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IN THIS ISSUE

Agriculture, Department of
Attorney General, Office of the
Banking, Division of
Bellevue Community College
Bellingham Technical College
Building Code Council
Business License Services
County Road Administration Board
Dental Disciplinary Board
Eastern Washington University
Ecology, Department of
Employment Security Department
Fisheries, Department of
Gambling Commission
General Administration, Department of
Health, Department of
Higher Education Coordinating Board
Higher Education, Joint Center for
Higher Education Personnel Board
Highline Community College

Labor and Industries, Department of
Lake Washington Technical College
Licensing, Department of
Lottery Commission
Marine Oversight Board
Minority and Women's Business Enterprises,
Office of
Northwest Air Pollution Authority
Parks and Recreation Commission
Personnel, Department of
Personnel Resources Board
Psychology, Examining Board of
Public Disclosure Commission
Revenue, Department of
Secretary of State
Social and Health Services, Department of
Southwest Air Pollution Control Authority
Transportation, Department of
Volunteer Firefighters, Board for
Washington State Patrol

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than August 4, 1993

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.

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

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PROPOSED**-includes the full text of preproposal comments, original proposals, continuances, supplemental notices, and withdrawals.
- (b) **PERMANENT**-includes the full text of permanently adopted rules.
- (c) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (d) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (e) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (f) **INDEX**-includes a combined subject matter and agency index.

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) deleted material is (~~lined out between double parentheses~~);
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE IF RULES

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

5. EDITORIAL CORRECTIONS

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

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

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<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
92-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
92-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
92-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1993
93-01	Nov 25	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 26
93-02	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 9
93-03	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 3	Feb 23
93-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 9
93-05	Jan 20	Feb 3	Feb 17	Mar 3	Mar 23
93-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
93-07	Feb 24	Mar 10	Mar 24	Apr 7	Apr 27
93-08	Mar 10	Mar 24	Apr 7	Apr 21	May 11
93-09	Mar 24	Apr 7	Apr 21	May 5	May 25
93-10	Apr 7	Apr 21	May 5	May 19	Jun 8
93-11	Apr 21	May 5	May 19	Jun 2	Jun 22
93-12	May 5	May 19	Jun 2	Jun 16	Jul 6
93-13	May 26	Jun 9	Jun 23	Jul 7	Jul 27
93-14	Jun 9	Jun 23	Jul 7	Jul 21	Aug 10
93-15	Jun 23	Jul 7	Jul 21	Aug 4	Aug 24
93-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
93-17	Jul 21	Aug 4	Aug 18	Sep 1	Sep 21
93-18	Aug 4	Aug 18	Sep 1	Sep 15	Oct 5
93-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
93-20	Sep 8	Sep 22	Oct 6	Oct 20	Nov 9
93-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994

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

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

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

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;

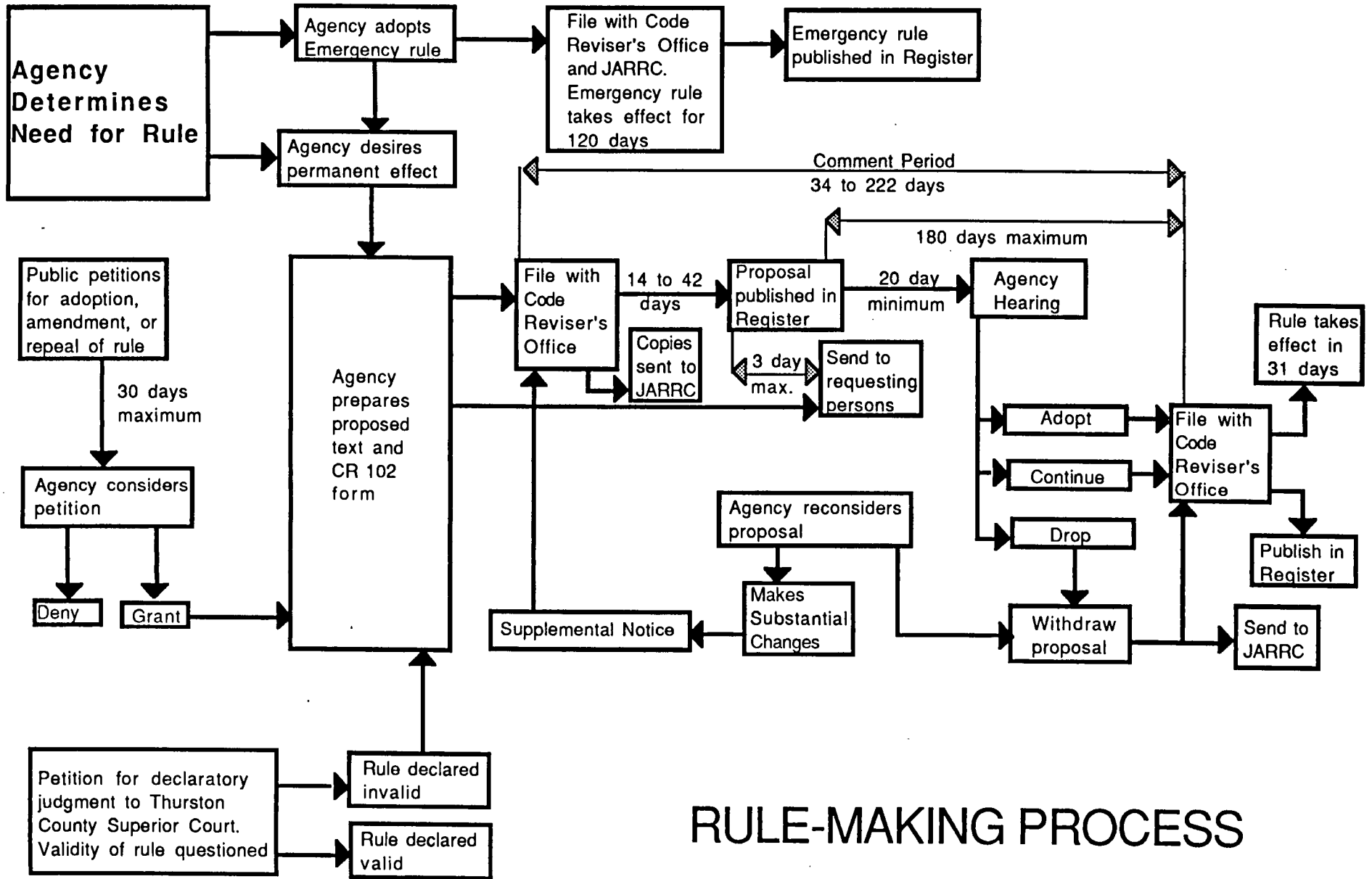
There is no economic impact on business;

