	93-07-062
173-303-200	AMD-P	93-12-109	173-351-140	NEW-P	93-12-110	173-401-722	NEW-P	93-07-062
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173-303-210	AMD-P	93-12-109	173-351-220	NEW-P	93-12-110	173-401-735	NEW-P	93-07-062
173-303-220	AMD-P	93-12-109	173-351-300	NEW-P	93-12-110	173-401-750	NEW-P	93-07-062
173-303-230	AMD-P	93-12-109	173-351-400	NEW-P	93-12-110	173-401-800	NEW-P	93-07-062
173-303-240	AMD-P	93-12-109	173-351-405	NEW-P	93-12-110	173-401-805	NEW-P	93-07-062
173-303-281	AMD-P	93-12-109	173-351-410	NEW-P	93-12-110	173-401-810	NEW-P	93-07-062
173-303-282	AMD-P	93-12-109	173-351-415	NEW-P	93-12-110	173-401-820	NEW-P	93-07-062
173-303-290	AMD-P	93-12-109	173-351-420	NEW-P	93-12-110	173-420-010	NEW	93-04-006
173-303-300	AMD-P	93-12-109	173-351-430	NEW-P	93-12-110	173-420-020	NEW	93-04-006
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173-303-330	AMD-P	93-12-109	173-351-450	NEW-P	93-12-110	173-420-040	NEW	93-04-006
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173-303-370	AMD-P	93-12-109	173-351-465	NEW-P	93-12-110	173-420-060	NEW	93-04-006
173-303-390	AMD-P	93-12-109	173-351-480	NEW-P	93-12-110	173-420-070	NEW	93-04-006
173-303-400	AMD-P	93-12-109	173-351-490	NEW-P	93-12-110	173-420-080	NEW	93-04-006
173-303-505	AMD-P	93-12-109	173-351-500	NEW-P	93-12-110	173-420-090	NEW	93-04-006
173-303-506	NEW-E	93-02-049	173-351-600	NEW-P	93-12-110	173-420-100	NEW	93-04-006
173-303-506	NEW	93-02-050	173-351-700	NEW-P	93-12-110	173-420-110	NEW	93-04-006
173-303-510	AMD-P	93-12-109	173-351-720	NEW-P	93-12-110	173-422-010	AMD-P	93-03-092
173-303-515	AMD-P	93-12-109	173-351-730	NEW-P	93-12-110	173-422-010	AMD	93-10-062
173-303-520	AMD-P	93-12-109	173-351-740	NEW-P	93-12-110	173-422-020	AMD-P	93-03-092
173-303-600	AMD-P	93-12-109	173-351-750	NEW-P	93-12-110	173-422-020	AMD	93-10-062
173-303-610	AMD-P	93-12-109	173-351-760	NEW-P	93-12-110	173-422-030	AMD-P	93-03-092
173-303-630	AMD-P	93-12-109	173-351-990	NEW-P	93-12-110	173-422-030	AMD	93-10-062
173-303-640	AMD-P	93-12-109	173-400	AMD-C	93-03-065	173-422-035	AMD-P	93-03-092
173-303-645	AMD-P	93-12-109	173-400	AMD-C	93-15-052	173-422-035	AMD	93-10-062
173-303-646	NEW-P	93-12-109	173-400-030	AMD-S	93-05-048	173-422-040	AMD-P	93-03-092
173-303-650	AMD-P	93-12-109	173-400-040	AMD-S	93-05-048	173-422-040	AMD	93-10-062
173-303-655	AMD-P	93-12-109	173-400-070	AMD-W	93-07-042	173-422-050	AMD-P	93-03-092
173-303-660	AMD-P	93-12-109	173-400-075	AMD	93-05-044	173-422-050	AMD	93-10-062
173-303-670	AMD-P	93-12-109	173-400-080	NEW-S	93-05-048	173-422-060	AMD-P	93-03-092
173-303-680	AMD-P	93-12-109	173-400-100	AMD-S	93-05-048	173-422-060	AMD	93-10-062
173-303-800	AMD-P	93-12-109	173-400-105	AMD-S	93-05-048	173-422-065	NEW-P	93-03-092
173-303-802	AMD-P	93-12-109	173-400-107	NEW-S	93-05-048	173-422-065	NEW	93-10-062
173-303-805	AMD-P	93-12-109	173-400-110	AMD-S	93-05-048	173-422-070	AMD-P	93-03-092
173-303-806	AMD-P	93-12-109	173-400-112	NEW-S	93-05-048	173-422-070	AMD	93-10-062
173-303-807	AMD-P	93-12-109	173-400-113	NEW-S	93-05-048	173-422-075	NEW-P	93-03-092
173-303-810	AMD-P	93-12-109	173-400-114	NEW-S	93-05-048	173-422-075	NEW	93-10-062
173-303-830	AMD-P	93-12-109	173-400-115	AMD	93-05-044	173-422-080	REP-P	93-03-092
173-303-840	AMD-P	93-12-109	173-400-116	NEW-W	93-07-042	173-422-080	REP	93-10-062
173-303-900	AMD-P	93-12-109	173-400-120	AMD-S	93-05-048	173-422-090	AMD-P	93-03-092
173-303-910	AMD-P	93-12-109	173-400-131	AMD-S	93-05-048	173-422-090	AMD	93-10-062
173-303-9903	AMD-P	93-12-109	173-400-136	AMD-S	93-05-048	173-422-095	NEW-P	93-03-092
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173-422-100	AMD	93-10-062	180-16-222	AMD-P	93-04-116	180-20-215	REP-P	93-04-117
173-422-110	REP-P	93-03-092	180-16-222	AMD	93-07-102	180-20-215	REP	93-08-007
173-422-110	REP	93-10-062	180-16-223	AMD-P	93-04-116	180-20-220	REP-P	93-04-117
173-422-120	AMD-P	93-03-092	180-16-223	AMD	93-07-102	180-20-220	REP	93-08-007
173-422-120	AMD	93-10-062	180-20-005	NEW-P	93-04-117	180-20-225	REP-P	93-04-117
173-422-130	AMD-P	93-03-092	180-20-005	NEW	93-08-007	180-20-225	REP	93-08-007
173-422-130	AMD	93-10-062	180-20-030	NEW-P	93-04-117	180-20-230	REP-P	93-04-117
173-422-130	AMD-P	93-12-080	180-20-030	NEW	93-08-007	180-20-230	REP	93-08-007
173-422-130	AMD-E	93-12-081	180-20-031	NEW-P	93-04-117	180-26-020	AMD-P	93-04-118
173-422-140	AMD-P	93-03-092	180-20-031	NEW	93-08-007	180-26-020	AMD	93-07-104
173-422-140	AMD	93-10-062	180-20-034	NEW-P	93-04-117	180-26-025	AMD-P	93-04-119
173-422-150	REP-P	93-03-092	180-20-034	NEW	93-08-007	180-26-025	AMD-W	93-07-100
173-422-150	REP	93-10-062	180-20-035	NEW-P	93-04-117	180-27-070	AMD-P	93-08-041
173-422-160	AMD-P	93-03-092	180-20-035	NEW	93-08-007	180-27-070	AMD	93-13-026
173-422-160	AMD	93-10-062	180-20-040	NEW-P	93-04-117	180-27-505	AMD	93-04-019
173-422-170	AMD-P	93-03-092	180-20-040	NEW	93-08-007	180-51-005	AMD	93-04-115
173-422-170	AMD	93-10-062	180-20-045	NEW-P	93-04-117	180-51-025	AMD	93-04-115
173-422-180	REP-P	93-03-092	180-20-045	NEW	93-08-007	180-51-030	AMD	93-04-115
173-422-180	REP	93-10-062	180-20-050	NEW-P	93-04-117	180-51-055	AMD	93-04-115
173-430	AMD-P	93-03-090	180-20-055	NEW-P	93-04-117	180-51-100	AMD	93-04-115
173-430	AMD-E	93-04-002	180-20-055	NEW	93-08-007	180-72-040	AMD-E	93-14-009
173-430	AMD-C	93-09-063	180-20-060	NEW-P	93-04-117	180-72-045	AMD-E	93-14-009
173-430-010	AMD-P	93-03-090	180-20-060	NEW	93-08-007	180-72-050	AMD-E	93-14-009
173-430-010	AMD-E	93-04-002	180-20-065	NEW-P	93-04-117	180-72-060	AMD-E	93-14-009
173-430-010	AMD-E	93-12-012	180-20-065	NEW	93-08-007	180-72-065	AMD-E	93-14-009
173-430-010	AMD	93-14-022	180-20-070	NEW-P	93-04-117	180-72-070	AMD-E	93-14-009
173-430-020	AMD-P	93-03-090	180-20-070	NEW	93-08-007	180-78-010	AMD-P	93-04-120
173-430-020	AMD-E	93-04-002	180-20-075	NEW-P	93-04-117	180-78-010	AMD	93-07-101
173-430-020	AMD-E	93-12-012	180-20-075	NEW	93-08-007	180-79-010	AMD-P	93-04-120
173-430-020	AMD	93-14-022	180-20-080	NEW-P	93-04-117	180-79-010	AMD	93-07-101
173-430-030	AMD-P	93-03-090	180-20-080	NEW	93-08-007	180-79-236	AMD	93-05-007
173-430-030	AMD-E	93-04-002	180-20-090	NEW-P	93-04-117	192-12-141	AMD-P	93-07-086
173-430-030	AMD-E	93-12-012	180-20-090	NEW	93-08-007	192-12-141	AMD	93-10-025
173-430-030	AMD	93-14-022	180-20-095	NEW-P	93-04-117	192-12-180	AMD-P	93-13-137
173-430-040	AMD-P	93-03-090	180-20-095	NEW	93-08-007	192-12-182	AMD-P	93-13-137
173-430-040	AMD-E	93-04-002	180-20-100	REP-P	93-04-117	192-12-184	AMD-P	93-13-137
173-430-040	AMD-E	93-12-012	180-20-100	REP	93-08-007	192-12-186	AMD-P	93-13-137
173-430-040	AMD	93-14-022	180-20-101	NEW-P	93-04-117	192-16-070	NEW-E	93-13-007
173-430-050	AMD-P	93-03-090	180-20-101	NEW	93-08-007	192-16-070	NEW-P	93-15-115
173-430-050	AMD-E	93-04-002	180-20-105	REP-P	93-04-117	194-10-030	AMD	93-02-033
173-430-060	AMD-P	93-03-090	180-20-105	REP	93-08-007	194-10-100	AMD	93-02-033
173-430-060	AMD-E	93-04-002	180-20-106	REP-P	93-04-117	194-10-110	AMD	93-02-033
173-430-060	AMD-E	93-12-012	180-20-106	REP	93-08-007	194-10-130	AMD	93-02-033
173-430-060	AMD	93-14-022	180-20-111	NEW-P	93-04-117	194-10-140	AMD	93-02-033
173-430-070	AMD-P	93-03-090	180-20-111	NEW	93-08-007	196-24-041	NEW-P	93-09-024
173-430-070	AMD-E	93-04-002	180-20-115	NEW-P	93-04-117	196-24-041	NEW	93-13-064
173-430-070	AMD-E	93-12-012	180-20-115	NEW	93-08-007	196-24-097	NEW-P	93-09-022
173-430-070	AMD	93-14-022	180-20-120	NEW-P	93-04-117	196-24-097	NEW	93-13-065
173-430-080	AMD-P	93-03-090	180-20-120	NEW	93-08-007	196-24-098	NEW-P	93-09-023
173-430-080	AMD-E	93-04-002	180-20-123	NEW-P	93-04-117	196-24-098	NEW	93-13-065
173-430-080	AMD-E	93-12-012	180-20-123	NEW	93-08-007	196-26-020	AMD-P	93-07-111
173-430-080	AMD	93-14-022	180-20-125	NEW-P	93-04-117	196-26-020	AMD	93-10-057
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173-433-110	AMD	93-04-105	180-20-130	NEW-P	93-04-117	204-10-120	AMD	93-11-018
173-433-170	AMD	93-04-105	180-20-130	NEW	93-08-007	204-44-040	NEW-P	93-05-028
173-460-020	AMD-P	93-14-118	180-20-135	NEW-P	93-04-117	204-44-040	NEW	93-11-017
173-460-030	AMD-P	93-14-118	180-20-135	NEW	93-08-007	204-82A-070	AMD-P	93-10-002
173-460-040	AMD-P	93-14-118	180-20-140	NEW-P	93-04-117	204-82A-070	AMD	93-15-075
173-460-050	AMD-P	93-14-118	180-20-140	NEW	93-08-007	204-84-010	REP-P	93-05-029
173-460-060	AMD-P	93-14-118	180-20-145	NEW-P	93-04-117	204-84-010	REP	93-11-018
173-460-080	AMD-P	93-14-118	180-20-145	NEW	93-08-007	204-84-020	REP-P	93-05-029
173-460-090	AMD-P	93-14-118	180-20-150	NEW-P	93-04-117	204-84-020	REP	93-11-018
173-460-100	AMD-P	93-14-118	180-20-150	NEW	93-08-007	204-84-030	REP-P	93-05-029
173-460-110	AMD-P	93-14-118	180-20-155	NEW-P	93-04-117	204-84-030	REP	93-11-018
173-460-150	AMD-P	93-14-118	180-20-155	NEW	93-08-007	204-84-040	REP-P	93-05-029
173-460-160	AMD-P	93-14-118	180-20-160	NEW-P	93-04-117	204-84-040	REP	93-11-018
173-491-020	AMD-P	93-04-108	180-20-160	NEW	93-08-007	204-84-050	REP-P	93-05-029
173-491-020	AMD	93-13-011	180-20-200	REP-P	93-04-117	204-84-050	REP	93-11-018
173-491-040	AMD-P	93-04-108	180-20-200	REP	93-08-007	204-84-060	REP-P	93-05-029
173-491-040	AMD	93-13-011	180-20-205	REP-P	93-04-117	204-84-060	REP	93-11-018
173-491-050	AMD	93-03-089	180-20-205	REP	93-08-007	204-84-070	REP-P	93-05-029
173-491-050	AMD-P	93-04-108	180-20-210	REP-P	93-04-117	204-84-070	REP	93-11-018

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204-84-080	REP-P	93-05-029	212-14-130	REP-E	93-04-061
204-84-080	REP	93-11-018	212-14-130	REP	93-05-032
204-84-090	REP-P	93-05-029	212-26-001	REP-E	93-04-061
204-84-090	REP	93-11-018	212-26-001	REP	93-05-032
204-84-100	REP-P	93-05-029	212-26-005	REP-E	93-04-061
204-84-100	REP	93-11-018	212-26-005	REP	93-05-032
212-12	NEW-C	93-04-060	212-26-010	REP-E	93-04-061
212-12-001	NEW-E	93-04-061	212-26-010	REP	93-05-032
212-12-001	NEW	93-05-032	212-26-015	REP-E	93-04-061
212-12-005	NEW-E	93-04-061	212-26-015	REP	93-05-032
212-12-005	NEW	93-05-032	212-26-020	REP-E	93-04-061
212-12-011	NEW-E	93-04-061	212-26-020	REP	93-05-032
212-12-011	NEW	93-05-032	212-26-025	REP-E	93-04-061
212-12-015	NEW-E	93-04-061	212-26-025	REP	93-05-032
212-12-015	NEW	93-05-032	212-26-030	REP-E	93-04-061
212-12-020	NEW-E	93-04-061	212-26-030	REP	93-05-032
212-12-020	NEW	93-05-032	212-26-035	REP-E	93-04-061
212-12-025	NEW-E	93-04-061	212-26-035	REP	93-05-032
212-12-025	NEW	93-05-032	212-26-040	REP-E	93-04-061
212-12-030	NEW-E	93-04-061	212-26-040	REP	93-05-032
212-12-030	NEW	93-05-032	212-26-045	REP-E	93-04-061
212-12-035	NEW-E	93-04-061	212-26-045	REP	93-05-032
212-12-035	NEW	93-05-032	212-26-050	REP-E	93-04-061
212-12-040	NEW-E	93-04-061	212-26-050	REP	93-05-032
212-12-040	NEW	93-05-032	212-26-055	REP-E	93-04-061
212-12-044	NEW-E	93-04-061	212-26-055	REP	93-05-032
212-12-044	NEW	93-05-032	212-26-060	REP-E	93-04-061
212-14-001	REP-E	93-04-061	212-26-060	REP	93-05-032
212-14-001	REP	93-05-032	212-26-065	REP-E	93-04-061
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212-14-010	REP	93-05-032	212-26-075	REP-E	93-04-061
212-14-015	REP-E	93-04-061	212-26-075	REP	93-05-032
212-14-015	REP	93-05-032	212-26-080	REP-E	93-04-061
212-14-020	REP-E	93-04-061	212-26-080	REP	93-05-032
212-14-020	REP	93-05-032	212-26-085	REP-E	93-04-061
212-14-025	REP-E	93-04-061	212-26-085	REP	93-05-032
212-14-025	REP	93-05-032	212-26-090	REP-E	93-04-061
212-14-030	REP-E	93-04-061	212-26-090	REP	93-05-032
212-14-030	REP	93-05-032	212-26-095	REP-E	93-04-061
212-14-035	REP-E	93-04-061	212-26-095	REP	93-05-032
212-14-035	REP	93-05-032	212-26-100	REP-E	93-04-061
212-14-040	REP-E	93-04-061	212-26-100	REP	93-05-032
212-14-040	REP	93-05-032	212-26-105	REP-E	93-04-061
212-14-045	REP-E	93-04-061	212-26-105	REP	93-05-032
212-14-045	REP	93-05-032	212-28-001	REP-E	93-04-061
212-14-050	REP-E	93-04-061	212-28-001	REP	93-05-032
212-14-050	REP	93-05-032	212-28-010	REP-E	93-04-061
212-14-055	REP-E	93-04-061	212-28-010	REP	93-05-032
212-14-055	REP	93-05-032	212-28-015	REP-E	93-04-061
212-14-060	REP-E	93-04-061	212-28-015	REP	93-05-032
212-14-060	REP	93-05-032	212-28-020	REP-E	93-04-061
212-14-070	REP-E	93-04-061	212-28-020	REP	93-05-032
212-14-070	REP	93-05-032	212-28-025	REP-E	93-04-061
212-14-080	REP-E	93-04-061	212-28-025	REP	93-05-032
212-14-080	REP	93-05-032	212-28-030	REP-E	93-04-061