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 93-14-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed June 30, 1993, 3:03 p.m.]

Original Notice.

Title of Rule: Chapter 388-96 WAC, Nursing home accounting and reimbursement system. WAC 388-96-756 and 388-96-775 are repealed.

Purpose: To implement changes to the Medicaid payment system for nursing facilities adopted by the 1993 state legislature, effective July 1, 1993.

Statutory Authority for Adoption: RCW 74.46.800 and 74.09.120.

Statute Being Implemented: RCW 74.46.800 and 74.09.120.

Summary: These changes to the Medicaid payment system for nursing facilities comply with ESSB 5724 (chapter 13, Laws of 1993) and ESSB 5966 (chapter 3, Laws of 1993) making amendments to the Medicaid payment system, effective July 1, 1993.

Reasons Supporting Proposal: To implement changes to the Medicaid payment system for nursing facilities adopted by the 1993 state legislature, effective July 1, 1993, to comply with ESSB 5724 and ESSB 5966.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Gray, Aging and Adult Services Administration, 493-2588.

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 Issuances by August 24, 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 664-0018 [664-0118] or SCAN 366-0118, by August 31, 1993.

Date of Intended Adoption: September 14, 1993.

June 30, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (a) Decision-making;
- (b) Planning;
- (c) Evaluating performance;
- (d) Controlling resources and operations; and
- (e) External financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

(3) "Administration and management" means activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" - See WAC 388-96-501.

(5) "Ancillary care" means services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the market-place.

(a) Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter.

(b) Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

- (i) Through the exercise of any option, warrant, or right;
- (ii) Through the conversion of an ownership interest;
- (iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or
- (iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee takes:

- (i) Formal steps necessary required to declare a default; and
- (ii) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised provided the pledge agreement:

(A) Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (10)(b) of this section; and

(B) Prior to default, does not grant the pledgee the power to:

- (I) Vote or direct the vote of the pledged ownership interest; or
- (II) Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(11) "Capitalization" means the recording of an expenditure as an asset.

(12) "Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

(14) "Change of ownership" means a change in the individual or legal organization responsible for the daily operation of a nursing home.

(a) Events which change ownership include but are not limited to the following:

- (i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);
- (ii) Title to the nursing home business enterprise is transferred by the contractor to another party;
- (iii) Where the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation; or

(v) Any other event occurs which results in a change of operating entity.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating decisions;

(ii) If the contractor is a corporation, some or all of its stock is transferred; or

(iii) The real property or personal property assets associated with the nursing home change ownership or are leased, or a lease of them is terminated, without a change of operating entity.

(15) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" means a contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "Contractor" means an entity which contracts with the department to deliver care services to medical care recipients in a facility. The entity is responsible for operational decisions.

(18) "Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" means the local community services office of the department.

(20) "Department" means the department of social and health services (DSHS) and employees.

(21) "Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" means an asset the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) An asset purchased using donated funds is not a donated asset.

(23) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(25) "Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(27) "Fair market value" means:

(a) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell; or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is determined.

(28) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to:

- (a) Balance sheet;
- (b) Statement of operations;
- (c) Statement of changes in financial position; and
- (d) Related notes.

(29) "Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "fiscal year" may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

(30) "Gain on sale" means the actual total sales price of all tangible and intangible nursing home assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

(31) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the Financial Accounting Standards Board (FASB).

(32) "Generally accepted auditing standards (GAAS)" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(33) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and

(b) An asset over the fair market value of the asset.

(34) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(35) ~~("ICF" means:~~

~~(a) An intermediate care facility when referring to a nursing home;~~

~~(b) When referring to a level of care, intermediate care; and~~

~~(c) When referring to a patient, a patient requiring intermediate care.~~

~~(36))~~ (36) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

~~(37))~~ (37) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

~~(38) "Intermediate care facility" means a licensed facility certified to deliver intermediate care services to medical care recipients.~~

~~(39))~~ (39) "Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

~~(40))~~ (40) "Lease agreement" means a contract between two parties for the possession and use of real or

personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

~~((41) "Levels of care" means the classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.~~

~~(42))~~ (39) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

~~((43))~~ (40) "Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

~~((44))~~ (41) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and ~~((SNF and/or ICF))~~ nursing facility, or a boarding home and ~~((SNF and/or ICF))~~ nursing facility. ~~((A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.~~

~~(45))~~ (42) "Net book value" means the historical cost of an asset less accumulated depreciation.

~~((46))~~ (43) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital which shall be five percent of the ~~((allowable costs of each))~~ product of the sum of the contractor's per patient day component rates in nursing services, food, administrative, operational, and property, multiplied by the contractor's prior calendar year reported patient days as adjusted for the following July 1 rate setting for the contractor ((for the previous calendar year)). Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

~~((47))~~ (44) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

~~((48))~~ (45) "Nonallowable costs" means the same as "unallowable costs."