212-14-090	REP-E	93-04-061	212-28-030	REP	93-05-032
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212-14-100	REP-E	93-04-061	212-28-035	REP	93-05-032
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212-14-125	REP-E	93-04-061	212-28-065	REP	93-05-032
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212-65-060	REP	93-05-032	220-20-010	AMD	93-15-051	220-52-046	AMD-P	93-12-092
212-65-065	REP-E	93-04-061	220-20-020	AMD-P	93-09-074	220-52-046	AMD	93-15-051
212-65-065	REP	93-05-032	220-20-020	AMD-C	93-13-006	220-52-050	AMD-P	93-12-092
212-65-070	REP-E	93-04-061	220-20-020	AMD	93-14-042	220-52-050	AMD	93-15-051
212-65-070	REP	93-05-032	220-20-02500A	NEW-E	93-11-040	220-52-051	AMD-P	93-12-092
212-65-075	REP-E	93-04-061	220-20-026	NEW-P	93-12-092	220-52-051	AMD	93-15-051
212-65-075	REP	93-05-032	220-20-026	NEW-C	93-15-050	220-52-05100N	NEW-E	93-09-028
212-65-080	REP-E	93-04-061	220-24-02000T	NEW-E	93-10-043	220-52-05100P	NEW-E	93-11-057
212-65-080	REP	93-05-032	220-24-02000T	REP-E	93-15-008	220-52-068	NEW-P	93-12-092
212-65-085	REP-E	93-04-061	220-24-02000U	NEW-E	93-15-008	220-52-068	NEW	93-15-051
212-65-085	REP	93-05-032	220-24-02000U	REP-E	93-15-097	220-52-069	AMD-P	93-12-092
212-65-090	REP-E	93-04-061	220-24-02000V	NEW-E	93-15-097	220-52-069	AMD	93-15-051
212-65-090	REP	93-05-032	220-32-05100T	REP-E	93-04-073	220-52-06900A	NEW-E	93-07-043
212-65-095	REP-E	93-04-061	220-32-05100U	NEW-E	93-04-073	220-52-071	AMD-P	93-12-092
212-65-095	REP	93-05-032	220-32-05100U	REP-E	93-06-015	220-52-071	AMD	93-15-051
212-65-100	REP-E	93-04-061	220-32-05100V	NEW-E	93-06-015	220-52-07100K	NEW-E	93-09-028
212-65-100	REP	93-05-032	220-32-05100V	REP-E	93-06-069	220-52-07100K	REP-E	93-10-044
212-70-010	REP-E	93-04-061	220-32-05100W	NEW-E	93-06-069	220-52-07100L	NEW-E	93-10-044
212-70-010	REP	93-05-032	220-32-05100Y	NEW-E	93-15-098	220-52-07100L	REP-E	93-13-089
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212-70-020	REP	93-05-032	220-32-05100X	REP-E	93-15-098	220-52-07100M	REP-E	93-13-089
212-70-030	REP-E	93-04-061	220-32-05500C	NEW-E	93-10-061	220-52-07100N	NEW-E	93-13-089
212-70-030	REP	93-05-032	220-32-05500C	REP-E	93-12-010	220-52-07300M	REP-E	93-05-006
212-70-040	REP-E	93-04-061	220-32-05500D	NEW-E	93-12-010	220-52-07300N	NEW-E	93-05-006
212-70-040	REP	93-05-032	220-32-05500D	REP-E	93-13-030	220-52-07300N	REP-E	93-07-006
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212-70-050	REP	93-05-032	220-33-01000M	REP-E	93-05-017	220-52-075	AMD	93-15-051
212-70-060	REP-E	93-04-061	220-33-01000N	NEW-E	93-05-017	220-55-00100A	NEW-E	93-13-028
212-70-060	REP	93-05-032	220-33-01000N	REP-E	93-06-014	220-55-010	AMD-P	93-04-096
212-70-070	REP-E	93-04-061	220-33-01000P	NEW-E	93-06-070	220-55-010	AMD	93-08-034
212-70-070	REP	93-05-032	220-33-01000P	REP-E	93-07-001	220-56-100	AMD-P	93-04-096
212-70-080	REP-E	93-04-061	220-33-01000Q	NEW-E	93-07-001	220-56-105	AMD-P	93-04-096
212-70-080	REP	93-05-032	220-33-03000E	NEW-E	93-12-041	220-56-105	AMD	93-08-034
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212-70-090	REP	93-05-032	220-33-03000F	NEW-E	93-13-078	220-56-116	AMD-P	93-04-096
212-70-100	REP-E	93-04-061	220-36-02100L	NEW-E	93-14-108	220-56-124	NEW-P	93-04-096
212-70-100	REP	93-05-032	220-36-023	AMD-P	93-09-074	220-56-124	NEW	93-08-034
212-70-110	REP-E	93-04-061	220-36-023	AMD-C	93-13-006	220-56-126	AMD-P	93-04-096
212-70-110	REP	93-05-032	220-36-023	AMD	93-14-042	220-56-126	AMD	93-08-034
212-70-120	REP-E	93-04-061	220-40-02100U	NEW-E	93-14-108	220-56-128	AMD-P	93-04-096
212-70-120	REP	93-05-032	220-40-027	AMD-P	93-09-074	220-56-128	AMD	93-08-034
212-70-130	REP-E	93-04-061	220-40-027	AMD-C	93-13-006	220-56-131	AMD-P	93-04-096
212-70-130	REP	93-05-032	220-40-027	AMD	93-14-042	220-56-131	AMD	93-08-034
212-70-140	REP-E	93-04-061	220-44-04000D	NEW-E	93-11-010	220-56-132	AMD-P	93-04-096
212-70-140	REP	93-05-032	220-44-050	AMD-P	93-04-095	220-56-132	AMD	93-08-034
212-70-150	REP-E	93-04-061	220-44-050	AMD	93-07-093	220-56-180	AMD-P	93-04-096
212-70-150	REP	93-05-032	220-44-05000B	REP-E	93-09-067	220-56-180	AMD	93-08-034
212-70-160	REP-E	93-04-061	220-44-05000C	NEW-E	93-09-067	220-56-190	AMD-P	93-04-096
212-70-160	REP	93-05-032	220-44-05000C	REP-E	93-10-094	220-56-190	AMD-C	93-08-033
212-70-170	REP-E	93-04-061	220-44-05000D	NEW-E	93-10-094	220-56-190	AMD	93-14-043
212-70-170	REP	93-05-032	220-44-05000D	REP-E	93-12-078	220-56-19000P	NEW-E	93-10-045
212-70-180	REP-E	93-04-061	220-44-05000E	NEW-E	93-12-078	220-56-19000P	REP-E	93-14-012
212-70-180	REP	93-05-032	220-44-09000B	NEW-E	93-10-094	220-56-19000Q	NEW-E	93-14-012
212-70-190	REP-E	93-04-061	220-47-302	AMD-P	93-09-073	220-56-19000Q	REP-E	93-15-017
212-70-190	REP	93-05-032	220-47-302	AMD	93-14-041	220-56-19000R	NEW-E	93-15-017
212-70-200	REP-E	93-04-061	220-47-304	AMD-P	93-09-073	220-56-191	NEW-P	93-04-096
212-70-200	REP	93-05-032	220-47-304	AMD	93-14-041	220-56-191	NEW-C	93-08-033
212-70-210	REP-E	93-04-061	220-47-307	AMD-P	93-09-073	220-56-191	NEW	93-14-043
212-70-210	REP	93-05-032	220-47-311	AMD-P	93-09-073	220-56-19100A	NEW-E	93-13-036
212-70-220	REP-E	93-04-061	220-47-311	AMD	93-14-041	220-56-19100A	REP-E	93-15-016
212-70-220	REP	93-05-032	220-47-401	AMD-P	93-09-073	220-56-19100B	NEW-E	93-15-016
212-70-230	REP-E	93-04-061	220-47-401	AMD	93-14-041	220-56-195	AMD-P	93-04-096
212-70-230	REP	93-05-032	220-47-411	AMD-P	93-09-073	220-56-195	AMD-C	93-08-033
212-70-240	REP-E	93-04-061	220-47-411	AMD	93-14-041	220-56-195	AMD	93-14-043
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212-70-250	REP-E	93-04-061	220-48-005	AMD	93-15-051	220-56-220	AMD-P	93-04-096
212-70-250	REP	93-05-032	220-49-02000E	NEW-E	93-06-044	220-56-235	AMD-P	93-04-096
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212-70-260	REP	93-05-032	220-52-019	AMD	93-15-051	220-56-240	AMD-P	93-04-096
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220-16-015	AMD	93-15-051	220-52-01901	AMD	93-15-051	220-56-240	AMD-P	93-10-095
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220-56-245	AMD-P	93-04-096	220-57-210	AMD-C	93-08-033	222-24-050	AMD	93-12-001
220-56-245	AMD	93-08-034	220-57-210	AMD	93-14-043	222-30-020	AMD-P	93-05-010
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220-56-255	AMD	93-08-034	220-57-235	AMD	93-08-034	222-30-040	AMD-P	93-05-010
220-56-255	AMD-P	93-10-095	220-57-255	AMD-P	93-04-096	222-30-040	AMD-E	93-10-015
220-56-255	AMD-C	93-15-009	220-57-255	AMD	93-08-034	222-30-040	AMD	93-12-001
220-56-255	AMD	93-15-011	220-57-270	AMD-P	93-04-096	222-34-040	AMD-P	93-05-010
220-56-25500R	NEW-E	93-13-002	220-57-29000N	NEW-E	93-08-016	222-34-040	AMD	93-12-001
220-56-25500R	REP-E	93-15-015	220-57-310	AMD-P	93-04-096	222-38-020	AMD-P	93-05-010
220-56-25500S	NEW-E	93-15-015	220-57-310	AMD	93-08-034	222-38-020	AMD	93-12-001
220-56-25500S	REP-E	93-15-068	220-57-315	AMD-P	93-04-096	222-38-030	AMD-P	93-05-010
220-56-25500T	NEW-E	93-15-068	220-57-315	AMD	93-08-034	222-38-030	AMD	93-12-001
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220-56-270	AMD	93-08-034	220-57-31500W	REP-E	93-13-009	222-46-020	AMD	93-12-001
220-56-285	AMD-P	93-04-096	220-57-31500X	NEW-E	93-13-009	222-50-020	AMD-P	93-05-010
220-56-285	AMD	93-08-034	220-57-319	AMD-P	93-04-096	222-50-020	AMD-E	93-07-060
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220-56-310	AMD-P	93-04-096	220-57-370	AMD-P	93-10-095	230-02-270	AMD	93-12-082
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220-56-330	AMD-P	93-04-096	220-57-430	AMD	93-14-043	230-08-095	AMD-P	93-10-042
220-56-330	AMD	93-08-034	220-57-445	AMD-P	93-04-096	230-08-095	AMD	93-13-062
220-56-335	AMD-P	93-04-096	220-57-445	AMD	93-08-034	230-12-020	AMD-P	93-15-042
220-56-335	AMD	93-08-034	220-57-460	AMD-P	93-04-096	230-12-030	AMD-P	93-13-061
220-56-350	AMD-P	93-04-096	220-57-460	AMD	93-08-034	230-20-010	AMD-P	93-10-042
220-56-350	AMD	93-08-034	220-57-465	AMD-P	93-04-096	230-20-010	AMD	93-13-062
220-56-350	AMD-P	93-10-095	220-57-465	AMD	93-08-034	230-20-064	AMD-P	93-10-042
220-56-350	AMD-C	93-15-009	220-57-495	AMD-P	93-04-096	230-20-064	AMD	93-13-062
220-56-350	AMD	93-15-011	220-57-495	AMD	93-08-034	230-20-070	AMD-P	93-13-061
220-56-35000R	NEW-E	93-08-059	220-57-49700	NEW-E	93-08-016	230-20-111	NEW-E	93-07-080
220-56-35000R	REP-E	93-15-022	220-57-50500U	NEW-E	93-08-016	230-20-111	NEW-P	93-07-083
220-56-35000S	NEW-E	93-09-025	220-57-51500I	NEW-E	93-08-016	230-20-111	NEW	93-15-041
220-56-35000T	NEW-E	93-15-022	220-57-51500I	REP-E	93-13-029	230-20-242	NEW-P	93-10-042
220-56-35000U	NEW-E	93-15-032	220-57-51500J	NEW-E	93-13-029	230-20-242	NEW	93-13-062
220-56-36000C	NEW-E	93-07-092	220-57A-183	AMD-P	93-04-096	230-20-246	AMD-P	93-10-042
220-56-36000C	REP-E	93-08-017	220-57A-183	AMD	93-08-034	230-20-246	AMD	93-13-062
220-56-36000D	NEW-E	93-08-017	220-88-030	AMD-P	93-12-092	230-20-670	AMD-P	93-07-082
220-56-36000D	REP-E	93-10-096	220-88-030	AMD-P	93-15-051	230-20-670	AMD	93-12-082
220-56-36000E	NEW-E	93-10-096	222-08-040	AMD-P	93-05-010	230-20-670	AMD-P	93-15-042
220-56-380	AMD-P	93-04-096	222-08-040	AMD	93-12-001	230-20-685	AMD-P	93-07-082
220-56-380	AMD	93-08-034	222-10-110	AMD-P	93-05-010	230-20-685	AMD	93-12-082
220-56-38000L	NEW-E	93-09-027	222-10-110	AMD	93-12-001	230-25-160	AMD-P	93-07-081
220-56-38000L	REP-E	93-15-022	222-12-020	AMD-P	93-05-010	230-25-160	AMD	93-12-082
220-56-38000M	NEW-E	93-15-022	222-12-020	AMD	93-12-001	230-30-060	AMD-P	93-07-081
220-56-38000N	NEW-E	93-15-032	222-12-050	AMD-P	93-05-010	230-30-060	AMD	93-12-082
220-56-382	AMD-P	93-04-096	222-12-050	AMD	93-12-001	230-30-072	AMD-P	93-08-066
220-56-382	AMD	93-08-034	222-16-010	AMD-P	93-05-010	230-30-072	AMD	93-13-063
220-56-390	AMD-P	93-04-096	222-16-010	AMD-E	93-07-060	230-30-075	AMD	93-04-007
220-56-390	AMD	93-08-034	222-16-010	AMD	93-12-001	230-30-080	AMD-P	93-07-083
220-57-137	AMD-P	93-04-096	222-16-010	AMD-E	93-15-071	230-30-080	AMD	93-12-082
220-57-137	AMD	93-08-034	222-16-050	AMD-P	93-05-010	230-30-095	REP-P	93-07-083
220-57-14000N	NEW-E	93-14-040	222-16-050	AMD	93-12-001	230-30-095	REP	93-12-082
220-57-160	AMD-P	93-04-096	222-16-070	AMD-P	93-05-010	230-30-097	NEW-P	93-07-087
220-57-160	AMD	93-08-034	222-16-070	AMD	93-12-001	230-30-097	NEW	93-12-082
220-57-16000Q	NEW-E	93-04-043	222-16-080	AMD-P	93-05-010	230-30-100	AMD-P	93-07-083
220-57-16000R	NEW-E	93-06-013	222-16-080	AMD-E	93-07-060	230-30-100	AMD	93-12-082
220-57-16000R	REP-E	93-06-068	222-16-080	AMD	93-12-001	230-30-106	AMD-P	93-06-036
220-57-16000S	NEW-E	93-08-018	222-16-080	AMD-E	93-15-071	230-30-106	AMD	93-10-005
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230-40-055	AMD-P	93-07-082	232-28-61926	NEW	93-04-050	242-02-562	NEW-W	93-06-045
230-40-055	AMD	93-12-082	232-28-61926	REP-P	93-13-140	244-12-060	AMD-P	93-07-038
230-40-120	AMD-P	93-04-044	232-28-61927	NEW	93-04-051	244-12-060	AMD-W	93-09-049
230-40-125	AMD-P	93-10-042	232-28-61927	REP-P	93-13-140	244-12-060	AMD-P	93-09-053
230-40-125	AMD	93-13-062	232-28-61928	NEW	93-04-048	244-12-060	AMD	93-13-013
232-12-001	AMD-P	93-13-140	232-28-61928	REP-P	93-13-140	244-12-100	NEW-P	93-07-038
232-12-007	AMD-P	93-14-110	232-28-61929	NEW	93-04-052	244-12-100	NEW-W	93-09-049
232-12-007	AMD-C	93-15-055	232-28-61929	REP-P	93-13-140	244-12-100	NEW-P	93-09-053
232-12-011	AMD-P	93-14-111	232-28-61930	NEW	93-04-053	244-12-100	NEW	93-13-013
232-12-011	AMD-C	93-15-056	232-28-61930	REP-P	93-13-140	246-01-001	NEW	93-08-004
232-12-014	AMD-P	93-14-112	232-28-61931	NEW-E	93-03-039	246-01-010	NEW	93-08-004
232-12-014	AMD-C	93-15-057	232-28-61932	NEW-P	93-06-021	246-01-020	NEW	93-08-004
232-12-017	AMD	93-04-039	232-28-61932	NEW	93-10-055	246-01-030	NEW	93-08-004
232-12-019	AMD-P	93-06-019	232-28-61932	REP-P	93-13-140	246-01-040	NEW	93-08-004
232-12-019	AMD-P	93-06-020	232-28-61933	NEW-P	93-06-022	246-01-050	NEW	93-08-004
232-12-019	AMD	93-10-011	232-28-61933	NEW	93-10-053	246-01-060	NEW	93-08-004
232-12-019	AMD	93-10-012	232-28-61933	REP-P	93-13-140	246-01-070	NEW	93-08-004
232-12-021	AMD	93-04-040	232-28-61934	NEW-E	93-06-061	246-01-080	NEW	93-08-004
232-12-045	NEW-E	93-04-083	232-28-61935	NEW-P	93-06-057	246-01-090	NEW	93-08-004
232-12-064	AMD	93-04-038	232-28-61935	NEW	93-10-056	246-01-100	NEW	93-08-004
232-12-074	REP	93-04-075	232-28-61935	REP-P	93-13-140	246-05-001	NEW-E	93-15-012
232-12-166	NEW-P	93-06-018	232-28-61936	NEW-E	93-12-002	246-05-001	NEW-P	93-15-091
232-12-166	NEW	93-10-013	232-28-61936	NEW-P	93-14-134	246-05-010	NEW-E	93-15-012
232-12-242	NEW	93-04-074	236-14-010	NEW-W	93-05-041	246-05-010	NEW-P	93-15-091
232-12-619	AMD-P	93-06-017	236-14-010	NEW-P	93-09-068	246-05-030	NEW-E	93-15-012
232-12-619	AMD	93-10-054	236-14-010	NEW-W	93-10-090	246-05-030	NEW-P	93-15-091
232-12-619	AMD-P	93-13-140	236-14-010	NEW-P	93-15-126	246-08-001	REP-P	93-08-071
232-28-022	AMD-P	93-06-074	236-14-015	NEW-W	93-05-041	246-08-001	REP	93-13-005
232-28-022	AMD	93-13-048	236-14-015	NEW-P	93-09-068	246-08-001	REP-P	93-08-071
232-28-226	AMD-P	93-06-064	236-14-015	NEW-W	93-10-090	246-08-020	REP	93-13-005
232-28-226	AMD	93-11-016	236-14-015	NEW-P	93-15-126	246-08-030	REP-P	93-08-071
232-28-227	AMD-P	93-06-059	236-14-050	NEW-W	93-05-041	246-08-030	REP	93-13-005
232-28-227	AMD	93-11-015	236-14-050	NEW-P	93-09-068	246-08-040	REP-P	93-08-071
232-28-228	AMD-P	93-06-058	236-14-050	NEW-W	93-10-090	246-08-040	REP	93-13-005
232-28-228	AMD	93-11-014	236-14-050	NEW-P	93-15-126	246-08-050	REP-P	93-08-071
232-28-233	REP-P	93-06-062	236-14-100	NEW-W	93-05-041	246-08-050	REP	93-13-005
232-28-233	REP	93-11-011	236-14-100	NEW-P	93-09-068	246-08-060	REP-P	93-08-071
232-28-234	REP-P	93-06-063	236-14-100	NEW-W	93-10-090	246-08-060	REP	93-13-005
232-28-234	REP	93-11-012	236-14-100	NEW-P	93-15-126	246-08-070	REP-P	93-08-071
232-28-235	REP-P	93-06-060	236-14-200	NEW-W	93-05-041	246-08-070	REP	93-13-005
232-28-235	REP	93-11-013	236-14-200	NEW-P	93-09-068	246-08-070	REP-P	93-08-071
232-28-236	NEW-P	93-06-060	236-14-200	NEW-W	93-10-090	246-08-080	REP	93-13-005
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232-28-237	NEW-P	93-06-063	236-14-300	NEW-W	93-05-041	246-08-090	REP	93-13-005
232-28-237	NEW	93-11-012	236-14-300	NEW-P	93-09-068	246-08-090	REP-P	93-08-071
232-28-238	NEW-P	93-06-062	236-14-300	NEW-W	93-10-090	246-08-100	REP	93-13-005
232-28-238	NEW	93-11-011	236-14-300	NEW-P	93-15-126	246-08-100	REP-P	93-08-071
232-28-416	REP-P	93-13-136	236-14-800	NEW-P	93-15-126	246-08-101	NEW-P	93-08-071
232-28-417	NEW-P	93-13-136	236-14-900	NEW-W	93-05-041	246-08-101	NEW	93-13-005
232-28-619	AMD-P	93-13-140	236-14-900	NEW-P	93-09-068	246-08-102	NEW-P	93-08-071
232-28-61901	REP-P	93-13-140	236-14-900	NEW-W	93-10-090	246-08-102	NEW	93-13-005
232-28-61902	REP-P	93-13-140	236-14-900	NEW-P	93-15-126	246-08-103	NEW-P	93-08-071
232-28-61904	REP-P	93-13-140	236-22-010	AMD-P	93-09-030	246-08-103	NEW	93-13-005
232-28-61905	REP-P	93-13-140	236-22-020	NEW-P	93-09-030	246-08-104	NEW-P	93-08-071
232-28-61906	REP-P	93-13-140	236-22-030	NEW-P	93-09-030	246-08-104	NEW	93-13-005
232-28-61907	REP-P	93-13-140	236-22-031	NEW-P	93-09-030	246-08-105	NEW-P	93-08-071
232-28-61908	REP-P	93-13-140	236-22-032	NEW-P	93-09-030	246-08-105	NEW	93-13-005
232-28-61909	REP-P	93-13-140	236-22-033	NEW-P	93-09-030	246-08-106	NEW-P	93-08-071
232-28-61910	REP-P	93-13-140	236-22-034	NEW-P	93-09-030	246-08-106	NEW	93-13-005
232-28-61911	REP-P	93-13-140	236-22-035	NEW-P	93-09-030	246-08-110	REP-P	93-08-071
232-28-61912	REP-P	93-13-140	236-22-036	NEW-P	93-09-030	246-08-110	REP	93-13-005
232-28-61913	REP-P	93-13-140	236-22-037	NEW-P	93-09-030	246-08-120	REP-P	93-08-071
232-28-61914	NEW-W	93-03-015	236-22-038	NEW-P	93-09-030	246-08-120	REP	93-13-005
232-28-61916	REP-P	93-13-140	236-22-040	NEW-P	93-09-030	246-08-130	REP-P	93-08-071
232-28-61917	REP-P	93-13-140	236-22-050	NEW-P	93-09-030	246-08-130	REP	93-13-005
232-28-61918	REP-P	93-13-140	236-22-060	NEW-P	93-09-030	246-08-140	REP-P	93-08-071
232-28-61919	REP-P	93-13-140	236-22-070	NEW-P	93-09-030	246-08-140	REP	93-13-005
232-28-61923	NEW	93-04-046	236-22-080	NEW-P	93-09-030	246-08-150	REP-P	93-08-071
232-28-61923	REP-P	93-13-140	236-22-100	AMD-P	93-09-030	246-08-150	REP	93-13-005
232-28-61924	NEW	93-04-047	236-22-200	NEW-P	93-09-030	246-08-160	REP-P	93-08-071
232-28-61924	REP-P	93-13-140	236-22-210	NEW-P	93-09-030	246-08-160	REP	93-13-005
232-28-61925	NEW	93-04-049	242-02-220	AMD-P	93-08-032	246-08-170	REP-P	93-08-071
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246-11-370	NEW	93-08-003	246-254-090	AMD	93-13-019	246-290-634	NEW	93-08-011
246-11-380	NEW-P	93-04-102	246-254-100	AMD-P	93-08-069	246-290-636	NEW-P	93-04-122
246-11-380	NEW	93-08-003	246-254-100	AMD	93-13-019	246-290-636	NEW	93-08-011
246-11-390	NEW-P	93-04-102	246-254-120	AMD-P	93-08-069	246-290-638	NEW-P	93-04-122
246-11-390	NEW	93-08-003	246-254-120	AMD	93-13-019	246-290-638	NEW	93-08-011
246-11-400	NEW-P	93-04-102	246-260-005	NEW-W	93-11-075	246-290-639	NEW-P	93-04-122
246-11-400	NEW	93-08-003	246-262-005	NEW-W	93-11-075	246-290-639	NEW	93-08-011
246-11-420	NEW-P	93-04-102	246-264-005	NEW-W	93-11-075	246-290-640	NEW-P	93-04-122
246-11-420	NEW	93-08-003	246-282-005	NEW-W	93-11-075	246-290-640	NEW	93-08-011
246-11-430	NEW-P	93-04-102	246-282-990	AMD-P	93-13-125	246-290-650	NEW-P	93-04-122
246-11-430	NEW	93-08-003	246-290-001	AMD-P	93-04-122	246-290-650	NEW	93-08-011
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246-11-440	NEW	93-08-003	246-290-010	AMD-P	93-04-122	246-290-652	NEW	93-08-011
246-11-450	NEW-P	93-04-102	246-290-010	AMD	93-08-011	246-290-654	NEW-P	93-04-122
246-11-450	NEW	93-08-003	246-290-020	AMD-P	93-04-122	246-290-654	NEW	93-08-011
246-11-470	NEW-P	93-04-102	246-290-020	AMD	93-08-011	246-290-660	NEW-P	93-04-122
246-11-470	NEW	93-08-003	246-290-030	AMD-P	93-04-122	246-290-660	NEW	93-08-011
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246-11-480	NEW	93-08-003	246-290-040	AMD-P	93-04-122	246-290-662	NEW	93-08-011
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246-11-490	NEW	93-08-003	246-290-050	AMD-P	93-04-122	246-290-664	NEW	93-08-011
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246-11-500	NEW	93-08-003	246-290-060	AMD-P	93-04-122	246-290-666	NEW	93-08-011
246-11-510	NEW-P	93-04-102	246-290-060	AMD	93-08-011	246-290-668	NEW-P	93-04-122
246-11-510	NEW	93-08-003	246-290-100	AMD-P	93-04-122	246-290-668	NEW	93-08-011
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246-11-520	NEW	93-08-003	246-290-110	AMD-P	93-04-122	246-290-670	NEW	93-08-011
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246-11-530	NEW	93-08-003	246-290-120	AMD-P	93-04-122	246-290-672	NEW	93-08-011
246-11-540	NEW-P	93-04-102	246-290-120	AMD	93-08-011	246-290-674	NEW-P	93-04-122
246-11-540	NEW	93-08-003	246-290-130	AMD-P	93-04-122	246-290-674	NEW	93-08-011
246-11-550	NEW-P	93-04-102	246-290-130	AMD	93-08-011	246-290-676	NEW-P	93-04-122
246-11-550	NEW	93-08-003	246-290-135	NEW-P	93-04-122	246-290-676	NEW	93-08-011
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246-11-560	NEW	93-08-003	246-290-200	AMD-P	93-04-122	246-290-678	NEW	93-08-011
246-11-570	NEW-P	93-04-102	246-290-200	AMD	93-08-011	246-290-680	NEW-P	93-04-122
246-11-570	NEW	93-08-003	246-290-210	REP-P	93-04-122	246-290-680	NEW	93-08-011
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246-11-600	NEW	93-08-003	246-290-300	AMD-P	93-04-122	246-290-692	NEW	93-08-011
246-11-610	NEW-P	93-04-102	246-290-300	AMD	93-08-011	246-290-694	NEW-P	93-04-122
246-11-610	NEW	93-08-003	246-290-310	AMD-P	93-04-122	246-290-694	NEW	93-08-011
246-100-011	AMD-P	93-03-003	246-290-310	AMD	93-08-011	246-290-696	NEW-P	93-04-122
246-100-011	AMD	93-08-036	246-290-320	AMD-P	93-04-122	246-290-696	NEW	93-08-011
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246-100-076	AMD	93-08-036	246-290-420	AMD-P	93-04-122	246-294-030	NEW	93-03-047
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246-130-040	AMD-W	93-11-006	246-290-450	REP	93-08-011	246-294-080	NEW	93-03-047
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246-215-005	NEW-W	93-11-075	246-290-610	NEW-P	93-04-122	246-316-020	AMD-P	93-08-078
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246-318-040	AMD-P	93-08-078	246-340-001	REP-P	93-14-035	246-806-110	AMD	93-09-055
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246-318-042	NEW-P	93-08-078	246-340-010	REP-P	93-14-035	246-806-130	AMD	93-09-055
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246-933-010	AMD-P	93-04-079	250-44-050	AMD	93-07-061	260-48-110	AMD	93-14-124
246-933-010	AMD	93-08-029	250-44-110	AMD	93-07-061	260-48-328	AMD-P	93-11-101
246-933-180	NEW-P	93-04-079	250-44-130	AMD	93-07-061	260-48-328	AMD	93-14-125
246-933-180	NEW	93-08-029	250-62-010	NEW-P	93-12-106	260-48-331	NEW-P	93-11-102
246-933-190	NEW-P	93-13-052	250-62-020	NEW-P	93-12-106	260-48-331	NEW	93-14-126
246-933-980	AMD-P	93-04-079	250-62-030	NEW-P	93-12-106	260-70-025	AMD-E	93-15-020
246-933-980	AMD	93-08-029	250-62-040	NEW-P	93-12-106	260-70-028	AMD-E	93-15-021
246-933-990	AMD-P	93-04-121	250-62-050	NEW-P	93-12-106	275-25	AMD-E	93-11-051
246-933-990	AMD	93-08-028	250-62-060	NEW-P	93-12-106	275-25	AMD-P	93-11-053
246-933-990	AMD-P	93-10-071	250-62-070	NEW-P	93-12-106	275-25	AMD	93-15-013
246-933-990	AMD	93-14-011	250-62-080	NEW-P	93-12-106	275-25-010	AMD-E	93-11-051
246-935-060	AMD-P	93-08-081	250-62-090	NEW-P	93-12-106	275-25-010	AMD-P	93-11-053
246-935-060	AMD	93-12-126	250-62-100	NEW-P	93-12-106	275-25-010	AMD	93-15-013
246-935-070	AMD-P	93-04-079	250-62-110	NEW-P	93-12-106	275-25-040	AMD-E	93-11-051
246-935-070	AMD	93-08-029	250-62-120	NEW-P	93-12-106	275-25-040	AMD-P	93-11-053
246-935-080	REP-P	93-04-079	250-62-130	NEW-P	93-12-106	275-25-040	AMD	93-15-013
246-935-080	REP	93-08-029	250-62-140	NEW-P	93-12-106	275-25-300	REP-E	93-11-051
246-935-125	AMD-P	93-04-079	250-62-150	NEW-P	93-12-106	275-25-300	REP-P	93-11-053
246-935-125	AMD	93-08-029	250-62-160	NEW-P	93-12-106	275-25-300	REP	93-15-013
246-935-990	AMD-P	93-10-071	250-62-170	NEW-P	93-12-106	275-25-310	REP-E	93-11-051
246-976-470	AMD-P	93-13-124	250-62-180	NEW-P	93-12-106	275-25-310	REP-P	93-11-053
246-976-510	AMD-P	93-13-124	250-62-190	NEW-P	93-12-106	275-25-310	REP	93-15-013
246-976-520	AMD-P	93-13-124	250-62-200	NEW-P	93-12-106	275-25-330	REP-E	93-11-051
246-976-560	AMD-P	93-13-124	250-62-210	NEW-P	93-12-106	275-25-330	REP-P	93-11-053
246-976-600	AMD-P	93-13-124	250-65	AMD-C	93-14-099	275-25-330	REP	93-15-013
246-976-610	AMD-P	93-13-124	250-65-030	AMD-P	93-11-089	275-25-340	REP-E	93-11-051
246-976-650	AMD-P	93-13-124	250-65-040	AMD-P	93-11-089	275-25-340	REP-P	93-11-053
246-976-680	AMD-P	93-13-124	250-65-050	AMD-P	93-11-089	275-25-340	REP	93-15-013
246-976-720	AMD-P	93-13-124	250-65-060	AMD-P	93-11-089	275-25-810	REP-E	93-11-051
246-976-730	AMD-P	93-13-124	250-66-020	AMD-P	93-11-094	275-25-810	REP-P	93-11-053
246-976-770	AMD-P	93-13-124	250-66-020	AMD-C	93-14-103	275-25-810	REP	93-15-013
246-976-780	AMD-P	93-13-124	250-70-030	AMD-P	93-11-090	275-25-840	REP-E	93-11-051
246-976-790	AMD-P	93-13-124	250-70-030	AMD-C	93-14-100	275-25-840	REP-P	93-11-053
246-976-810	AMD-P	93-13-124	250-76-020	AMD-P	93-11-091	275-25-840	REP	93-15-013
246-976-820	AMD-P	93-13-124	250-76-020	AMD-C	93-14-101	275-26-065	AMD	93-04-029
246-976-830	NEW-P	93-13-124	250-76-070	AMD-P	93-11-091	275-38-860	AMD-P	93-14-074
246-976-840	NEW-P	93-13-124	250-76-070	AMD-C	93-14-101	275-38-860	AMD-E	93-14-076
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250-20-011	AMD-E	93-04-070	251-04-030	AMD-E	93-14-092	284-07-060	NEW-C	93-04-062
250-20-011	AMD	93-08-010	251-04-040	AMD-E	93-14-092	284-07-060	NEW	93-07-020
250-20-015	AMD-P	93-03-087	251-04-050	AMD-E	93-14-092	284-07-070	NEW-P	93-15-105
250-20-015	AMD-E	93-04-070	251-06-020	AMD-E	93-14-092	284-12-200	NEW-P	93-15-111
250-20-015	AMD	93-08-010	251-08-005	AMD-E	93-14-092	284-12-210	NEW-P	93-15-111
250-20-021	AMD-P	93-03-087	251-08-090	AMD-E	93-14-092	284-12-220	NEW-P	93-15-111
250-20-021	AMD-E	93-04-070	251-10-060	AMD-E	93-13-008	284-12-230	NEW-P	93-15-111
250-20-021	AMD	93-08-010	251-10-061	NEW-E	93-13-008	284-12-250	NEW-P	93-15-111
250-20-031	AMD-P	93-03-087	251-12-240	AMD	93-06-033	284-12-260	NEW-P	93-15-111
250-20-031	AMD-E	93-04-070	251-12-290	AMD	93-06-033	284-12-270	NEW-P	93-15-111
250-20-031	AMD	93-08-010	251-17-090	AMD-E	93-13-008	284-12-280	NEW-P	93-15-111
250-20-041	AMD-P	93-03-087	251-18-180	AMD-E	93-13-008	284-13-160	NEW-P	93-15-106
250-20-041	AMD-E	93-04-070	251-18-190	AMD-E	93-13-008	284-13-210	NEW-P	93-15-109