~~((49))~~ (46) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

~~((50))~~ (47) "Nursing ~~((home))~~ facility" means a home, place, or institution, licensed under chapter 18.51 RCW, where skilled nursing and/or intermediate care services are delivered.

~~((51))~~ (48) "Operating lease" means a lease under which rental or lease expenses are included in current

expenses in accordance with generally accepted accounting principles.

~~((52))~~ (49) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

~~((53))~~ (50) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form the beneficial ownership takes.

~~((54))~~ (51) "Patient day" means a calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when the patient is assigned a bed and a patient medical record is opened.

~~((55))~~ (52) "Per diem (per patient day) costs" means total allowable costs for a fiscal period divided by total patient days for the same period.

~~((56))~~ (53) "Professionally designated real estate appraiser" means an individual:

(a) Regularly engaged in the business of providing real estate valuation services for a fee;

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports;

(ii) Passing of written examination on valuation practice and theory; and

(iii) Requirement to subscribe and adhere to certain standards of professional practice as the organization prescribes.

~~((57))~~ (54) "Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

~~((58))~~ (55) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; ~~((59))~~

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of education or training, and meeting all requirements of state law~~((:));~~ or

(i) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((59))~~ (56) "Recipient" means a medical care recipient.

~~((60))~~ (57) "Records" means data supporting all financial statements and cost reports including, but not limited to:

(a) All general and subsidiary ledgers;

(b) Books of original entry;

(c) Invoices;

(d) Schedules;

(e) Summaries; and

(f) Transaction documentation, however maintained.

~~((61))~~ (58) "Regression analysis" means a statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

~~((62))~~ (59) "Related care" includes:

(a) The director of nursing services;

(b) Activities and social services programs;

(c) Medical and medical records specialists; and

(d) Consultation provided by:

(i) Medical directors;

(ii) Pharmacists;

(iii) Occupational therapists;

(iv) Physical therapists;

(v) Speech therapists; and

(vi) Other therapists; and

(vii) Mental health professionals as defined in law and regulation.

~~((63))~~ (60) "Related organization" means an entity under common ownership and/or control, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

~~((64))~~ (61) "Relative" includes:

(a) Spouse;

(b) Natural parent, child, or sibling;

(c) Adopted child or adoptive parent;

(d) Stepparent, stepchild, stepbrother, stepsister;

(e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(f) Grandparent or grandchild; and

(g) Uncle, aunt, nephew, niece, or cousin.

~~((65))~~ (62) "Restricted fund" means a fund for which the use of the principal and/or income is restricted by agreement with or direction of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

~~((66))~~ (63) "Secretary" means the secretary of the department of social and health services (DSHS).

~~((67))~~ "Skilled nursing facility" means a licensed facility certified to deliver skilled nursing care services to medical care recipients.

~~(68)~~ "SNF" means:

(a) When referring to a facility, a skilled nursing facility;

(b) When referring to a level of care, skilled nursing care; and

(c) When referring to a patient, a patient requiring skilled nursing care.

~~(69))~~ (64) "Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

- (a) Administrative and nursing salaries;
- (b) Utility costs;
- (c) Taxes;
- (d) Insurance;
- (e) Repairs and maintenance; and
- (f) Training costs.

Start-up costs do not include expenditures for capital assets.

~~((70))~~ (65) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

~~((71))~~ (66) "Unallowable costs" means costs which do not meet every test of an allowable cost.

~~((72))~~ (67) "Uniform chart of accounts" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

~~((73))~~ (68) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

~~((74))~~ (69) "Working capital" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-023 Conditions of participation. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing (~~home~~) or multiservice facility shall:

(1) Obtain a state certificate of need approval pursuant to chapter 70.38 RCW where required;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide ~~((SNF and/or ICF))~~ nursing facility services;

(4) Hold a current contract to provide ~~((SNF and/or ICF))~~ nursing facility services; and

(5) Obtain and continuously maintain Medicare certification, under 42 USC 1395 (Title XVIII of the Social Security Act), as amended, ~~((for no less than fifteen percent))~~ for a portion of the licensed beds of the facility.

(6) Comply with all provisions of the contract, chapter 74.46 RCW, and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

AMENDATORY SECTION (Amending Order 2799, filed 5/24/89)

WAC 388-96-210 Scope of field audits. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each contractor for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all ~~((#4))~~ peer group cost center limit adjustments as provided in subsections (4) and (5) of this section and other desk review adjustments previously made to the reported costs being audited, that is, made to such costs for the purpose of establishing a contractor's July 1 medicaid rate following the cost report period under audit.

(4) Beginning with 1992 audits, in auditing cost reports for all calendar years ending six months before the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center without inflating or deflating such limits by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(5) Beginning with 1993 audits, in auditing cost reports for all calendar years ending six months after the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center, calculated on adjusted cost report data for the preceding report year ending six months prior to the start of the new biennium but inflated or deflated by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(6) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-226 Shifting provisions. In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in a cost center to cover a deficit and/or underpayment in another cost center up to the amount of the savings, provided:

- (1) Contractors may not shift more than twenty percent of the rate in a cost center into that cost center;
- (2) Contractors may not shift into the property cost center;
- (3) Beginning January 1, 1988, contractors may not shift out of the nursing services cost center;
- (4) Beginning January 1, 1988, contractors may shift savings and/or overpayments in the food cost center only to cover deficits and/or underpayments in the nursing services cost center; and
- (5) Beginning January 1, 1988, contractors shall shift payments in the enhancement cost center shown to have been spent for legislatively authorized enhancements, funding for which terminated June 30, 1990, to nonadministrative wages and benefits to the nursing services and administration and operations cost centers, as appropriate. Such funds shall be shifted for no other purpose(-);

(6) Beginning January 1, 1993, contractors shall not shift from the operational cost center to the administrative cost center;

(7) For calendar years 1992 and 1993 only, and for final settlement purposes only, a contractor may shift, as authorized in this section, rate payments into the appropriate cost center without regard to the peer group median cost plus percentage limit for that cost center used by the department to establish the facility's July 1 rate following the period being settled.