250-20-041	AMD	93-08-010	251-18-240	AMD-E	93-13-008	284-13-220	NEW-P	93-15-109
250-20-051	AMD-P	93-03-087	251-18-240	AMD-E	93-14-092	284-13-280	NEW-P	93-15-112
250-20-051	AMD-E	93-04-070	251-18-260	AMD-E	93-14-092	284-13-310	NEW-P	93-15-114
250-20-051	AMD	93-08-010	251-18-280	AMD-E	93-14-092	284-13-320	NEW-P	93-15-114
250-25	AMD-C	93-14-098	251-19-010	AMD-E	93-13-008	284-13-330	NEW-P	93-15-114
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250-25-080	AMD-P	93-11-088	251-22-116	NEW	93-14-115	284-13-360	NEW-P	93-15-114
250-40	AMD-C	93-15-043	251-22-167	AMD-P	93-11-103	284-13-370	NEW-P	93-15-114
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250-40-030	AMD-E	93-13-034	251-22-195	AMD-P	93-11-103	284-13-390	NEW-P	93-15-114
250-40-040	AMD-P	93-11-093	251-22-195	AMD	93-14-115	284-13-400	NEW-P	93-15-114
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284-15-100	NEW-P	93-15-110	296-15-023	AMD	93-11-064	296-17-58201	AMD-P	93-07-114
284-18-010	REP-P	93-15-107	296-15-030	AMD-P	93-07-115	296-17-58201	AMD	93-12-093
284-18-020	REP-P	93-15-107	296-15-030	AMD	93-11-064	296-17-584	AMD-P	93-07-114
284-18-030	REP-P	93-15-107	296-15-060	AMD-P	93-07-115	296-17-584	AMD	93-12-093
284-18-040	REP-P	93-15-107	296-15-060	AMD	93-11-064	296-17-58502	NEW-P	93-07-114
284-18-050	REP-P	93-15-107	296-15-065	AMD-P	93-07-115	296-17-58502	NEW	93-12-093
284-18-060	REP-P	93-15-107	296-15-065	AMD	93-11-064	296-17-594	AMD-P	93-07-114
284-18-070	REP-P	93-15-107	296-17-350	AMD-P	93-07-114	296-17-594	AMD	93-12-093
284-18-080	REP-P	93-15-107	296-17-350	AMD	93-12-093	296-17-604	AMD-P	93-07-114
284-18-090	REP-P	93-15-107	296-17-430	AMD-P	93-07-114	296-17-604	AMD	93-12-093
284-18-100	REP-P	93-15-107	296-17-430	AMD	93-12-093	296-17-606	AMD-P	93-07-114
284-18-110	REP-P	93-15-107	296-17-440	AMD-P	93-07-114	296-17-606	AMD	93-12-093
284-18-120	REP-P	93-15-107	296-17-440	AMD	93-12-093	296-17-618	AMD-P	93-07-114
284-18-300	NEW-P	93-15-107	296-17-450	AMD-P	93-07-114	296-17-618	AMD	93-12-093
284-18-310	NEW-P	93-15-107	296-17-450	AMD	93-12-093	296-17-61804	AMD-P	93-07-114
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284-18-370	NEW-P	93-15-107	296-17-50601	AMD	93-12-093	296-17-676	AMD-P	93-07-114
284-18-380	NEW-P	93-15-107	296-17-50602	AMD-P	93-07-114	296-17-676	AMD	93-12-093
284-18-390	NEW-P	93-15-107	296-17-50602	AMD	93-12-093	296-17-67601	AMD-P	93-07-114
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284-18-440	NEW-P	93-15-107	296-17-521	AMD-P	93-07-114	296-17-686	AMD	93-12-093
284-18-450	NEW-P	93-15-107	296-17-521	AMD	93-12-093	296-17-690	AMD-P	93-07-114
284-18-460	NEW-P	93-15-107	296-17-52102	AMD-P	93-07-114	296-17-690	AMD	93-12-093
284-18-910	NEW-P	93-15-107	296-17-52102	AMD	93-12-093	296-17-700	AMD-P	93-07-114
284-18-920	NEW-P	93-15-107	296-17-52108	AMD-P	93-07-114	296-17-700	AMD	93-12-093
284-18-930	NEW-P	93-15-107	296-17-52108	AMD	93-12-093	296-17-704	AMD-P	93-07-114
284-18-940	NEW-P	93-15-107	296-17-52110	AMD-P	93-07-114	296-17-704	AMD	93-12-093
284-18-990	REP-P	93-15-107	296-17-52110	AMD	93-12-093	296-17-707	AMD-P	93-07-114
284-18-99001	REP-P	93-15-107	296-17-524	AMD-P	93-07-114	296-17-707	AMD	93-12-093
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284-22-020	AMD-P	93-14-072	296-17-526	AMD-P	93-07-114	296-17-708	AMD	93-12-093
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284-22-050	AMD-P	93-14-072	296-17-527	AMD-P	93-07-114	296-17-710	AMD	93-12-093
284-22-060	AMD-P	93-14-072	296-17-527	AMD	93-12-093	296-17-715	AMD-P	93-07-114
284-32-140	AMD-P	93-15-103	296-17-53504	AMD-P	93-07-114	296-17-715	AMD	93-12-093
284-44-241	NEW-P	93-15-092	296-17-53504	AMD	93-12-093	296-17-721	AMD-P	93-07-114
284-46-576	NEW-P	93-15-093	296-17-538	AMD-P	93-07-114	296-17-721	AMD	93-12-093
284-92-010	NEW-P	93-15-108	296-17-538	AMD	93-12-093	296-17-724	AMD-P	93-07-114
284-92-020	NEW-P	93-15-108	296-17-545	AMD-P	93-07-114	296-17-724	AMD	93-12-093
284-92-210	NEW-P	93-15-108	296-17-545	AMD	93-12-093	296-17-747	AMD-P	93-07-114
284-92-220	NEW-P	93-15-108	296-17-555	AMD-P	93-07-114	296-17-747	AMD	93-12-093
284-92-230	NEW-P	93-15-108	296-17-555	AMD	93-12-093	296-17-758	AMD-P	93-07-114
284-92-240	NEW-P	93-15-108	296-17-56101	NEW-P	93-07-114	296-17-758	AMD	93-12-093
284-92-250	NEW-P	93-15-108	296-17-56101	NEW	93-12-093	296-17-759	AMD-P	93-07-114
284-92-260	NEW-P	93-15-108	296-17-562	AMD-P	93-07-114	296-17-759	AMD	93-12-093
284-92-270	NEW-P	93-15-108	296-17-562	AMD	93-12-093	296-17-761	AMD-P	93-07-114
284-92-280	NEW-P	93-15-108	296-17-568	AMD-P	93-07-114	296-17-761	AMD	93-12-093
284-92-290	NEW-P	93-15-108	296-17-568	AMD	93-12-093	296-17-762	AMD-P	93-07-114
284-92-410	NEW-P	93-15-108	296-17-56901	AMD-P	93-07-114	296-17-762	AMD	93-12-093
284-92-420	NEW-P	93-15-108	296-17-56901	AMD	93-12-093	296-17-76201	AMD-P	93-07-114
284-92-430	NEW-P	93-15-108	296-17-57001	AMD-P	93-07-114	296-17-76201	AMD	93-12-093
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296-23-07907	REP-P	93-11-095	296-23-50016	REP-P	93-11-095	296-46-365	NEW	93-06-072
296-23-07908	REP-P	93-11-095	296-23-610	REP-P	93-11-095	296-46-422	AMD	93-06-072
296-23-080	REP-P	93-11-095	296-23-615	REP-P	93-11-095	296-46-495	AMD	93-06-072
296-23-120	REP-P	93-11-095	296-23-620	REP-P	93-11-095	296-46-514	AMD	93-06-072
296-23-125	REP-P	93-11-095	296-23-710	REP-P	93-11-095	296-46-517	REP	93-06-072
296-23-130	REP-P	93-11-095	296-23-715	REP-P	93-11-095	296-46-55001	REP	93-06-072
296-23-135	NEW-P	93-11-095	296-23-720	REP-P	93-11-095	296-46-680	AMD	93-06-072
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296-23-150	NEW-P	93-11-095	296-23-810	REP-P	93-11-095	296-46-710	NEW	93-06-072
296-23-155	NEW-P	93-11-095	296-23-811	REP-P	93-11-095	296-46-935	NEW	93-03-048
296-23-160	NEW-P	93-11-095	296-23-900	REP-P	93-11-095	296-56	AMD-C	93-15-031
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296-23-170	NEW-P	93-11-095	296-23-950	REP-P	93-11-095	296-56-60001	AMD	93-07-044
296-23-175	NEW-P	93-11-095	296-23-960	REP-P	93-11-095	296-56-60005	AMD-P	93-10-101
296-23-180	NEW-P	93-11-095	296-23-970	REP-P	93-11-095	296-56-60235	AMD-P	93-10-101
296-23-185	NEW-P	93-11-095	296-23-980	REP-P	93-11-095	296-62	AMD-C	93-15-031
296-23-190	NEW-P	93-11-095	296-23-990	REP-P	93-11-095	296-62-07105	AMD-P	93-10-101
296-23-195	NEW-P	93-11-095	296-23A-100	AMD-P	93-11-095	296-62-074	NEW-P	93-02-057
296-23-200	REP-P	93-11-095	296-23A-110	AMD-P	93-11-095	296-62-074	NEW	93-07-044
296-23-201	REP-P	93-11-095	296-23A-115	AMD-P	93-11-095	296-62-07401	NEW-P	93-02-057
296-23-20101	REP-P	93-11-095	296-23A-130	AMD-P	93-11-095	296-62-07401	NEW	93-07-044
296-23-20102	REP-P	93-11-095	296-23A-150	AMD-P	93-11-095	296-62-07403	NEW-P	93-02-057
296-23-204	REP-P	93-11-095	296-23A-200	AMD-P	93-11-095	296-62-07403	NEW	93-07-044
296-23-205	NEW-P	93-11-095	296-23A-205	AMD-P	93-11-095	296-62-07405	NEW-P	93-02-057
296-23-208	REP-P	93-11-095	296-23A-230	AMD-P	93-11-095	296-62-07405	NEW	93-07-044
296-23-210	NEW-P	93-11-095	296-23A-235	AMD-P	93-11-095	296-62-07407	NEW-P	93-02-057
296-23-212	REP-P	93-11-095	296-23A-240	REP-P	93-11-095	296-62-07407	NEW	93-07-044
296-23-215	NEW-P	93-11-095	296-23A-242	REP-P	93-11-095	296-62-07409	NEW-P	93-02-057
296-23-216	REP-P	93-11-095	296-23A-244	REP-P	93-11-095	296-62-07409	NEW	93-07-044
296-23-220	NEW-P	93-11-095	296-23A-246	REP-P	93-11-095	296-62-07411	NEW-P	93-02-057
296-23-221	REP-P	93-11-095	296-23A-248	REP-P	93-11-095	296-62-07411	NEW	93-07-044
296-23-224	REP-P	93-11-095	296-23A-250	REP-P	93-11-095	296-62-07413	NEW-P	93-02-057
296-23-225	NEW-P	93-11-095	296-23A-252	REP-P	93-11-095	296-62-07413	NEW	93-07-044
296-23-228	REP-P	93-11-095	296-23A-254	REP-P	93-11-095	296-62-07415	NEW-P	93-02-057
296-23-230	NEW-P	93-11-095	296-23A-256	REP-P	93-11-095	296-62-07415	NEW	93-07-044
296-23-231	REP-P	93-11-095	296-23A-258	REP-P	93-11-095	296-62-07417	NEW-P	93-02-057
296-23-232	REP-P	93-11-095	296-23A-260	REP-P	93-11-095	296-62-07417	NEW	93-07-044
296-23-235	NEW-P	93-11-095	296-23A-262	REP-P	93-11-095	296-62-07419	NEW-P	93-02-057
296-23-240	NEW-P	93-11-095	296-23A-264	REP-P	93-11-095	296-62-07419	NEW	93-07-044
296-23-245	NEW-P	93-11-095	296-23A-266	REP-P	93-11-095	296-62-07421	NEW-P	93-02-057
296-23-250	NEW-P	93-11-095	296-23A-268	REP-P	93-11-095	296-62-07421	NEW	93-07-044
296-23-255	NEW-P	93-11-095	296-23A-300	AMD-P	93-11-095	296-62-07423	NEW-P	93-02-057
296-23-260	NEW-P	93-11-095	296-23A-310	AMD-P	93-11-095	296-62-07423	NEW	93-07-044
296-23-265	NEW-P	93-11-095	296-23A-315	AMD-P	93-11-095	296-62-07425	NEW-P	93-02-057
296-23-270	NEW-P	93-11-095	296-23A-320	AMD-P	93-11-095	296-62-07425	NEW	93-07-044
296-23-412	REP-P	93-11-095	296-23A-325	REP-P	93-11-095	296-62-07427	NEW-P	93-02-057
296-23-421	REP-P	93-11-095	296-23A-330	REP-P	93-11-095	296-62-07427	NEW	93-07-044
296-23-430	REP-P	93-11-095	296-23A-335	REP-P	93-11-095	296-62-07429	NEW-P	93-02-057
296-23-440	REP-P	93-11-095	296-23A-340	REP-P	93-11-095	296-62-07429	NEW	93-07-044
296-23-450	REP-P	93-11-095	296-23A-345	REP-P	93-11-095	296-62-07431	NEW-P	93-02-057
296-23-460	REP-P	93-11-095	296-23A-350	REP-P	93-11-095	296-62-07431	NEW	93-07-044
296-23-470	REP-P	93-11-095	296-23A-355	REP-P	93-11-095	296-62-07433	NEW-P	93-02-057
296-23-480	REP-P	93-11-095	296-23A-360	REP-P	93-11-095	296-62-07433	NEW	93-07-044
296-23-485	REP-P	93-11-095	296-23A-400	AMD-P	93-11-095	296-62-07441	NEW-P	93-02-057
296-23-490	REP-P	93-11-095	296-23A-410	REP-P	93-11-095	296-62-07441	NEW	93-07-044
296-23-495	REP-P	93-11-095	296-23A-415	REP-P	93-11-095	296-62-07443	NEW-P	93-02-057
296-23-500	REP-P	93-11-095	296-23A-420	REP-P	93-11-095	296-62-07443	NEW	93-07-044
296-23-50001	REP-P	93-11-095	296-23A-425	REP-P	93-11-095	296-62-07445	NEW-P	93-02-057
296-23-50002	REP-P	93-11-095	296-24	AMD-C	93-15-031	296-62-07445	NEW	93-07-044
296-23-50003	REP-P	93-11-095	296-24-11003	AMD-P	93-10-101	296-62-07447	NEW-P	93-02-057
296-23-50004	REP-P	93-11-095	296-24-70007	AMD-P	93-10-101	296-62-07447	NEW	93-07-044
296-23-50005	REP-P	93-11-095	296-46-090	AMD	93-06-072	296-62-07449	NEW-P	93-02-057
296-23-50006	REP-P	93-11-095	296-46-140	AMD	93-06-072	296-62-07449	NEW	93-07-044
296-23-50007	REP-P	93-11-095	296-46-150	AMD	93-06-072	296-62-07451	NEW	93-02-057
296-23-50008	REP-P	93-11-095	296-46-21008	AMD	93-06-072	296-62-07451	NEW	93-07-044
296-23-50009	REP-P	93-11-095	296-46-21052	AMD	93-06-072	296-62-076	NEW	93-04-111
296-23-50010	REP-P	93-11-095	296-46-220	AMD	93-06-072	296-62-07601	NEW	93-04-111
296-23-50011	REP-P	93-11-095	296-46-225	NEW	93-06-072	296-62-07603	NEW	93-04-111
296-23-50012	REP-P	93-11-095	296-46-23040	AMD	93-06-072	296-62-07605	NEW	93-04-111
296-23-50013	REP-P	93-11-095	296-46-23062	AMD	93-06-072	296-62-07607	NEW	93-04-111

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296-62-07609	NEW	93-04-111	296-116-300	AMD	93-12-133	296-306-06107	NEW-W	93-10-041
296-62-07611	NEW	93-04-111	296-116-360	AMD-P	93-04-110	296-306-06109	NEW-W	93-10-041
296-62-07613	NEW	93-04-111	296-116-360	AMD	93-07-077	296-306-06111	NEW-W	93-10-041
296-62-07615	NEW	93-04-111	296-125-070	NEW	93-04-112	296-306-06113	NEW-W	93-10-041
296-62-07617	NEW	93-04-111	296-155	AMD-C	93-15-031	296-306-06115	NEW-W	93-10-041
296-62-07619	NEW	93-04-111	296-155-012	AMD-P	93-10-101	296-306-06117	NEW-W	93-10-041
296-62-07621	NEW	93-04-111	296-155-173	NEW	93-04-111	296-306-06119	NEW-W	93-10-041
296-62-07623	NEW	93-04-111	296-155-17301	NEW	93-04-111	296-306-062	NEW-W	93-10-041
296-62-07625	NEW	93-04-111	296-155-17303	NEW	93-04-111	296-306-063	NEW-W	93-10-041
296-62-07627	NEW	93-04-111	296-155-17305	NEW	93-04-111	296-306-064	NEW-W	93-10-041
296-62-07629	NEW	93-04-111	296-155-17307	NEW	93-04-111	296-306-06401	NEW-W	93-10-041
296-62-07631	NEW	93-04-111	296-155-17309	NEW	93-04-111	296-306-06403	NEW-W	93-10-041
296-62-07633	NEW	93-04-111	296-155-17311	NEW	93-04-111	296-306-06405	NEW-W	93-10-041
296-62-07635	NEW	93-04-111	296-155-17313	NEW	93-04-111	296-306-06407	NEW-W	93-10-041
296-62-07637	NEW	93-04-111	296-155-17315	NEW	93-04-111	296-306-06409	NEW-W	93-10-041
296-62-07639	NEW	93-04-111	296-155-17317	NEW	93-04-111	296-306-06411	NEW-W	93-10-041
296-62-07654	NEW	93-04-111	296-155-17319	NEW	93-04-111	296-306-06413	NEW-W	93-10-041
296-62-07656	NEW	93-04-111	296-155-17321	NEW	93-04-111	296-306-06415	NEW-W	93-10-041