(8) Beginning with final settlements for calendar year 1994 and following, a contractor may not shift rate payments into any cost center, for settlement or any other purpose, if the total rate payment in that cost center, after shifting, would exceed the contractor's peer group median cost plus percentage limit for that cost center previously used by the department in establishing that facility's July 1 rate in that cost center following the period being settled.

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 2573, filed 12/23/87)

WAC 388-96-228 Cost savings. (1) ~~((Contractors shall refund all payments in excess of allowable costs:~~

- ~~(a) Received prior to July 1, 1983;~~
- ~~(b) For medical care recipients; and~~
- ~~(c) For patient care, food, administration and operations, and property cost areas, taking into account any authorized shifting.~~

(2) Beginning July 1, 1983, contractors shall be permitted to retain a portion of payments received in the administration and operations and property cost areas for recipients, in excess of allowable costs for those recipients,)) Beginning

with settlements for calendar year 1993 and following, contractors may not retain cost savings if the sum of the reported costs in the property and administrative cost centers exceeds audited allowable costs in those cost centers by a total of ten cents or more per patient day. For facilities that qualify, cost savings will be determined according to the following procedures:

(a) Based upon the latest information available, the department shall, by December 31st of each year, notify contractors of the fiftieth percentile rates in the ~~((administration and operations))~~ administrative and property cost areas for the period July 1st through December 31st.

(b) A contractor shall be permitted to retain, after allowable shifting, seventy-five percent of cost savings in the ~~((administration and operations))~~ administrative cost area or the property cost area, multiplied by medical care recipient days of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is at or below the fiftieth percentile rate.

(c) A contractor shall be permitted to retain, after allowable shifting, fifty percent of cost savings in the ~~((administration and operations))~~ administrative cost area or property cost area, multiplied by medical care recipient days of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is above the fiftieth percentile rate.

~~((d) Contractors may not retain cost savings for calendar year 1985 and subsequently if the sum of the reported costs in the property cost center and the administration and operations cost center exceed audited allowable costs in those cost centers by ten cents or more per patient day.))~~

(3) The department shall recover cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to the ratio of medical care recipients to other patients at the facility.

(4) For the 1983 cost reporting period, the department shall compute cost savings but shall prorate allowable savings by the proportion of medicaid patient days reported for July 1st through December 31st to the total number of medicaid patient days reported for the year.

(5) The department shall compute cost savings calculated for the final settlement on closing cost reports using property costs without consideration of any gain or loss on the sale of assets in the report year.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-505 Offset of miscellaneous revenues.

(1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the property ~~((and administration and operations))~~, administrative, and operational cost areas only. In the property cost area, the amount of reduction will be determined by dividing a facility's allowable property costs

by total patient days and multiplying the result by total hold-room days. In the administrative cost area, the amount of the bed hold revenue shall be determined by dividing a facility's allowable administrative costs by total patient days and multiplying the result by total hold-room days. In the ~~((administration and operations))~~ operational cost area, the amount of reduction will be determined by dividing allowable administration and operations costs minus dietary ~~((and nursing supply))~~ and laundry ~~((and nursing supply))~~ costs by the total patient days and multiplying the result by total hold-room days.

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in ~~((SNF or ICF))~~ nursing facility services (e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in ~~((SNF or ICF))~~ nursing facility services) are nonallowable costs.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84.)

WAC 388-96-508 Travel expenses for members of trade association boards of directors. Travel expenses for members of trade association boards of directors otherwise meeting the requirements of this chapter will be allowable for twelve meetings per calendar year subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84.)

WAC 388-96-509 Boards of directors fees. Fees paid to members of boards of directors of corporations operating nursing homes shall be ~~((included in any tests or limits on management or administrative compensation or expense))~~ subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 1613, filed 2/25/81)

WAC 388-96-513 Limit on costs to related organizations. (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere subject to any applicable cost center limit established by this chapter. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments

to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-521 Start-up costs. Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable in the ~~((administration and operations))~~ administrative cost area, subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

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 2025, filed 9/16/83)

WAC 388-96-523 Organization costs. (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable in the ~~((administration and operations))~~ administrative cost area, subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs, as limited by subsection (1) of this section, include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(4) Expenses for travel in the states of Idaho, Oregon, and Washington and the province of British Columbia associated with education and training will be allowable if the expenses meet the requirements of this chapter.

(5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-529 Total compensation—Owners, relatives, and certain administrative personnel. ~~((For purposes of the tests in WAC 388-96-531, 388-96-533, and 388-96-535))~~ Subject to any applicable cost center limit established by this chapter, total compensation shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties. In the absence of a contract, total compensation shall include gross salary or wages and benefits (e.g., health insurance) made available to all employees, but excluding payroll taxes paid by the contractor.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-531 Owner or relative—Compensation. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed any applicable cost center limit((s)) set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) The department shall allow prudent and cost-conscious costs of compensation for administrative personnel, subject to ~~((the))~~ any applicable cost center limit((s)) promulgated ~~((pursuant to subsection (5) of this section))~~ by this chapter.

(2) ~~((The department shall allow total compensation of the licensed administrator for services actually rendered to a nursing home on a full-time basis (at least forty hours per week, including reasonable vacation, holiday, and sick time) at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) The amount in the table promulgated pursuant to subsection (5) of this section corresponding to the number of beds in the nursing home.))~~ Compensation of the licensed administrator shall be allowable only if the department is given written notice of the administrator's employment within ten days after the employment begins.

~~(3) ((The department shall allow total compensation of not more than one full-time licensed assistant administrator~~

if there are at least eighty beds in the nursing home, at the lower of:

~~(a) Actual compensation received, or~~

~~(b) Seventy-five percent of the appropriate amount in the table promulgated pursuant to subsection (5) of this section.~~

~~(4) The department shall allow total compensation of not more than one full-time registered administrator in training at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) Sixty percent of the appropriate amount in the table promulgated pursuant to subsection (5) of this section.~~

~~(5) ————— TABLE~~

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1987

	Bed-Size	
1	79	\$33,672
80	159	\$37,265
160	and up	\$39,615

~~(6) The department shall determine maximum total compensation for licensed administrators of nursing facilities in the various bed-size categories in subsequent years based on tables to be issued annually in writing. For 1987 and subsequent years, tables shall reflect calendar year 1986 maximums increased by any inflation adjustment authorized by the legislature.~~

~~(7) If the licensed administrator, licensed assistant administrator, or registered administrator in training regularly work fewer than forty hours per week, the department shall allow compensation at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) The appropriate amount in the table promulgated in subsection (5) of this section:~~

~~(i) Multiplied by the actual hours worked, plus reasonable vacation, holiday, and sick time normally available to employees working similar hours; and~~

~~(ii) Divided by forty hours per week for each week covered by the cost report. Further discounting is required if the person was not licensed or registered and/or worked for less than the entire report period.~~

~~(8))~~ The contractor shall maintain time records which are adequate for audit for the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in such records verification of the actual hours of service performed for the nursing home.

~~((9) The department shall limit total reimbursement for administrative and management services to allowable compensation for administrative personnel set forth in this section. The department shall apply this policy regardless of the provisions of any employment, management or consultation agreement, or other arrangement existing between the contractor and persons or organizations providing such services. The department shall further limit reimbursement for payroll taxes for administrative personnel to such taxes associated with allowable compensation only for administrative personnel as set forth in this section.~~

~~(10))~~ (4) The department shall not consider costs of an administrator-in-training for the purpose of setting the

~~((administration and operations))~~ administrative prospective rate. The department shall reimburse the costs of an approved administrator-in-training program by an adjustment to current rate. To obtain an adjustment, the contractor shall submit a request for an increase in current rate together with necessary documentation which shall include:

(a) A copy of the department of licensing approval of the administrator-in-training program, and

(b) A schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of the program, the department shall reduce the current rate by an amount corresponding to the cost of the program.

(5) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of administrative personnel compensation limits previously contained in this section, beginning with report year 1992.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-535 Management agreements, management fees, and central office services. (1) If a contractor intends to enter into a management agreement with an individual or firm managing the nursing home as an agent of the contractor, the contractor shall send a copy of the agreement to the department at least sixty days before the agreement is to become effective. A contractor shall send a copy of any amendment to a management agreement to the department at least thirty days in advance of the date the amendment is to become effective. The department shall not allow management fees for periods prior to the time the department receives a copy of the applicable agreement. When necessary for the health and safety of medical care recipients, the department may waive the sixty-day notice requirement in writing.

(2) The department shall allow management fees only if:

(a) A written management agreement both:

(i) Creates a principal and/or agent relationship between the contractor and the manager; and

(ii) Sets forth the items, services, and activities to be provided by the manager.

(b) Documentation demonstrates the services contracted for were actually delivered, were nonduplicative of other services rendered to the facility directly or indirectly, and the services were necessary to care for the residents of the facility. Fees are allowable only for such necessary, nonduplicative services to the extent they are of the nature and magnitude that prudent and cost-conscious management would pay.

(3) Allowable fees for all general management services of any kind referenced in this section, including corporate or business entity management and board of director's fees and including management fees not allocated to specific services, are ~~((limited))~~ subject to ((÷

~~(a) The maximum allowable compensation under WAC 388-96-533 of the licensed administrator and, if the facility has at least eighty beds, of an assistant administrator, less~~

~~(b) Actual compensation received by the licensed administrator and by the assistant administrator and administrator-in-training, if any. In computing maximum allowable compensation under WAC 388-96-533 for a facility with at least eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed))~~ any applicable cost center limit established by this chapter.

(4) A management fee paid to or for the benefit of a related organization shall be allowable ~~((to the extent the fee does not exceed the lesser of:~~

~~(a) The limits set out in subsection (3) of this section; or~~

~~(b))~~ at the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the department shall comply with WAC 388-96-534 in measuring such costs.

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including the management expense not allocated to specific services, shall be subject to ~~((the management fee limits determined in subsections (3) and (4) of this section))~~ any cost center limit established by this chapter.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility shall be considered allowable costs if the visit does not exceed three weeks. ~~((Travel and housing expenses necessary for visits in excess of three weeks are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.))~~

(7) Bonuses paid to employees at a contractor's nursing facility shall be considered compensation. ~~((Bonuses paid to employees:~~

~~(a) At a contractor's central office or elsewhere other than at the nursing facility, and~~

~~(b) Who are not engaged in nonmanagerial services such as accounting, are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.))~~

(8) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of management fee limits previously contained in this section, beginning with report year 1992.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91.)

WAC 388-96-569 Retirement of depreciable assets.

(1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

(3) For rate setting effective July 1, 1991 (~~and following~~) through June 30, 1993, if a medicaid contractor or lessor related to a lessee medicaid contractor, as defined in this chapter, sells any or all of the nursing facility's tangible and/or intangible assets, including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, the department shall recover depreciation reimbursement paid to the selling contractor or lessee related to the selling lessor. However, the department shall recover depreciation reimbursement only to the extent there was a gain on sale as defined in this chapter. Further, the department shall recover depreciation reimbursement for depreciation from July 1, 1991, forward only.

(4) Recovery of depreciation reimbursement as authorized in this section shall apply to all transfers of assets by sale on or after July 1, 1991, unless pursuant to an enforceable agreement in place prior to July 1, 1991, and on file with the department's rates management office on or before December 31, 1991.