296-62-07658	NEW	93-04-111	296-155-17323	NEW	93-04-111	296-306-06417	NEW-W	93-10-041
296-62-07660	NEW	93-04-111	296-155-17325	NEW	93-04-111	296-306-067	NEW-W	93-19-041
296-62-07662	NEW	93-04-111	296-155-17327	NEW	93-04-111	296-306-06701	NEW-W	93-10-041
296-62-07664	NEW	93-04-111	296-155-17329	NEW	93-04-111	296-306-06703	NEW-W	93-10-041
296-62-07666	NEW	93-04-111	296-155-17331	NEW	93-04-111	296-306-06705	NEW-W	93-10-041
296-62-07668	NEW	93-04-111	296-155-17333	NEW	93-04-111	296-306-06707	NEW-W	93-10-041
296-62-07670	NEW	93-04-111	296-155-17335	NEW	93-04-111	296-306-06709	NEW-W	93-10-041
296-62-07672	NEW	93-04-111	296-155-17337	NEW	93-04-111	296-306-068	NEW-W	93-10-041
296-62-07711	AMD-P	93-10-101	296-155-17339	NEW	93-04-111	296-306-06801	NEW-W	93-10-041
296-62-3090	AMD-P	93-10-101	296-155-17341	NEW	93-04-111	296-306-06803	NEW-W	93-10-041
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296-62-14503	AMD-P	93-10-101	296-155-17345	NEW	93-04-111	296-306-070	AMD	93-07-012
296-62-14505	AMD-P	93-10-101	296-155-17347	NEW	93-04-111	296-306-081	NEW-W	93-10-041
296-62-14507	AMD-P	93-10-101	296-155-17349	NEW	93-04-111	296-306-08101	NEW-W	93-10-041
296-62-14509	AMD-P	93-10-101	296-155-17351	NEW	93-04-111	296-306-08103	NEW-W	93-10-041
296-62-14511	AMD-P	93-10-101	296-155-17353	NEW	93-04-111	296-306-08105	NEW-W	93-10-041
296-62-14513	AMD-P	93-10-101	296-155-17355	NEW	93-04-111	296-306-082	NEW-W	93-10-041
296-62-14515	AMD-P	93-10-101	296-155-17357	NEW	93-04-111	296-306-08201	NEW-W	93-10-041
296-62-14517	AMD-P	93-10-101	296-155-17359	NEW	93-04-111	296-306-083	NEW-W	93-10-041
296-62-14519	AMD-P	93-10-101	296-155-174	NEW-P	93-02-057	296-306-08301	NEW-W	93-10-041
296-62-14521	AMD-P	93-10-101	296-155-174	NEW	93-07-044	296-306-08307	NEW-W	93-10-041
296-62-14523	AMD-P	93-10-101	296-155-203	AMD-P	93-10-101	296-306-084	NEW	93-07-012
296-62-14525	AMD-P	93-10-101	296-155-20301	AMD-P	93-10-101	296-306-08401	NEW-W	93-10-041
296-62-14527	AMD-P	93-10-101	296-155-20307	AMD-P	93-10-101	296-306-08403	NEW-W	93-10-041
296-62-14529	AMD-P	93-10-101	296-155-24510	AMD-P	93-10-101	296-306-08405	NEW-W	93-10-041
296-62-14540	NEW-P	93-10-101	296-155-300	AMD-P	93-10-101	296-306-08407	NEW-W	93-10-041
296-62-14542	NEW-P	93-10-101	296-155-305	AMD-P	93-10-101	296-306-08409	NEW-W	93-10-041
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296-62-14553	NEW-P	93-10-101	296-155-449	AMD-P	93-10-101	296-306-14503	NEW-W	93-10-041
296-104-010	AMD-P	93-08-073	296-155-459	AMD-P	93-10-101	296-306-14505	NEW-W	93-10-041
296-104-010	AMD	93-12-014	296-155-462	AMD-P	93-10-101	296-306-14507	NEW-W	93-10-041
296-104-055	AMD-P	93-08-073	296-304	AMD-C	93-15-031	296-306-14509	NEW-W	93-10-041
296-104-055	AMD	93-12-014	296-304-01001	AMD-P	93-10-101	296-306-146	NEW-W	93-10-041
296-104-200	AMD-P	93-08-073	296-304-020	AMD	93-04-111	296-306-147	NEW-W	93-10-041
296-104-200	AMD	93-12-014	296-304-02003	AMD-P	93-10-101	296-306-148	NEW-W	93-10-041
296-104-500	AMD-P	93-08-073	296-304-03001	AMD-P	93-10-101	296-306-165	AMD	93-07-012
296-104-500	AMD	93-12-014	296-304-03005	AMD-P	93-10-101	296-306-200	AMD	93-07-012
296-104-501	AMD-P	93-08-073	296-304-03007	AMD-P	93-10-101	296-306-26001	AMD	93-07-012
296-104-501	AMD	93-12-014	296-304-04001	AMD-P	93-10-101	296-306-265	AMD	93-07-012
296-104-700	AMD-P	93-08-073	296-304-04005	AMD-P	93-10-101	296-306-270	AMD	93-07-012
296-104-700	AMD	93-12-014	296-304-09003	AMD-P	93-10-101	296-306-27095	AMD	93-07-012
296-116-082	AMD-E	93-06-012	296-306	AMD-C	93-02-031	296-306-330	NEW	93-07-012
296-116-082	AMD-P	93-06-052	296-306-010	AMD	93-07-012	296-306-33001	NEW-W	93-10-041
296-116-082	AMD	93-09-016	296-306-01001	NEW-P	93-02-057	296-306-400	AMD	93-07-012
296-116-110	AMD-P	93-04-109	296-306-01001	NEW	93-07-044	296-306-40003	AMD	93-07-012
296-116-110	AMD	93-07-076	296-306-012	AMD	93-07-012	296-306-40007	NEW	93-07-012
296-116-185	AMD-C	93-03-001	296-306-035	AMD	93-07-012	296-306-40009	NEW	93-07-012
296-116-185	AMD	93-03-080	296-306-060	AMD	93-07-012	296-306-40011	NEW	93-07-012
296-116-185	AMD-P	93-10-102	296-306-061	NEW	93-07-012	296-401-075	NEW	93-03-048
296-116-185	AMD	93-13-055	296-306-06101	NEW-W	93-10-041	308-13-020	AMD-P	93-12-105
296-116-300	AMD-P	93-08-027	296-306-06103	NEW-W	93-10-041	308-13-022	REP-P	93-12-105
296-116-300	AMD-C	93-12-009	296-306-06105	NEW-W	93-10-041	308-13-024	NEW-P	93-12-105

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308-13-032	AMD-P	93-12-105	308-63-070	NEW	93-08-076	308-125-210	AMD-P	93-12-127
308-13-100	AMD-P	93-12-105	308-63-080	NEW	93-08-076	308-125-225	NEW-P	93-12-127
308-17-150	AMD-P	93-07-099	308-63-090	NEW	93-08-076	314-10-010	NEW-E	93-15-062
308-17-150	AMD-W	93-12-040	308-63-100	NEW	93-08-076	314-10-020	NEW-E	93-15-062
308-17-150	AMD-P	93-13-146	308-63-110	NEW	93-08-076	314-10-030	NEW-E	93-15-062
308-18-150	AMD-P	93-07-098	308-63-120	NEW	93-08-076	314-10-050	NEW-E	93-15-062
308-18-150	AMD	93-11-025	308-63-130	NEW	93-08-076	314-10-060	NEW-E	93-15-062
308-30-005	NEW	93-05-009	308-63-140	NEW	93-08-076	314-10-070	NEW-E	93-15-062
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308-30-040	AMD	93-05-009	308-65-020	NEW	93-08-076	314-10-110	NEW-E	93-15-062
308-30-050	AMD	93-05-009	308-65-030	NEW	93-08-076	314-12-015	AMD-P	93-12-120
308-30-060	AMD	93-05-009	308-65-040	NEW	93-08-076	314-12-015	AMD	93-15-027
308-30-070	AMD	93-05-009	308-65-050	NEW	93-08-076	314-12-020	AMD-P	93-07-110
308-30-080	AMD	93-05-009	308-65-060	NEW	93-08-076	314-12-020	AMD-W	93-10-069
308-30-090	AMD	93-05-009	308-65-070	NEW	93-08-076	314-12-020	AMD-P	93-12-117
308-30-110	NEW-W	93-08-083	308-65-080	NEW	93-08-076	314-12-020	AMD	93-15-024
308-30-120	NEW	93-05-009	308-65-090	NEW	93-08-076	314-12-025	AMD-P	93-07-110
308-30-130	NEW	93-05-009	308-65-100	NEW	93-08-076	314-12-025	AMD	93-10-070
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308-30-150	NEW	93-05-009	308-65-120	NEW	93-08-076	314-12-030	AMD	93-10-092
308-30-155	NEW	93-05-009	308-65-130	NEW	93-08-076	314-12-030	AMD-P	93-15-117
308-30-160	NEW	93-05-009	308-65-140	NEW	93-08-076	314-12-140	AMD-P	93-07-110
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308-30-180	NEW-W	93-08-083	308-65-160	NEW	93-08-076	314-15-010	NEW-E	93-15-061
308-30-190	NEW-W	93-08-083	308-65-170	NEW	93-08-076	314-15-020	NEW-E	93-15-061
308-56A-115	AMD-P	93-10-073	308-65-180	NEW	93-08-076	314-15-030	NEW-E	93-15-061
308-56A-115	AMD	93-14-084	308-65-190	NEW	93-08-076	314-15-040	NEW-E	93-15-061
308-56A-125	AMD-P	93-10-073	308-66-196	NEW-P	93-10-073	314-15-050	NEW-E	93-15-061
308-56A-125	AMD	93-14-084	308-66-196	NEW	93-14-084	314-16-020	AMD-P	93-07-110
308-56A-140	AMD-P	93-10-073	308-90-080	AMD-W	93-14-120	314-16-020	AMD	93-10-070
308-56A-140	AMD	93-14-084	308-93-050	AMD-P	93-11-076	314-16-030	AMD-P	93-07-110
308-56A-160	NEW-P	93-10-073	308-93-050	AMD	93-14-082	314-16-030	AMD-W	93-10-069
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308-56A-420	AMD	93-14-084	308-93-174	NEW-P	93-11-076	314-16-190	AMD-P	93-06-066
308-61	AMD	93-08-076	308-93-174	NEW	93-14-082	314-16-190	AMD	93-10-092
308-61-010	REP	93-08-076	308-93-460	AMD-P	93-11-076	314-16-196	AMD-P	93-06-066
308-61-025	REP	93-08-076	308-93-460	AMD	93-14-082	314-16-196	AMD	93-10-092
308-61-026	AMD	93-08-076	308-96A-005	AMD-P	93-11-069	314-16-250	AMD-P	93-12-119
308-61-030	REP	93-08-076	308-96A-005	AMD	93-14-083	314-16-250	AMD	93-15-026
308-61-040	REP	93-08-076	308-96A-057	AMD-P	93-11-069	314-20-015	AMD-P	93-07-109
308-61-135	AMD	93-08-076	308-96A-057	AMD	93-14-083	314-20-015	AMD	93-11-028
308-61-168	AMD	93-08-076	308-96A-066	NEW-P	93-11-069	314-20-030	AMD-P	93-07-110
308-61-200	REP	93-08-076	308-96A-066	NEW	93-14-083	314-20-030	AMD	93-10-070
308-61-205	REP	93-08-076	308-96A-072	NEW-P	93-11-069	314-20-070	AMD-P	93-06-066
308-61-210	REP	93-08-076	308-96A-072	NEW	93-14-083	314-20-070	AMD	93-10-092
308-61-220	REP	93-08-076	308-96A-295	AMD-P	93-11-069	314-20-180	NEW-E	93-11-027
308-61-230	REP	93-08-076	308-96A-295	AMD	93-14-083	314-20-180	NEW-P	93-12-116
308-61-240	REP	93-08-076	308-96A-330	AMD-P	93-11-069	314-20-180	NEW	93-15-023
308-61-250	REP	93-08-076	308-96A-330	AMD	93-14-083	314-24-095	AMD-P	93-07-109
308-61-260	REP	93-08-076	308-96A-560	AMD-P	93-11-069	314-24-095	AMD	93-11-028
308-61-270	REP	93-08-076	308-96A-560	AMD	93-14-083	314-24-160	AMD-P	93-07-109
308-61-300	REP	93-08-076	308-125-010	AMD-P	93-12-127	314-24-160	AMD	93-11-028
308-61-305	REP	93-08-076	308-125-020	AMD-P	93-12-127	314-40-030	AMD-P	93-07-109
308-61-310	REP	93-08-076	308-125-030	AMD-P	93-12-127	314-40-030	AMD	93-11-028
308-61-320	REP	93-08-076	308-125-035	REP-P	93-12-127	314-52-080	AMD-P	93-07-109
308-61-330	REP	93-08-076	308-125-040	AMD-P	93-12-127	314-52-080	AMD	93-11-028
308-61-340	REP	93-08-076	308-125-045	AMD-P	93-12-127	314-70-050	NEW-P	93-07-109
308-61-400	REP	93-08-076	308-125-050	AMD-P	93-12-127	314-70-050	NEW	93-11-028
308-61-405	REP	93-08-076	308-125-060	AMD-P	93-12-127	315-02-230	NEW	93-04-004
308-61-410	REP	93-08-076	308-125-065	NEW-P	93-12-127	315-06-120	AMD	93-04-004
308-61-420	REP	93-08-076	308-125-070	AMD-P	93-12-127	315-06-125	AMD	93-04-004
308-61-430	REP	93-08-076	308-125-085	AMD-P	93-12-127	315-06-125	AMD-P	93-07-121
308-61-440	REP	93-08-076	308-125-090	AMD-P	93-12-127	315-06-130	AMD	93-11-056
308-61-450	REP	93-08-076	308-125-100	AMD-P	93-12-127	315-06-130	AMD	93-04-004
308-63-010	NEW	93-08-076	308-125-110	AMD-P	93-12-127	315-11-400	REP-P	93-12-104
308-63-020	NEW	93-08-076	308-125-130	AMD-P	93-12-127	315-11-400	REP	93-15-019
308-63-030	NEW	93-08-076	308-125-140	AMD-P	93-12-127	315-11-401	REP-P	93-12-104
308-63-040	NEW	93-08-076	308-125-160	REP-P	93-12-127	315-11-401	REP	93-15-019
308-63-050	NEW	93-08-076	308-125-180	AMD-P	93-12-127	315-11-402	REP-P	93-12-104

TABLE

**Table of WAC Sections Affected**

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
315-11-402	REP	93-15-019	315-11-530	REP-P	93-12-104	315-11-981	NEW-P	93-07-121
315-11-410	REP-P	93-12-104	315-11-530	REP	93-15-019	315-11-981	NEW	93-11-056
315-11-410	REP	93-15-019	315-11-531	REP-P	93-12-104	315-11-982	NEW-P	93-07-121
315-11-411	REP-P	93-12-104	315-11-531	REP	93-15-019	315-11-982	NEW	93-11-056
315-11-411	REP	93-15-019	315-11-532	REP-P	93-12-104	315-11-990	NEW-P	93-07-121
315-11-412	REP-P	93-12-104	315-11-532	REP	93-15-019	315-11-990	NEW	93-11-056
315-11-412	REP	93-15-019	315-11-540	REP-P	93-12-104	315-11-991	NEW-P	93-07-121
315-11-420	REP-P	93-12-104	315-11-540	REP	93-15-019	315-11-991	NEW	93-11-056
315-11-420	REP	93-15-019	315-11-541	REP-P	93-12-104	315-11-992	NEW-P	93-07-121
315-11-421	REP-P	93-12-104	315-11-541	REP	93-15-019	315-11-992	NEW	93-11-056
315-11-421	REP	93-15-019	315-11-542	REP-P	93-12-104	315-11A-100	NEW-P	93-07-121
315-11-422	REP-P	93-12-104	315-11-542	REP	93-15-019	315-11A-100	NEW	93-11-056
315-11-422	REP	93-15-019	315-11-550	REP-P	93-12-104	315-11A-101	NEW-P	93-12-104
315-11-430	REP-P	93-12-104	315-11-550	REP	93-15-019	315-11A-101	NEW	93-15-019
315-11-430	REP	93-15-019	315-11-551	REP-P	93-12-104	315-11A-102	NEW-P	93-12-104
315-11-431	REP-P	93-12-104	315-11-551	REP	93-15-019	315-11A-102	NEW	93-15-019
315-11-431	REP	93-15-019	315-11-552	REP-P	93-12-104	315-11A-103	NEW-P	93-12-104
315-11-432	REP-P	93-12-104	315-11-552	REP	93-15-019	315-11A-103	NEW	93-15-019
315-11-432	REP	93-15-019	315-11-560	REP-P	93-12-104	315-11A-104	NEW-P	93-12-104
315-11-440	REP-P	93-12-104	315-11-560	REP	93-15-019	315-11A-104	NEW	93-15-019
315-11-440	REP	93-15-019	315-11-561	REP-P	93-12-104	315-11A-105	NEW-P	93-12-104
315-11-441	REP-P	93-12-104	315-11-561	REP	93-15-019	315-11A-105	NEW	93-15-019
315-11-441	REP	93-15-019	315-11-562	REP-P	93-12-104	315-20-005	NEW-P	93-12-104
315-11-442	REP-P	93-12-104	315-11-562	REP	93-15-019	315-20-005	NEW	93-15-019
315-11-442	REP	93-15-019	315-11-570	REP-P	93-12-104	315-20-070	REP-P	93-12-104
315-11-450	REP-P	93-12-104	315-11-570	REP	93-15-019	315-20-070	REP	93-15-019
315-11-450	REP	93-15-019	315-11-571	REP-P	93-12-104	315-20-075	NEW-P	93-12-104
315-11-451	REP-P	93-12-104	315-11-571	REP	93-15-019	315-20-075	NEW	93-15-019
315-11-451	REP	93-15-019	315-11-572	REP-P	93-12-104	315-20-080	REP-P	93-12-104
315-11-452	REP-P	93-12-104	315-11-572	REP	93-15-019	315-20-080	REP	93-15-019
315-11-452	REP	93-15-019	315-11-580	REP-P	93-12-104	315-20-085	NEW-P	93-12-104