(5) Recovery of depreciation reimbursement shall be from the buyer whether or not such buyer operates the nursing facility or is a medicaid contractor. If recovery cannot be made from the buyer in whole or in part, the amount due shall be recovered from the selling contractor or selling lessor related to the contractor. If the buyer leases some or all of the assets purchased to a related party or organization as defined in this chapter, the department may recover directly from such related party or organization. The total amount subject to recovery shall be due and payable immediately after transfer of the assets by sale. However, the department may establish a repayment schedule to recover depreciation reimbursement for a period not to exceed six months after the transfer by sale.

(6) If repayment is not made immediately or commenced and maintained in accordance with a repayment schedule agreeable to the department, the department shall deduct the recovery from the monthly payments, if any, for medicaid services made to the buyer, or from payments, if any, made to a contractor related to the buyer as defined in this chapter. Such method of recovery shall be in addition to all other means of recovering debt to the state authorized by law.

(7) The depreciation base of depreciable assets and the cost basis of nondepreciable assets for all partial or whole medicaid rate periods after the sale shall be established or continued in accordance with the provisions of this chapter. Neither shall be adjusted to reflect any liability for recovery of depreciation reimbursement. Upon request, the department shall provide to any prospective buyer or seller of nursing facility assets the total depreciation reimbursement paid from July 1, 1991 through June 30, 1993 to the selling contractor or lessee related to the selling lessor.

AMENDATORY SECTION (Amending Order 2270, filed 8/19/85)

WAC 388-96-580 Operating leases of office equipment. Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. Beginning January 1, 1985, office equipment rental costs shall be reimbursed in the administration and operations cost center. Office equipment may include items typically used in administrative or clerical functions such as telephones (~~or PBX equipment~~), copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day. Effective with July 1, 1993 rate setting, office equipment rental costs shall be reimbursed in the administrative cost center.

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90)

WAC 388-96-713 Rate determination. (1) Each contractor's reimbursement rate will be determined prospectively once each (~~calendar year~~) state biennium as provided in this chapter to be effective July 1 of the first fiscal year of each biennium. Rates shall be adjusted as provided in this chapter to be effective July 1 of the second year of each biennium and may be adjusted more frequently to take into account program changes.

(2) (~~If the contractor participated in the program for at least six months of the prior calendar year, its nursing services, administration and operations, property and return on investment rates will be determined based on the contractor's allowable costs in the prior period.~~) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92.)

WAC 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients shall consist of the total of (~~five~~) six component rates, each covering one cost area. The (~~five~~) six cost areas are:

- (1) Nursing services;
- (2) Food;
- (3) (~~Administration and operations~~) Administrative;
- (4) Operational;
- (5) Property; and
- (~~5~~) 6 Return on investment.

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90.)

WAC 388-96-719 Method of rate determination. (1) (~~The department shall take data used in determining rates from the most recent complete, desk-reviewed annual cost report submitted by contractors.~~)

~~(2) The department shall exclude data containing obvious errors from the determination of predicted costs and rate upper limits for WAC 388-96-735.~~

~~(3) The department shall apply inflation adjustments as follows:~~

~~(a) For July rate setting, a percentage adjustment determined by the legislature shall be applied to allowable costs in the nursing services and administration and operations cost areas if the cost report for a contractor covers all twelve months of the cost report period. If the cost report covers less than twelve months, the department shall reduce the inflation factor to reflect the shorter period.~~

~~(b) The department shall apply an inflation factor of 2.5 percent to the January 1, 1983, food cost area rate for all contractors to determine the July 1, 1983, food cost center rate. For July rate setting in subsequent years, the department shall apply the adjustment factor determined annually by the legislature to the January 1, 1983, rate.~~

~~(c) The department shall not increase property, return on investment, or enhancement rates for inflation adjustments determined by the legislature in biennial budget acts.~~

~~(4)) The principles contained in this section are inherent in rate setting effective with July 1, 1993 and following nursing facility prospective rates.~~

(2) Reimbursement rates shall be established or adjusted prospectively, on a per patient day basis, once each calendar year, to be effective July 1, and shall follow a two-year cycle corresponding to each state fiscal biennium; provided that, a nursing facility's rate for the first fiscal year of any biennium, unless the operator qualifies as a "new contractor" under the provisions of this chapter, must be established upon its own prior calendar year cost report data covering at least six months.

(3) A contractor's rates in the nursing services, food, administrative, and operational cost centers for the first year of the state fiscal biennium (first fiscal year) shall be adjusted downward or upward for economic trends and conditions when set effective July 1 of the first fiscal year in accordance with subsections (4), (5) and (6) of this section, and adjusted again downward or upward for economic trends and conditions effective July 1 of the second year of the state fiscal biennium (second fiscal year) in accordance with subsections (7), (8) and (9) of this section.

(4) The July 1 cost center rates referenced in subsection (3) of this section shall, for the first fiscal year of each biennium, be adjusted by the change in the Implicit Price Deflator for Personal Consumption Expenditures Index published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis ("IPD Index").

(5) The period used to measure the change in the IPD Index shall be the calendar year preceding the July 1 commencement of the state fiscal biennium (first calendar year). The change in the IPD Index shall be calculated by:

(a) Consulting the latest quarterly IPD Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable expenditure levels as of December 31 of the first calendar year;

(b) Subtracting from the expenditure levels taken from the quarterly IPD Index described in subsection (5)(a) of this section the expenditure levels taken from the IPD Index for

the quarter occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section; and

(c) Dividing the difference by the level of expenditures from the quarterly IPD Index occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section.

(6) In applying the change in the IPD Index to establish first fiscal year nursing services, food, administrative and operational cost center rates for a contractor having at least six months, but less than twelve months, of cost report data from the prior calendar year, the department shall prorate the downward or upward adjustment by a factor obtained by dividing the contractor's actual calendar days of report data by two, adding three hundred sixty-five, and dividing the resulting figure by five hundred forty-eight.

(7) For the second year of each state fiscal biennium, a contractor's July 1 cost center rates referenced in subsection (2) of this section shall be the July 1 component rates for the first year of the state fiscal biennium, adjusted downward by any decrease, or upward by one and one-half times any increase, in the Nursing Home Input Price Index without Capital Costs published by the Health Care Financing Administration of the United States Department of Health and Human Services ("HCFA Index").

(8) The period used to measure the change in the HCFA Index shall, subject to subsection (9) of this section, be the calendar year preceding the July 1 commencement of the state fiscal biennium (first fiscal year). The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the first calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (8)(a) of this section the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (8)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (8)(a).

(9) In the event the change in the HCFA Index measured over the calendar year ending six months after the July 1 commencement of the state fiscal biennium (second calendar year), is twenty-five percent greater or less than the change in the HCFA Index measured over the first calendar year, the department shall use any HCFA Index decrease, or one and one-half times any HCFA increase, from the second calendar year to adjust downward or upward, respectively, nursing facilities' nursing services, food, administrative, and operational component rates for July 1 of the second fiscal year of the biennium. The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the second calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the second calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (9)(a) of this subsection the price levels taken from the HCFA Index for

the quarter occurring one year prior to the quarterly HCFA Index described in subsection (9)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (9)(a).

(10) The department shall compute the occupancy level for each facility by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, return on investment, property (~~and administration and operations~~), administrative, and operational prospective rates and (~~and~~) limits utilizing patient days at the eighty-five percent occupancy level. The department shall use actual occupancy level for facilities at or above eighty-five percent occupancy.

~~((5))~~ (11) If a nursing home provides residential care to individuals other than (~~skilled or intermediate care patients~~) those receiving nursing facility care:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection ~~((4))~~ (10) of this section by including such other residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. No exception shall be granted unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92.)

WAC 388-96-722 Nursing services cost area rate.

~~(1) ((The department shall pay the nursing services cost area reimbursement rate for the necessary and ordinary costs of providing routine nursing and related care to recipients.))~~ The nursing services cost center shall include for reporting and auditing purposes all costs relating to the direct provision of nursing and related care, including fringe benefits and payroll taxes for nursing and related care personnel and for the cost of nursing supplies. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) In addition to other limits contained in this chapter, the department shall subject nursing service costs to ((two reasonableness tests:

~~(a))~~ a test for nursing staff hours ((and

~~(b) A test for cost increases between the current and preceding report period))~~ according to the procedures set forth in subsection (3) of this section.

(3) The test for nursing staff hours referenced in subsection (2) ~~((a))~~ of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time; and

(b) The average patient debility score for the corresponding facilities as computed by the department. The department shall compute the regression every two years

which shall be effective for the entire biennium, beginning July 1, 1993, and shall take data for the regression from:

(i) Correctly completed cost reports; and

(ii) Patient assessments completed by nursing facilities and transmitted to the department in accordance with the minimum data set (MDS) format and instructions, as may be corrected after departmental audit or other investigation, for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associated with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

~~(4) ((The test for cost increases referenced in subsection (2)(b) of this section shall compare:~~

~~(a) The percentage change in allowable nursing services cost for the facility between the most recent cost report period and the next prior cost report period, excluding actual cost incurred relating to, but not to exceed an amount equal to, any prospective rate revision granted under WAC 388-96-774 in each cost report year;~~

~~(b) Against the percentage change in the medical care component of the consumer price index for all urban consumers between July of the most recent cost report period and July of the next prior cost report period. The department shall limit facilities reporting increases greater than the medical care component of the consumer price index to a rate determined by their adjusted patient care costs for the period immediately preceding the most recent cost report period, inflated by the medical care component of the consumer price index.~~

~~(5) In calculating and applying the test for cost increases, the department shall measure the allowable nursing services cost increase between the most recent and the next prior cost report periods on a total cost basis and on a per-patient-day cost basis only. The department shall utilize for each contractor the basis showing the lesser increase.~~

~~(6))~~ For all rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter ~~((and as tested for reasonableness within this section))~~, shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement (commonly referred to as "nursing pool" services), in excess of the amount of compensation which would have been paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes

and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.

~~((7))~~ (5) Staff of like classification shall mean only the nursing classifications of registered nurse, licensed practical nurse or nurse assistant. The department shall not recognize particular individuals, positions or subclassifications within each classification for whom pool staff may be substituting or augmenting. The department shall derive the facility average hourly wage for each classification by dividing the total allowable regular and overtime salaries and wages, including related taxes and benefits, paid to facility staff in each classification divided by the total allowable hours worked for each classification. All data used to calculate the average hourly wage for each classification shall be taken from the cost report on file with the department's rates management office for the most recent cost report period.

~~((8))~~ The department shall suspend application of the cost increase limitation, authorized by subsections (2)(b) and (4) of this section, for the July 1, 1991, through June 30, 1992, rate period only. The limitations shall remain in effect for all other rate periods and the suspension shall not affect application of the nursing hours lid, authorized by subsections (2)(a) and (3) of this section, which shall remain in effect for all rate periods.)

(6) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the nursing services cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted nursing services cost from the prior cost report year, which shall include all costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility cost in nursing services for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted nursing services cost of the lowest cost facility in the upper half shall be used as the

median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the nursing services cost area prior to issuing new July 1 rates.

(7) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, nursing services component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day nursing services cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing services cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(8) Adjustments previously made to current fund nursing services costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 nursing services rate higher than that provided in subsection (7) of this section.

(9) For July 1, 1993 rate setting only, if a nursing facility is impacted by the peer group median cost plus twenty-five percent limit in its nursing services cost, such facility shall not receive a per patient day prospective rate in nursing services for July 1, 1993 lower than the same facility's prospective rate in nursing services as of June 30, 1993, as reflected in departmental records as of that date, inflated by any increase in the IPD Index authorized by WAC 388-96-719.