315-11-460	REP-P	93-12-104	315-11-580	REP	93-15-019	315-20-085	NEW	93-15-019
315-11-460	REP	93-15-019	315-11-581	REP-P	93-12-104	315-20-090	REP-P	93-12-104
315-11-461	REP-P	93-12-104	315-11-581	REP	93-15-019	315-20-090	REP	93-15-019
315-11-461	REP	93-15-019	315-11-582	REP-P	93-12-104	315-20-095	NEW-P	93-12-104
315-11-462	REP-P	93-12-104	315-11-582	REP	93-15-019	315-20-095	NEW	93-15-019
315-11-462	REP	93-15-019	315-11-590	REP-P	93-12-104	315-20-100	REP-P	93-12-104
315-11-470	REP-P	93-12-104	315-11-590	REP	93-15-019	315-20-100	REP	93-15-019
315-11-470	REP	93-15-019	315-11-591	REP-P	93-12-104	315-20-105	NEW-P	93-12-104
315-11-471	REP-P	93-12-104	315-11-591	REP	93-15-019	315-20-105	NEW	93-15-019
315-11-471	REP	93-15-019	315-11-592	REP-P	93-12-104	315-20-110	REP-P	93-12-104
315-11-472	REP-P	93-12-104	315-11-592	REP	93-15-019	315-20-110	REP	93-15-019
315-11-472	REP	93-15-019	315-11-890	AMD-P	93-03-094	315-20-115	NEW-P	93-12-104
315-11-480	REP-P	93-12-104	315-11-890	AMD	93-07-016	315-20-115	NEW	93-15-019
315-11-480	REP	93-15-019	315-11-920	NEW	93-03-008	315-20-120	REP-P	93-12-104
315-11-481	REP-P	93-12-104	315-11-921	NEW	93-03-008	315-20-120	REP	93-15-019
315-11-481	REP	93-15-019	315-11-922	NEW	93-03-008	315-20-130	REP-P	93-12-104
315-11-482	REP-P	93-12-104	315-11-930	NEW	93-03-008	315-20-130	REP	93-15-019
315-11-482	REP	93-15-019	315-11-931	NEW	93-03-008	315-20-140	REP-P	93-12-104
315-11-490	REP-P	93-12-104	315-11-932	NEW	93-03-008	315-20-140	REP	93-15-019
315-11-490	REP	93-15-019	315-11-940	NEW	93-03-008	315-20-150	REP-P	93-12-104
315-11-491	REP-P	93-12-104	315-11-941	NEW	93-03-008	315-20-150	REP	93-15-019
315-11-491	REP	93-15-019	315-11-942	NEW	93-03-008	315-34-040	AMD	93-03-008
315-11-492	REP-P	93-12-104	315-11-950	NEW-P	93-03-094	317-01-010	NEW-P	93-06-086
315-11-492	REP	93-15-019	315-11-950	NEW	93-07-016	317-01-010	NEW	93-11-004
315-11-500	REP-P	93-12-104	315-11-951	NEW-P	93-03-094	317-01-020	NEW-P	93-06-086
315-11-500	REP	93-15-019	315-11-951	NEW	93-07-016	317-01-020	NEW	93-11-004
315-11-501	REP-P	93-12-104	315-11-952	NEW-P	93-03-094	317-01-030	NEW-P	93-06-086
315-11-501	REP	93-15-019	315-11-952	NEW	93-07-016	317-01-030	NEW	93-11-004
315-11-502	REP-P	93-12-104	315-11-960	NEW-P	93-03-094	317-02-010	NEW-P	93-06-087
315-11-502	REP	93-15-019	315-11-960	NEW	93-07-016	317-02-010	NEW	93-11-003
315-11-510	REP-P	93-12-104	315-11-961	NEW-P	93-03-094	317-02-020	NEW-P	93-06-087
315-11-510	REP	93-15-019	315-11-961	NEW	93-07-016	317-02-020	NEW	93-11-003
315-11-511	REP-P	93-12-104	315-11-962	NEW-P	93-03-094	317-02-030	NEW-P	93-06-087
315-11-511	REP	93-15-019	315-11-962	NEW	93-07-016	317-02-030	NEW	93-11-003
315-11-512	REP-P	93-12-104	315-11-970	NEW-P	93-03-094	317-02-040	NEW-P	93-06-087
315-11-512	REP	93-15-019	315-11-970	NEW	93-07-016	317-02-040	NEW	93-11-003
315-11-520	REP-P	93-12-104	315-11-971	NEW-P	93-03-094	317-02-050	NEW-P	93-06-087
315-11-520	REP	93-15-019	315-11-971	NEW	93-07-016	317-02-050	NEW	93-11-003
315-11-521	REP-P	93-12-104	315-11-972	NEW-P	93-03-094	317-02-060	NEW-P	93-06-087
315-11-521	REP	93-15-019	315-11-972	NEW	93-07-016	317-02-060	NEW	93-11-003
315-11-522	REP-P	93-12-104	315-11-980	NEW-P	93-07-121	317-02-070	NEW-P	93-06-087
315-11-522	REP	93-15-019	315-11-980	NEW	93-11-056	317-02-070	NEW	93-11-003

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
317-02-080	NEW-P	93-06-087	317-20-190	NEW-P	93-02-055
317-02-080	NEW	93-11-003	317-20-190	NEW	93-07-005
317-02-090	NEW-P	93-06-087	317-20-200	NEW-P	93-02-055
317-02-090	NEW	93-11-003	317-20-200	NEW	93-07-005
317-02-100	NEW-P	93-06-087	317-20-210	NEW-P	93-02-055
317-02-100	NEW	93-11-003	317-20-210	NEW	93-07-005
317-02-110	NEW-P	93-06-087	317-20-220	NEW-P	93-02-055
317-02-110	NEW	93-11-003	317-20-220	NEW	93-07-005
317-02-120	NEW-P	93-06-087	317-20-230	NEW-P	93-02-055
317-02-120	NEW	93-11-003	317-20-230	NEW	93-07-005
317-03-010	NEW-P	93-06-088	317-20-240	NEW-P	93-02-055
317-03-010	NEW	93-11-002	317-20-240	NEW	93-07-005
317-03-020	NEW-P	93-06-088	317-20-900	NEW-P	93-02-055
317-03-020	NEW	93-11-002	317-20-900	NEW	93-07-005
317-03-030	NEW-P	93-06-088	317-30-010	NEW-P	93-02-054
317-05-010	NEW-P	93-02-053	317-30-010	NEW	93-07-003
317-05-010	NEW	93-07-004	317-30-020	NEW-P	93-02-054
317-05-020	NEW-P	93-02-053	317-30-020	NEW	93-07-003
317-05-020	NEW	93-07-004	317-30-030	NEW-P	93-02-054
317-05-030	NEW-P	93-02-053	317-30-030	NEW	93-07-003
317-05-030	NEW	93-07-004	317-30-040	NEW-P	93-02-054
317-10-035	AMD-P	93-09-069	317-30-040	NEW	93-07-003
317-10-035	AMD	93-14-096	317-30-050	NEW-P	93-02-054
317-10-060	AMD-P	93-06-089	317-30-050	NEW	93-07-003
317-10-060	AMD	93-11-001	317-30-060	NEW-P	93-02-054
317-20	NEW-P	93-02-055	317-30-060	NEW	93-07-003
317-20	NEW	93-07-005	317-30-070	NEW-P	93-02-054
317-20-010	NEW-P	93-02-055	317-30-070	NEW	93-07-003
317-20-010	NEW	93-07-005	317-30-080	NEW-P	93-02-054
317-20-020	NEW-P	93-02-055	317-30-080	NEW	93-07-003
317-20-020	NEW	93-07-005	317-30-090	NEW-P	93-02-054
317-20-025	NEW	93-07-005	317-30-090	NEW	93-07-003
317-20-030	NEW-P	93-02-055	317-30-100	NEW-P	93-02-054
317-20-030	NEW	93-07-005	317-30-100	NEW	93-07-003
317-20-040	NEW-P	93-02-055	317-30-110	NEW-P	93-02-054
317-20-040	NEW	93-07-005	317-30-110	NEW	93-07-003
317-20-050	NEW-P	93-02-055	317-30-120	NEW-P	93-02-054
317-20-050	NEW	93-07-005	317-30-120	NEW	93-07-003
317-20-055	NEW-P	93-02-055	317-30-130	NEW-P	93-02-054
317-20-055	NEW	93-07-005	317-30-130	NEW	93-07-003
317-20-060	NEW-P	93-02-055	317-30-140	NEW-P	93-02-054
317-20-060	NEW	93-07-005	317-30-140	NEW	93-07-003
317-20-065	NEW-P	93-02-055	317-30-150	NEW-P	93-02-054
317-20-065	NEW	93-07-005	317-30-150	NEW	93-07-003
317-20-066	NEW-P	93-02-055	317-30-900	NEW-P	93-02-054
317-20-066	NEW	93-07-005	317-30-900	NEW	93-07-003
317-20-070	NEW-P	93-02-055	317-100-010	NEW-P	93-09-070
317-20-070	NEW	93-07-005	317-100-010	NEW	93-14-097
317-20-080	NEW-P	93-02-055	317-100-020	NEW-P	93-09-070
317-20-080	NEW	93-07-005	317-100-020	NEW	93-14-097
317-20-090	NEW-P	93-02-055	317-100-030	NEW-P	93-09-070
317-20-090	NEW	93-07-005	317-100-030	NEW	93-14-097
317-20-100	NEW-P	93-02-055	317-100-040	NEW-P	93-09-070
317-20-100	NEW	93-07-005	317-100-040	NEW	93-14-097
317-20-110	NEW-P	93-02-055	317-100-050	NEW-P	93-09-070
317-20-110	NEW	93-07-005	317-100-050	NEW	93-14-097
317-20-120	NEW-P	93-02-055	317-100-060	NEW-P	93-09-070
317-20-120	NEW	93-07-005	317-100-060	NEW	93-14-097
317-20-130	NEW-P	93-02-055	317-100-070	NEW-P	93-09-070
317-20-130	NEW	93-07-005	317-100-070	NEW	93-14-097
317-20-140	NEW-P	93-02-055	317-100-080	NEW-P	93-09-070
317-20-140	NEW	93-07-005	317-100-080	NEW	93-14-097
317-20-150	NEW-P	93-02-055	317-100-090	NEW-P	93-09-070
317-20-150	NEW	93-07-005	317-100-090	NEW	93-14-097
317-20-155	NEW	93-07-005	318-04-020	AMD-P	93-11-072
317-20-160	NEW-P	93-02-055	318-04-020	AMD	93-14-105
317-20-160	NEW	93-07-005	318-04-030	AMD-P	93-11-072
317-20-165	NEW-P	93-02-055	318-04-030	AMD	93-14-105
317-20-165	NEW	93-07-005	318-04-030	AMD-E	93-14-106
317-20-170	NEW-P	93-02-055	318-04-050	AMD-P	93-11-072
317-20-170	NEW	93-07-005	318-04-050	AMD	93-14-105
317-20-180	NEW-P	93-02-055	326-02-031	NEW-P	93-12-135
317-20-180	NEW	93-07-005	326-02-031	NEW-E	93-12-136
326-02-032	NEW-P	93-12-135	326-02-032	NEW-P	93-12-135
326-02-032	NEW-E	93-12-136	326-02-032	NEW-E	93-12-136
326-02-033	NEW-P	93-12-135	326-02-033	NEW-P	93-12-135
326-02-033	NEW-E	93-12-136	326-02-033	NEW-E	93-12-136
326-02-034	NEW-P	93-12-135	326-02-034	NEW-P	93-12-135
326-02-034	NEW-E	93-12-136	326-02-034	NEW-E	93-12-136
326-30-042	NEW-E	93-15-088	326-30-042	NEW-E	93-15-088
326-40-010	AMD-E	93-05-037	326-40-010	AMD-E	93-05-037
332-24-710	NEW	93-03-007	332-24-710	NEW	93-03-007
332-24-720	NEW-P	93-03-064	332-24-720	NEW-P	93-03-064
332-24-720	NEW	93-07-002	332-24-720	NEW	93-07-002
332-24-730	NEW-P	93-04-107	332-24-730	NEW-P	93-04-107
332-24-730	NEW-P	93-10-107	332-24-730	NEW-P	93-10-107
332-24-730	NEW-W	93-10-108	332-24-730	NEW-W	93-10-108
332-24-730	NEW	93-14-016	332-24-730	NEW	93-14-016
332-26-010	NEW-E	93-15-048	332-26-010	NEW-E	93-15-048
332-26-040	NEW-E	93-15-048	332-26-040	NEW-E	93-15-048
332-26-050	NEW-E	93-15-048	332-26-050	NEW-E	93-15-048
332-26-060	NEW-E	93-15-048	332-26-060	NEW-E	93-15-048
332-26-080	NEW-E	93-09-020	332-26-080	NEW-E	93-09-020
332-26-080	AMD-E	93-10-058	332-26-080	AMD-E	93-10-058
352-12-020	AMD	93-08-025	352-12-020	AMD	93-08-025
352-12-020	AMD-E	93-10-060	352-12-020	AMD-E	93-10-060
352-12-020	RESCIND	93-14-068	352-12-020	RESCIND	93-14-068
352-12-030	AMD	93-08-025	352-12-030	AMD	93-08-025
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352-32-010	AMD	93-08-025	352-32-010	AMD	93-08-025
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352-32-120	AMD	93-06-001	352-32-120	AMD	93-06-001
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352-32-252	AMD-E	93-10-060	352-32-252	AMD-E	93-10-060
352-32-252	RESCIND	93-14-068	352-32-252	RESCIND	93-14-068
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356-10-060	AMD-C	93-14-058	356-10-060	AMD-C	93-14-058
356-10-060	AMD-P	93-14-064	356-10-060	AMD-P	93-14-064
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388-15-620	AMD-P	93-11-085	388-34-095	REP-W	93-08-113	388-37-370	REP-P	93-08-074
388-15-620	AMD	93-13-135	388-34-110	REP-P	93-06-040	388-37-380	REP-P	93-08-074
388-15-630	AMD-P	93-11-085	388-34-110	REP-W	93-08-113	388-40-010	REP-P	93-15-080
388-15-630	AMD	93-13-135	388-34-120	REP-P	93-06-040	388-40-020	REP-P	93-15-080
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388-15-820	AMD	93-10-023	388-34-125	REP-P	93-06-040	388-40-040	REP-P	93-15-080
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388-15-830	AMD	93-10-023	388-34-140	REP-P	93-06-040	388-40-055	REP-P	93-15-080
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388-42-020	REP-E	93-11-083	388-51-135	AMD-P	93-07-073	388-77A-041	NEW	93-12-058
388-42-020	REP-P	93-11-084	388-51-135	AMD	93-12-059	388-77A-050	NEW-P	93-03-059
388-42-020	REP	93-13-134	388-51-150	REP-P	93-07-073	388-77A-050	NEW	93-12-058
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388-42-100	REP	93-13-134	388-51-210	NEW	93-12-059	388-82-140	AMD-E	93-08-023
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388-95-360	AMD-E	93-03-029	388-96-754	AMD-P	93-08-065	388-160-050	NEW	93-15-124
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388-330-020	AMD-P	93-07-035	390-16-012	AMD	93-15-004	392-140-252	REP-P	93-07-047
388-330-020	AMD-C	93-10-018	390-16-031	AMD-P	93-04-127	392-140-252	REP	93-12-015
388-330-020	AMD-C	93-12-096	390-16-031	AMD	93-09-002	392-140-253	REP-P	93-07-047
388-330-020	AMD	93-15-040	390-16-038	AMD-P	93-12-024	392-140-253	REP	93-12-015
388-330-030	AMD-P	93-07-035	390-16-041	AMD-P	93-04-127	392-140-254	REP-P	93-07-047
388-330-030	AMD-C	93-10-018	390-16-041	AMD	93-09-002	392-140-254	REP	93-12-015
388-330-030	AMD-C	93-12-096	390-16-044	NEW-P	93-15-002	392-140-255	REP-P	93-07-047
388-330-030	AMD	93-15-040	390-16-044	NEW-E	93-15-003	392-140-255	REP	93-12-015
388-330-050	AMD-P	93-07-035	390-16-200	AMD-P	93-12-025	392-140-256	REP-P	93-07-047
388-330-050	AMD-C	93-10-018	390-16-207	AMD-P	93-12-026	392-140-256	REP	93-12-015
388-330-050	AMD-C	93-12-096	390-16-226	NEW-P	93-12-031	392-140-257	REP-P	93-07-047
388-330-050	AMD	93-15-040	390-16-230	AMD-P	93-12-027	392-140-257	REP	93-12-015
388-538-001	NEW-P	93-14-046	390-16-232	NEW-P	93-12-032	392-140-258	REP-P	93-07-047
388-538-001	NEW-E	93-14-047	390-16-234	NEW-P	93-12-033	392-140-258	REP	93-12-015
388-538-050	NEW-P	93-14-046	390-16-240	AMD-P	93-12-028	392-140-259	REP-P	93-07-047
388-538-050	NEW-E	93-14-047	390-16-308	AMD	93-04-072	392-140-259	REP	93-12-015
388-538-060	NEW-P	93-14-046	390-16-310	AMD-P	93-12-029	392-140-265	REP-P	93-07-047
388-538-060	NEW-E	93-14-047	390-16-312	AMD-P	93-12-030	392-140-265	REP	93-12-015
388-538-070	NEW-P	93-14-046	390-17-011	NEW-P	93-12-018	392-140-266	REP-P	93-07-047
388-538-070	NEW-E	93-14-047	390-17-013	NEW-P	93-12-018	392-140-266	REP	93-12-015
388-538-080	NEW-P	93-14-046	390-17-015	NEW-P	93-12-018	392-140-267	REP-P	93-07-047
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388-538-090	NEW-P	93-14-046	390-17-030	NEW-P	93-12-018	392-142-240	AMD-P	93-09-019
388-538-090	NEW-E	93-14-047	390-17-050	NEW-P	93-12-018	392-142-240	AMD	93-13-083
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388-538-095	NEW-E	93-14-047	390-17-060	NEW-P	93-12-018	392-167A-005	NEW-P	93-07-048
388-538-100	NEW-P	93-14-046	390-17-060	NEW-P	93-12-046	392-167A-005	NEW	93-12-016
388-538-100	NEW-E	93-14-047	390-17-065	NEW-P	93-12-018	392-167A-010	NEW-P	93-07-048
388-538-110	NEW-P	93-14-046	390-17-100	NEW-P	93-12-018	392-167A-010	NEW	93-12-016
388-538-110	NEW-E	93-14-047	390-17-200	NEW-P	93-12-018	392-167A-015	NEW-P	93-07-048
388-538-120	NEW-P	93-14-046	390-17-205	NEW-P	93-12-018	392-167A-015	NEW	93-12-016
388-538-120	NEW-E	93-14-047	390-17-300	NEW-P	93-12-018	392-167A-015	NEW	93-12-016
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388-538-130	NEW-E	93-14-047	390-17-310	NEW-P	93-12-018	392-167A-020	NEW	93-12-016
388-538-140	NEW-P	93-14-046	390-17-315	NEW-P	93-12-018	392-167A-025	NEW-P	93-07-048
388-538-140	NEW-E	93-14-047	390-17-400	NEW-P	93-12-018	392-167A-025	NEW	93-12-016
388-538-150	NEW-P	93-14-046	390-18-010	AMD-P	93-12-034	392-167A-030	NEW-P	93-07-048
388-538-150	NEW-E	93-14-047	390-18-020	AMD-P	93-12-035	392-167A-030	NEW	93-12-016
388-539-001	NEW-P	93-14-024	390-18-050	NEW	93-04-072	392-167A-035	NEW-P	93-07-048
388-539-001	NEW-E	93-14-028	390-20-020	AMD	93-04-072	392-167A-035	NEW	93-12-016
388-539-050	NEW-P	93-14-024	390-20-110	AMD	93-04-072	392-167A-040	NEW-P	93-07-048
388-539-050	NEW-E	93-14-028	390-20-140	AMD-P	93-09-001	392-167A-040	NEW	93-12-016
388-539-100	NEW-P	93-14-024	390-37-140	AMD-C	93-10-050	392-167A-045	NEW-P	93-07-048
388-539-100	NEW-E	93-14-028	390-37-140	AMD	93-15-004	392-167A-045	NEW	93-12-016
388-539-150	NEW-P	93-14-024	390-37-142	AMD-P	93-09-001	392-167A-050	NEW-P	93-07-048
388-539-150	NEW-E	93-14-028	390-37-142	AMD-C	93-10-050	392-167A-050	NEW	93-12-016
388-540-001	NEW-P	93-13-001	390-37-142	AMD	93-15-004	392-167A-055	NEW-P	93-07-048
388-540-001	NEW-E	93-13-130	392-12-170	AMD-P	93-15-101	392-167A-055	NEW	93-12-016
388-540-005	NEW-P	93-13-001	392-105-030	AMD-P	93-03-002	392-167A-060	NEW-P	93-07-048
388-540-005	NEW-E	93-13-130	392-105-030	AMD	93-07-039	392-167A-060	NEW	93-12-016
388-540-010	NEW-P	93-13-001	392-105-035	AMD-P	93-03-002	392-167A-065	NEW-P	93-07-048
388-540-010	NEW-E	93-13-130	392-105-035	AMD	93-07-039	392-167A-065	NEW	93-12-016
388-540-020	NEW-P	93-13-001	392-105-040	AMD-P	93-03-002	392-167A-070	NEW-P	93-07-048
388-540-020	NEW-E	93-13-130	392-105-040	AMD	93-07-039	392-167A-070	NEW	93-12-016
388-540-030	NEW-P	93-13-001	392-105-060	AMD-P	93-03-002	392-167A-075	NEW-P	93-07-048
388-540-030	NEW-E	93-13-130	392-105-060	AMD	93-07-039	392-167A-075	NEW	93-12-016
388-540-040	NEW-P	93-13-001	392-121-445	AMD	93-04-054	392-167A-080	NEW-P	93-07-048
388-540-040	NEW-E	93-13-130	392-122-400	NEW-P	93-07-046	392-167A-080	NEW	93-12-016
388-540-050	NEW-P	93-13-001	392-122-400	NEW	93-12-017	392-167A-085	NEW-P	93-07-048
388-540-050	NEW-E	93-13-130	392-122-401	NEW-P	93-07-046	392-167A-085	NEW	93-12-016
388-540-060	NEW-P	93-13-001	392-122-401	NEW	93-12-017	392-167A-090	NEW-P	93-07-048
388-540-060	NEW-E	93-13-130	392-122-405	NEW-P	93-07-046	392-167A-090	NEW	93-12-016
390-05-190	NEW-P	93-12-019	392-122-405	NEW	93-12-017	392-168-110	AMD-P	93-15-084
390-05-200	AMD-P	93-12-020	392-122-410	NEW-P	93-07-046	392-168-115	AMD-P	93-15-084
390-05-205	AMD-P	93-12-021	392-122-410	NEW	93-12-017	392-168-132	NEW-P	93-15-084
390-05-210	AMD-P	93-12-022	392-122-415	NEW-P	93-07-046	392-168-167	NEW-P	93-15-084
390-05-215	AMD-P	93-12-023	392-122-415	NEW	93-12-017	392-171-300	AMD-P	93-15-085
390-12-170	AMD-P	93-15-101	392-123-046	AMD-P	93-11-034	392-171-305	AMD-P	93-15-085
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392-171-321	AMD-P	93-15-085	392-196-095	AMD	93-07-037	415-04-010	AMD-P	93-08-054
392-171-323	NEW-P	93-15-085	392-202-110	AMD	93-08-005	415-04-010	AMD	93-11-079
392-171-324	NEW-P	93-15-085	392-202-110	AMD-P	93-15-034	415-04-020	AMD-P	93-08-054
392-171-325	AMD-P	93-15-085	392-315-005	REP-E	93-08-037	415-04-020	AMD	93-11-079
392-171-336	AMD-P	93-15-085	392-315-005	REP-P	93-11-033	415-08-010	AMD-P	93-08-054
392-171-341	AMD-P	93-15-085	392-315-010	REP-E	93-08-037	415-08-010	AMD	93-11-079
392-171-351	AMD-P	93-15-085	392-315-010	REP-P	93-11-033	415-08-020	AMD-P	93-08-054
392-171-371	AMD-P	93-15-085	392-315-015	REP-E	93-08-037	415-08-020	AMD	93-11-079
392-171-381	AMD-P	93-15-085	392-315-015	REP-P	93-11-033	415-08-025	NEW-P	93-08-054
392-171-382	AMD-P	93-15-085	392-315-020	REP-E	93-08-037	415-08-025	NEW	93-11-079
392-171-383	AMD-P	93-15-085	392-315-020	REP-P	93-11-033	415-08-030	AMD-P	93-08-054
392-171-384	REP-P	93-15-085	392-315-025	REP-E	93-08-037	415-08-030	AMD	93-11-079
392-171-401	AMD-P	93-15-085	392-315-025	REP-P	93-11-033	415-08-040	AMD-P	93-08-054
392-171-452	NEW-P	93-15-085	392-315-030	REP-E	93-08-037	415-08-040	AMD	93-11-079
392-171-454	NEW-P	93-15-085	392-315-030	REP-P	93-11-033	415-08-060	REP-P	93-08-054
392-171-456	AMD-P	93-15-085	392-315-035	REP-E	93-08-037	415-08-060	REP	93-11-079
392-171-457	NEW-P	93-15-085	392-315-035	REP-P	93-11-033	415-08-080	AMD-P	93-08-054
392-171-461	AMD-P	93-15-085	392-315-040	REP-E	93-08-037	415-08-080	AMD	93-11-079
392-171-462	NEW-P	93-15-085	392-315-040	REP-P	93-11-033	415-08-090	AMD-P	93-08-054
392-171-463	NEW-P	93-15-085	392-315-045	REP-E	93-08-037	415-08-090	AMD	93-11-079
392-171-464	NEW-P	93-15-085	392-315-045	REP-P	93-11-033	415-08-100	AMD-P	93-08-054
392-171-466	AMD-P	93-15-085	392-315-050	REP-E	93-08-037	415-08-100	AMD	93-11-079
392-171-471	AMD-P	93-15-085	392-315-050	REP-P	93-11-033	415-08-105	NEW-P	93-08-054
392-171-476	AMD-P	93-15-085	392-315-055	REP-E	93-08-037	415-08-105	NEW	93-11-079
392-171-481	AMD-P	93-15-085	392-315-055	REP-P	93-11-033	415-08-110	REP-P	93-08-054
392-171-504	NEW-P	93-15-085	392-315-060	REP-E	93-08-037	415-08-110	REP	93-11-079
392-171-507	NEW-P	93-15-085	392-315-060	REP-P	93-11-033	415-08-120	REP-P	93-08-054
392-171-508	NEW-P	93-15-085	392-315-065	REP-E	93-08-037	415-08-120	REP	93-11-079
392-171-509	NEW-P	93-15-085	392-315-065	REP-P	93-11-033	415-08-130	REP-P	93-08-054
392-171-511	AMD-P	93-15-085	392-315-070	REP-E	93-08-037	415-08-130	REP	93-11-079
392-171-512	AMD-P	93-15-085	392-315-070	REP-P	93-11-033	415-08-140	REP-P	93-08-054
392-171-522	NEW-P	93-15-085	392-315-075	REP-E	93-08-037	415-08-140	REP	93-11-079
392-171-524	NEW-P	93-15-085	392-315-075	REP-P	93-11-033	415-08-150	REP-P	93-08-054
392-171-526	AMD-P	93-15-085	392-315-080	REP-E	93-08-037	415-08-150	REP	93-11-079
392-171-531	AMD-P	93-15-085	392-315-080	REP-P	93-11-033	415-08-160	REP-P	93-08-054
392-171-536	AMD-P	93-15-085	392-315-085	REP-E	93-08-037	415-08-160	REP	93-11-079
392-171-551	AMD-P	93-15-085	392-315-085	REP-P	93-11-033	415-08-170	REP-P	93-08-054
392-171-556	AMD-P	93-15-085	392-315-090	REP-E	93-08-037	415-08-170	REP	93-11-079
392-171-561	AMD-P	93-15-085	392-315-090	REP-P	93-11-033	415-08-180	REP-P	93-08-054
392-171-564	NEW-P	93-15-085	392-315-095	REP-E	93-08-037	415-08-180	REP	93-11-079
392-171-581	AMD-P	93-15-085	392-315-095	REP-P	93-11-033	415-08-190	REP-P	93-08-054
392-171-593	NEW-P	93-15-085	392-315-100	REP-E	93-08-037	415-08-190	REP	93-11-079
392-171-596	AMD-P	93-15-085	392-315-100	REP-P	93-11-033	415-08-200	REP-P	93-08-054
392-171-646	AMD-P	93-15-085	392-315-105	REP-E	93-08-037	415-08-200	REP	93-11-079
392-171-651	AMD-P	93-15-085	392-315-105	REP-P	93-11-033	415-08-210	REP-P	93-08-054
392-171-688	NEW-P	93-15-085	392-315-110	REP-E	93-08-037	415-08-210	REP	93-11-079
392-171-691	AMD-P	93-15-085	392-315-110	REP-P	93-11-033	415-08-220	REP-P	93-08-054
392-171-696	AMD-P	93-15-085	392-315-115	REP-E	93-08-037	415-08-220	REP	93-11-079
392-171-728	NEW-P	93-15-085	392-315-115	REP-P	93-11-033	415-08-230	REP-P	93-08-054
392-171-736	AMD-P	93-15-085	392-315-120	REP-E	93-08-037	415-08-230	REP	93-11-079
392-171-835	NEW-P	93-15-085	392-315-120	REP-P	93-11-033	415-08-240	REP-P	93-08-054
392-171-900	NEW-P	93-15-085	392-315-125	REP-E	93-08-037	415-08-240	REP	93-11-079
392-171-901	NEW-P	93-15-085	392-315-125	REP-P	93-11-033	415-08-250	REP-P	93-08-054
392-171-905	NEW-P	93-15-085	392-315-130	REP-E	93-08-037	415-08-250	REP	93-11-079
392-171-910	NEW-P	93-15-085	392-315-130	REP-P	93-11-033	415-08-260	REP-P	93-08-054
392-171-915	NEW-P	93-15-085	392-315-135	REP-E	93-08-037	415-08-260	REP	93-11-079
392-171-925	NEW-P	93-15-085	392-315-135	REP-P	93-11-033	415-08-270	REP-P	93-08-054
392-171-930	NEW-P	93-15-085	392-315-140	REP-E	93-08-037	415-08-270	REP	93-11-079
392-171-935	NEW-P	93-15-085	392-315-140	REP-P	93-11-033	415-08-280	AMD-P	93-08-054
392-171-940	NEW-P	93-15-085	392-315-145	REP-E	93-08-037	415-08-280	AMD	93-11-079
392-171-945	NEW-P	93-15-085	392-315-145	REP-P	93-11-033	415-08-290	REP-P	93-08-054
392-171-950	NEW-P	93-15-085	392-315-150	REP-E	93-08-037	415-08-290	REP	93-11-079
392-171-955	NEW-P	93-15-085	392-315-150	REP-P	93-11-033	415-08-300	REP-P	93-08-054
392-171-960	NEW-P	93-15-085	392-315-155	REP-E	93-08-037	415-08-300	REP	93-11-079
392-173-005	AMD-P	93-15-083	392-315-155	REP-P	93-11-033	415-08-310	REP-P	93-08-054
392-173-010	AMD-P	93-15-083	392-315-160	REP-E	93-08-037	415-08-310	REP	93-11-079
392-173-015	AMD-P	93-15-083	392-315-160	REP-P	93-11-033	415-08-320	REP-P	93-08-054
392-173-030	AMD-P	93-15-083	392-315-165	REP-E	93-08-037	415-08-320	REP	93-11-079
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415-08-350	REP	93-11-079	434-19-020	AMD-E	93-14-081	434-600-010	NEW	93-04-001
415-08-360	REP-P	93-08-054	434-19-056	AMD-E	93-14-081	434-610-010	NEW	93-04-001
415-08-360	REP	93-11-079	434-19-080	AMD-E	93-14-081	434-610-020	NEW	93-04-001
415-08-370	REP-P	93-08-054	434-19-081	AMD-E	93-14-081	434-610-025	NEW	93-04-001
415-08-370	REP	93-11-079	434-19-082	AMD-E	93-14-081	434-610-030	NEW	93-04-001
415-08-380	REP-P	93-08-054	434-19-083	AMD-E	93-14-081	434-610-040	NEW	93-04-001
415-08-380	REP	93-11-079	434-19-084	AMD-E	93-14-081	434-610-050	NEW	93-04-001
415-08-390	REP-P	93-08-054	434-19-085	AMD-E	93-14-081	434-610-060	NEW	93-04-001
415-08-390	REP	93-11-079	434-19-086	AMD-E	93-14-081	434-610-070	NEW	93-04-001
415-08-400	REP-P	93-08-054	434-19-087	AMD-E	93-14-081	434-610-080	NEW	93-04-001
415-08-400	REP	93-11-079	434-19-088	AMD-E	93-14-081	434-610-090	NEW	93-04-001
415-08-410	REP-P	93-08-054	434-19-097	AMD-E	93-14-081	434-610-100	NEW	93-04-001
415-08-410	REP	93-11-079	434-19-098	AMD-E	93-14-081	434-610-110	NEW	93-04-001
415-08-420	AMD-P	93-08-054	434-19-101	AMD-E	93-14-081	434-610-120	NEW	93-04-001
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415-08-430	REP-P	93-08-054	434-19-114	AMD-E	93-14-081	434-615-020	NEW	93-04-001
415-08-430	REP	93-11-079	434-19-118	AMD-E	93-14-081	434-615-030	NEW	93-04-001
415-08-440	REP-P	93-08-054	434-19-190	AMD-E	93-14-081	434-620-010	NEW	93-04-001
415-08-440	REP	93-11-079	434-19-191	AMD-E	93-14-081	434-624-010	NEW	93-04-001
415-08-450	REP-P	93-08-054	434-19-192	AMD-E	93-14-081	434-624-020	NEW	93-04-001
415-08-450	REP	93-11-079	434-19-193	AMD-E	93-14-081	434-624-030	NEW	93-04-001
415-08-460	REP-P	93-08-054	434-19-194	AMD-E	93-14-081	434-624-040	NEW	93-04-001
415-08-460	REP	93-11-079	434-19-195	AMD-E	93-14-081	434-624-050	NEW	93-04-001
415-08-470	REP-P	93-08-054	434-50-010	AMD-E	93-14-080	434-626-010	NEW	93-04-001
415-08-470	REP	93-11-079	434-50-010	AMD-E	93-14-107	434-626-020	NEW	93-04-001
415-08-480	REP-P	93-08-054	434-50-015	AMD-E	93-14-080	434-660-010	NEW-P	93-14-002
415-08-480	REP	93-11-079	434-50-015	AMD-E	93-14-107	434-663-001	NEW-P	93-14-001
415-104-011	NEW-P	93-08-053	434-50-020	AMD-E	93-14-080	434-663-005	NEW-P	93-14-001
415-104-011	NEW	93-11-078	434-50-020	AMD-E	93-14-107	434-663-020	NEW-P	93-14-001
415-104-782	NEW-P	93-08-053	434-50-031	NEW-E	93-14-080	434-663-030	NEW-P	93-14-001
415-104-782	NEW	93-11-078	434-50-031	NEW-E	93-14-107	434-663-050	NEW-P	93-14-001
415-104-783	NEW-P	93-08-053	434-50-032	NEW-E	93-14-080	434-663-060	NEW-P	93-14-001
415-104-783	NEW	93-11-078	434-50-032	NEW-E	93-14-107	434-663-070	NEW-P	93-14-001
415-104-784	NEW-P	93-08-053	434-50-033	NEW-E	93-14-080	440-25-005	NEW-E	93-11-050
415-104-784	NEW	93-11-078	434-50-033	NEW-E	93-14-107	440-25-005	NEW-P	93-11-052
415-104-785	NEW-P	93-08-053	434-50-034	NEW-E	93-14-080	440-25-005	NEW	93-15-014
415-104-785	NEW	93-11-078	434-50-034	NEW-E	93-14-107	440-25-010	NEW-E	93-11-050
415-108-010	AMD-P	93-08-052	434-50-035	AMD-E	93-14-080	440-25-010	NEW-P	93-11-052
415-108-010	AMD	93-11-077	434-50-035	AMD-E	93-14-107	440-25-010	NEW	93-15-014
415-108-100	REP-P	93-08-052	434-50-036	NEW-E	93-14-080	440-25-020	NEW-E	93-11-050
415-108-100	REP	93-11-077	434-50-036	NEW-E	93-14-107	440-25-020	NEW-P	93-11-052
415-108-110	REP-P	93-08-052	434-50-037	NEW-E	93-14-080	440-25-020	NEW	93-15-014
415-108-110	REP	93-11-077	434-50-037	NEW-E	93-14-107	440-25-030	NEW-E	93-11-050
415-108-120	REP-P	93-08-052	434-50-038	NEW-E	93-14-109	440-25-030	NEW-P	93-11-052
415-108-120	REP	93-11-077	434-50-040	AMD-E	93-14-080	440-25-030	NEW	93-15-014
415-108-130	REP-P	93-08-052	434-50-040	AMD-E	93-14-107	440-25-040	NEW-E	93-11-050
415-108-130	REP	93-11-077	434-50-045	AMD-E	93-14-080	440-25-040	NEW-P	93-11-052
415-108-150	REP-P	93-08-052	434-50-045	AMD-E	93-14-107	440-25-040	NEW	93-15-014
415-108-150	REP	93-11-077	434-50-050	AMD-E	93-14-080	440-25-050	NEW-E	93-11-050
415-108-160	REP-P	93-08-052	434-50-050	AMD-E	93-14-107	440-25-050	NEW-P	93-11-052
415-108-160	REP	93-11-077	434-50-055	AMD-E	93-14-080	440-25-050	NEW	93-15-014
415-108-620	NEW-P	93-08-052	434-50-055	AMD-E	93-14-107	440-25-060	NEW-E	93-11-050
415-108-620	NEW	93-11-077	434-60-010	NEW-P	93-15-058	440-25-060	NEW-P	93-11-052
415-108-630	NEW-P	93-08-052	434-60-020	NEW-P	93-15-058	440-25-060	NEW	93-15-014
415-108-630	NEW	93-11-077	434-60-030	NEW-P	93-15-058	440-25-070	NEW-E	93-11-050
415-108-640	NEW-P	93-08-052	434-60-040	NEW-P	93-15-058	440-25-070	NEW-P	93-11-052
415-108-640	NEW	93-11-077	434-60-050	NEW-P	93-15-058	440-25-070	NEW	93-15-014
415-108-650	NEW-P	93-08-052	434-60-060	NEW-P	93-15-058	440-25-080	NEW-E	93-11-050
415-108-650	NEW	93-11-077	434-60-070	NEW-P	93-15-058	440-25-080	NEW-P	93-11-052
415-108-660	NEW-P	93-08-052	434-60-080	NEW-P	93-15-058	440-25-080	NEW	93-15-014
415-108-660	NEW	93-11-077	434-60-090	NEW-P	93-15-058	440-25-090	NEW-E	93-11-050
415-108-671	NEW-E	93-15-059	434-60-100	NEW-P	93-15-058	440-25-090	NEW-P	93-11-052
415-108-671	NEW-P	93-15-082	434-60-110	NEW-P	93-15-058	440-25-090	NEW	93-15-014
415-112-015	NEW-P	93-08-051	434-60-120	NEW-P	93-15-058	440-25-100	NEW-E	93-11-050
415-112-535	REP-P	93-08-051	434-60-130	NEW-P	93-15-058	440-25-100	NEW-P	93-11-052
415-112-561	NEW-E	93-15-059	434-60-140	NEW-P	93-15-058	440-25-100	NEW	93-15-014
415-112-561	NEW-P	93-15-082	434-60-150	NEW-P	93-15-058	440-25-110	NEW-E	93-11-050
415-112-722	REP-P	93-08-051	434-60-160	NEW-P	93-15-058	440-25-110	NEW-P	93-11-052
415-112-810	AMD-P	93-08-051	434-60-170	NEW-P	93-15-058	440-25-110	NEW	93-15-014
415-112-820	AMD-P	93-08-051	434-60-180	NEW-P	93-15-058	440-25-120	NEW-E	93-11-050
415-112-830	NEW-P	93-08-051	434-60-190	NEW-P	93-15-058	440-25-120	NEW-P	93-11-052

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
440-25-120	NEW	93-15-014	458-61-110	REP-E	93-14-015	468-16-180	AMD	93-03-020
446-40-070	AMD-P	93-10-001	458-61-120	AMD-E	93-14-015	468-16-190	AMD	93-03-020
446-40-070	AMD	93-15-074	458-61-130	AMD-E	93-14-015	468-16-200	AMD	93-03-020
446-80-005	NEW-P	93-13-119	458-61-140	REP-E	93-14-015	468-38-360	AMD	93-04-071
446-80-010	NEW-P	93-13-119	458-61-150	AMD-E	93-14-015	468-52-010	NEW	93-03-033
458-12-010	AMD-P	93-05-016	458-61-200	AMD-E	93-14-015	468-52-020	NEW	93-03-033
458-12-010	AMD	93-08-049	458-61-210	AMD-E	93-14-015	468-52-030	NEW	93-03-033
458-12-240	REP-P	93-05-016	458-61-220	AMD-E	93-14-015	468-52-040	NEW	93-03-033
458-12-240	REP	93-08-049	458-61-230	AMD-E	93-14-015	468-52-050	NEW	93-03-033
458-12-342	AMD-P	93-05-016	458-61-235	NEW-E	93-14-015	468-52-060	NEW	93-03-033
458-12-342	AMD	93-08-049	458-61-240	REP-E	93-14-015	468-52-070	NEW	93-03-033
458-14-015	AMD-P	93-05-015	458-61-250	AMD-E	93-14-015	468-95-035	NEW-C	93-07-055
458-14-015	AMD	93-08-050	458-61-255	NEW-E	93-14-015	468-95-035	NEW-C	93-10-068
458-14-025	AMD-P	93-05-015	458-61-270	REP-E	93-14-015	468-95-037	NEW-C	93-07-055
458-14-025	AMD	93-08-050	458-61-280	REP-E	93-14-015	468-95-037	NEW-C	93-10-068
458-14-026	NEW-P	93-05-015	458-61-300	AMD-E	93-14-015	468-300-010	AMD-P	93-14-113
458-14-026	NEW	93-08-050	458-61-310	REP-E	93-14-015	468-300-020	AMD-P	93-14-113
458-14-127	AMD-P	93-05-015	458-61-320	REP-E	93-14-015	468-300-040	AMD-P	93-14-113
458-14-127	AMD	93-08-050	458-61-330	AMD-E	93-14-015	468-300-700	AMD-P	93-08-012
458-14-170	AMD-P	93-05-015	458-61-335	AMD-E	93-14-015	468-300-700	AMD-W	93-09-048
458-14-170	AMD	93-08-050	458-61-340	AMD-E	93-14-015	468-300-700	AMD-E	93-13-027
458-14-171	NEW-P	93-05-015	458-61-360	REP-E	93-14-015	468-300-700	AMD-P	93-13-059
458-14-171	NEW	93-08-050	458-61-370	AMD-E	93-14-015	478-116-370	AMD-P	93-08-110
458-18-220	AMD-P	93-03-024	458-61-375	NEW-E	93-14-015	478-116-370	AMD	93-14-130
458-18-220	AMD-E	93-03-025	458-61-376	NEW-E	93-14-015	478-116-400	AMD-P	93-08-110
458-18-220	AMD	93-06-096	458-61-380	REP-E	93-14-015	478-116-400	AMD	93-14-130
458-20-101	PREP	93-02-046	458-61-390	REP-E	93-14-015	478-116-410	REP-P	93-08-110
458-20-101	AMD-P	93-08-013	458-61-400	AMD-E	93-14-015	478-116-410	REP	93-14-130
458-20-101	AMD	93-13-126	458-61-410	AMD-E	93-14-015	478-116-420	REP-P	93-08-110
458-20-102	AMD-E	93-13-085	458-61-420	AMD-E	93-14-015	478-116-420	REP	93-14-130
458-20-115	PREP	93-12-111	458-61-430	AMD-E	93-14-015	478-116-430	REP-P	93-08-110
458-20-115	AMD-P	93-15-064	458-61-440	REP-E	93-14-015	478-116-430	REP	93-14-130
458-20-116	PREP	93-12-112	458-61-450	REP-E	93-14-015	478-116-440	AMD-P	93-08-110
458-20-116	AMD-P	93-15-065	458-61-460	REP-E	93-14-015	478-116-440	AMD	93-14-130
458-20-117	PREP	93-12-113	458-61-470	AMD-E	93-14-015	478-116-450	AMD-P	93-08-110
458-20-117	AMD-P	93-15-066	458-61-480	AMD-E	93-14-015	478-116-450	AMD	93-14-130
458-20-119	AMD-P	93-07-069	458-61-490	REP-E	93-14-015	478-116-460	AMD-P	93-08-110
458-20-124	AMD-P	93-07-070	458-61-500	REP-E	93-14-015	478-116-460	AMD	93-14-130
458-20-149	REP	93-03-005	458-61-510	AMD-E	93-14-015	478-116-470	REP-P	93-08-110
458-20-150	PREP	93-12-114	458-61-520	AMD-E	93-14-015	478-116-470	REP	93-14-130
458-20-150	AMD-P	93-15-067	458-61-530	REP-E	93-14-015	478-116-480	REP-P	93-08-110
458-20-167	PREP	93-12-115	458-61-540	AMD-E	93-14-015	478-116-480	REP	93-14-130
458-20-168	AMD-E	93-13-086	458-61-548	NEW-E	93-14-015	478-116-490	REP-P	93-08-110
458-20-174	PREP	93-02-047	458-61-550	AMD-E	93-14-015	478-116-490	REP	93-14-130
458-20-17901	AMD-P	93-04-045	458-61-553	NEW-E	93-14-015	478-116-500	REP-P	93-08-110
458-20-17901	AMD	93-07-066	458-61-555	AMD-E	93-14-015	478-116-500	REP	93-14-130
458-20-229	AMD	93-04-077	458-61-560	REP-E	93-14-015	478-116-510	REP-P	93-08-110
458-20-230	AMD	93-03-004	458-61-570	REP-E	93-14-015	478-116-510	REP	93-14-130
458-20-900	NEW-E	93-13-087	458-61-590	AMD-E	93-14-015	478-116-511	REP-P	93-08-110
458-30-262	AMD-P	93-04-020	458-61-610	AMD-E	93-14-015	478-116-511	REP	93-14-130
458-30-262	AMD-E	93-04-021	458-61-620	REP-E	93-14-015	478-116-520	AMD-P	93-08-110
458-30-262	AMD	93-07-067	458-61-630	REP-E	93-14-015	478-116-520	AMD	93-14-130
458-40-634	PREP	93-07-068	458-61-640	AMD-E	93-14-015	478-116-530	REP-P	93-08-110
458-40-634	AMD-P	93-11-081	458-61-650	AMD-E	93-14-015	478-116-530	REP	93-14-130
458-40-634	AMD	93-14-090	458-61-660	AMD-E	93-14-015	478-116-540	AMD-P	93-08-110
458-40-640	PREP	93-13-102	458-61-670	AMD-E	93-14-015	478-116-540	AMD	93-14-130
458-40-660	AMD-P	93-10-091	458-61-680	REP-E	93-14-015	478-116-550	AMD-P	93-08-110
458-40-660	AMD	93-14-051	458-61-690	REP-E	93-14-015	478-116-550	AMD	93-14-130
458-40-670	AMD-P	93-10-091	463-30-055	NEW-P	93-07-094	478-116-560	REP-P	93-08-110
458-40-670	AMD	93-14-051	463-30-055	NEW	93-12-013	478-116-560	REP	93-14-130
458-40-690	PREP	93-09-029	468-16-030	AMD	93-03-020	478-116-582	AMD-P	93-08-110
458-61-010	REP-E	93-14-015	468-16-040	AMD	93-03-020	478-116-582	AMD	93-14-130
458-61-015	NEW-E	93-14-015	468-16-050	AMD	93-03-020	478-116-586	AMD-P	93-08-110
458-61-020	REP-E	93-14-015	468-16-060	AMD	93-03-020	478-116-586	AMD	93-14-130
458-61-025	NEW-E	93-14-015	468-16-070	AMD	93-03-020	478-116-588	AMD-P	93-08-110
458-61-030	AMD-E	93-14-015	468-16-090	AMD	93-03-020	478-116-588	AMD	93-14-130
458-61-040	REP-E	93-14-015	468-16-100	AMD	93-03-020	478-116-589	NEW-P	93-08-110
458-61-050	AMD-E	93-14-015	468-16-120	AMD	93-03-020	478-116-589	NEW	93-14-130
458-61-060	AMD-E	93-14-015	468-16-130	AMD	93-03-020	478-116-601	AMD-P	93-08-110
458-61-070	AMD-E	93-14-015	468-16-140	AMD	93-03-020	478-116-601	AMD	93-14-130
458-61-080	AMD-E	93-14-015	468-16-150	AMD	93-03-020	480-12-010	AMD-P	93-11-098
458-61-090	AMD-E	93-14-015	468-16-160	AMD	93-03-020	480-12-010	AMD	93-15-036
458-61-100	AMD-E	93-14-015	468-16-170	AMD	93-03-020	480-12-083	AMD-P	93-11-099

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480-12-150	AMD-P	93-11-097	490-276-010	NEW-P	93-02-045	495B-120-060	NEW	93-05-018
480-12-150	AMD	93-15-038	490-276-010	NEW	93-06-005	495B-120-070	NEW	93-05-018
480-12-181	AMD	93-05-038	490-276-020	NEW-P	93-02-045	495B-120-080	NEW	93-05-018
480-12-285	AMD-P	93-11-098	490-276-020	NEW	93-06-005	495B-120-090	NEW	93-05-018
480-12-285	AMD	93-15-036	490-276-030	NEW-P	93-02-045	495B-120-100	NEW	93-05-018
480-30-015	AMD-P	93-11-099	490-276-030	NEW	93-06-005	495B-120-110	NEW	93-05-018
480-30-015	AMD	93-15-035	490-276-040	NEW-P	93-02-045	495B-120-120	NEW	93-05-018
480-30-030	AMD-P	93-11-096	490-276-040	NEW	93-06-005	495B-120-130	NEW	93-05-018
480-30-030	AMD	93-15-037	490-276-050	NEW-P	93-02-045	495B-120-135	NEW	93-05-018
480-35-030	AMD-P	93-11-096	490-276-050	NEW	93-06-005	495B-120-140	NEW	93-05-018
480-35-030	AMD	93-15-037	490-276-060	NEW-P	93-02-045	495B-120-150	NEW	93-05-018
480-40-015	AMD-P	93-11-099	490-276-060	NEW	93-06-005	495B-120-160	NEW	93-05-018
480-40-015	AMD	93-15-035	490-276-070	NEW-P	93-02-045	495B-120-170	NEW	93-05-018
480-40-030	AMD-P	93-11-096	490-276-070	NEW	93-06-005	495B-120-180	NEW	93-05-018
480-40-030	AMD	93-15-037	490-276-080	NEW-P	93-02-045	495B-120-190	NEW	93-05-018
480-70-055	AMD-P	93-11-099	490-276-080	NEW	93-06-005	495B-120-200	NEW	93-05-018
480-70-055	AMD	93-15-035	490-276-090	NEW-P	93-02-045	495B-122-010	NEW	93-05-018
480-70-700	NEW-P	93-13-139	490-276-090	NEW	93-06-005	495B-122-020	NEW	93-05-018
480-70-710	NEW-P	93-13-139	490-276-100	NEW-P	93-02-045	495B-122-030	NEW	93-05-018
480-70-720	NEW-P	93-13-139	490-276-100	NEW	93-06-005	495B-130-010	NEW	93-05-018
480-70-730	NEW-P	93-13-139	490-276-110	NEW-P	93-02-045	495B-131-010	NEW	93-05-018
480-70-740	NEW-P	93-13-139	490-276-110	NEW	93-06-005	495B-132-010	NEW	93-05-018
480-70-750	NEW-P	93-13-139	490-276-120	NEW-P	93-02-045	495B-133-020	NEW	93-05-018
480-70-760	NEW-P	93-13-139	490-276-120	NEW	93-06-005	495B-134-010	NEW	93-05-018
480-70-770	NEW-P	93-13-139	490-276-130	NEW-P	93-02-045	495B-140-010	NEW	93-05-018
480-70-780	NEW-P	93-13-139	490-276-130	NEW	93-06-005	495B-140-020	NEW	93-05-018
480-70-790	NEW-P	93-13-139	490-276-140	NEW-P	93-02-045	495B-140-030	NEW	93-05-018
480-80-390	AMD	93-09-050	490-276-140	NEW	93-06-005	495B-140-040	NEW	93-05-018
480-93-010	AMD-P	93-13-035	495B-104-010	NEW	93-05-018	495B-140-050	NEW	93-05-018
480-110-023	NEW-P	93-06-056	495B-104-020	NEW	93-05-018	495B-140-060	NEW	93-05-018
480-110-023	NEW	93-12-062	495B-104-030	NEW	93-05-018	495B-140-070	NEW	93-05-018
480-110-176	AMD-P	93-06-056	495B-108-010	NEW	93-05-018	495B-140-080	NEW	93-05-018
480-110-176	AMD	93-12-062	495B-108-020	NEW	93-05-018	495B-140-090	NEW	93-05-018
480-120-021	AMD	93-06-055	495B-108-030	NEW	93-05-018	495B-140-100	NEW	93-05-018
480-120-031	AMD-P	93-02-068	495B-108-040	NEW	93-05-018	495B-140-110	NEW	93-05-018
480-120-031	AMD	93-07-089	495B-108-050	NEW	93-05-018	495B-168-010	NEW	93-05-018
480-120-051	AMD	93-06-055	495B-108-060	NEW	93-05-018	495B-168-020	NEW	93-05-018
480-120-086	REP	93-06-055	495B-108-070	NEW	93-05-018	495B-168-030	NEW	93-05-018
480-120-350	NEW-P	93-05-013	495B-108-080	NEW	93-05-018	495B-168-040	NEW	93-05-018
480-120-350	NEW	93-11-026	495B-116-010	NEW	93-05-018	495B-168-050	NEW	93-05-018
480-120-500	NEW	93-06-055	495B-116-020	NEW	93-05-018	495B-168-060	NEW	93-05-018
480-120-505	NEW	93-06-055	495B-116-030	NEW	93-05-018	495B-276-010	NEW	93-05-018
480-120-510	NEW	93-06-055	495B-116-040	NEW	93-05-018	495B-276-020	NEW	93-05-018
480-120-515	NEW	93-06-055	495B-116-050	NEW	93-05-018	495B-276-030	NEW	93-05-018
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