(10) For July 1, 1993 rate setting only, nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's nursing services rate established under subsection (7) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in nursing services, but only up to the facility's peer group median cost plus twenty-five percent limit.

(11) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted nursing services cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in nursing services based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's nursing services rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(12) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted

information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(13) Neither the per patient day peer group median plus twenty-five percent limit for nursing services cost nor the test for nursing staff hours authorized in this section shall apply to the pilot facility designated to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan. The AIDS pilot facility shall be the only facility exempt from these limits.

(14) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in nursing services for the second fiscal year of each biennium shall be that facility's nursing services rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(15) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 nursing services rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-727 Food cost area rate. (1) (~~The food cost area rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for recipients.~~

(2) Reimbursement for the food cost center shall be at the January 1, 1983, rate, adjusted for inflation utilizing the inflation factor specified in WAC 388-96-719 (3)(b).)) The food cost center shall include for cost reporting purposes all costs of bulk and raw food and beverages purchased for the dietary needs of the nursing facility residents.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the food cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted food cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, includ-

ing all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility food cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted food cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the food cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, food component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day food cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility food cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund food costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 food rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's food rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in food, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted food cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in food based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's food rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted

information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in food for the second fiscal year of each biennium shall be that facility's food rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 food rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 2172, filed 12/4/84)

WAC 388-96-735 ((Administration and operations) Administrative cost area rate. (1) ~~The ((administration and operations cost area reimbursement rate will reimburse for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, and providing dietary service (other than the cost of food and beverages), medical supplies, taxes, and insurance))~~ administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology. Such costs shall be identical to the cost report line items categorized on the 1992 calendar year report under "general and administrative" within the administration and operations (A&O) combined cost center existing for reporting purposes prior to January 1, 1993, with the exception of nursing supplies and purchased and allocated medical records. The department shall issue cost reporting instructions identifying administrative costs for 1993 and following cost report years.

(2) ~~((Each contractor's allowable, inflation adjusted, per patient day administration and operations cost shall be determined.~~

(3) ~~Costs for contractors having submitted correct and complete cost reports by the time July rates are initially to be established shall be ranked from highest to lowest. The eighty fifth percentile of the ranking shall be determined.~~

(4) ~~Administration and operations rates for individual providers shall be the lower of the provider's allowable cost or the eighty fifth percentile.~~

(5) ~~Beginning July 1, 1984, allowable costs for administration and operations for rate setting purposes shall include allowable retained savings for the preceding report year.~~

(6) ~~Beginning January 1, 1985, the administration and operations cost area rate will include reimbursement for the necessary and ordinary lease costs of office equipment as specified in WAC 388-96-580.)~~ Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the administrative cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted administrative cost from the prior cost report year, excluding the costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility administrative cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted administrative cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the administrative cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, administrative component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day administrative cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility administrative cost for the facility's peer group plus ten percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund administrative costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year adjustment, a July 1 administrative rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's administrative rate established under subsection (3) of this section. For all rate

setting beginning July 1, 1995 and following, such rate increases to reflect administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted administrative cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 administrative rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's administrative rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's administrative rate for the second fiscal year of each biennium shall be that facility's administrative rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 administrative rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

NEW SECTION

WAC 388-96-737 Operational cost area rate. (1)

The operational cost center shall include for cost reporting purposes all allowable costs having a direct relationship to the daily operation of the nursing facility (but not including nursing services and related care, food, administrative, or property costs), whether such operating costs are incurred at the facility or are allocated in accordance with a department-approved joint cost allocation methodology.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the operational cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted operational cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility operational cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted operational cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the operational cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, operational component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day operational cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility operational cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund operational costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year adjustment, a July 1 operational rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, operational rate adjustments, granted under authority of WAC 388-96-774 and commencing January 1, 1993 through June 30, 1993, shall be added to a facility's operational rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect operational rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's operational rate, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted operational cost report information in departmental records as of October 31 of the first fiscal year of each biennium.

For any facility which would have received a higher or lower July 1 operational rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's operational rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's operational rate for the second fiscal year of each biennium shall be that facility's operational rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 operational rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-745 Property cost area reimbursement rate. (1) The department shall determine the property cost area rate for each facility ~~((by dividing:))~~ annually, to be effective July 1, regardless of whether the July 1 rate is for the first or second year of the biennium, in accordance with this section and any other applicable provisions of this chapter.

~~((a))~~ (2) The department shall divide the allowable prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

~~((b))~~ (a) The retained savings from the property cost center as provided in WAC 388-96-228, by

~~((c))~~ (b) Total patient days for the facility in the prior period.

(3) Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

~~((2))~~ (4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated patient day level.

~~((3))~~ (5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need, the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination of building plans submitted to the

department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

~~((4))~~ (6) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on labor and materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);

(h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;

(i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

~~((5))~~ (7) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from one of the three tables which follow. The department shall derive the limit from the accompanying table which corresponds to the number of total nursing home beds for the proposed new construction, remodel or expansion. The limit will be the sum of the basic construction cost limit plus the common use area limit which corresponds to the type and class of the new construction, remodel or expansion. The limits calculated using the tables shall be adjusted forward from September 1990 to the average date of construction, to reflect the change in average construction costs. The department shall base the adjustment on the change shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

74 BEDS & UNDER

Building Class	Base per Bed Limit	Base Limit
A-Good	\$50,433	\$278,847
A-Avg	\$41,141	\$227,469
B-Good	\$48,421	\$267,718
B-Avg	\$40,042	\$221,392
C-Good	\$35,887	\$198,421
C-Avg	\$27,698	\$153,143
C-Low	\$21,750	\$120,258
D-Good	\$33,237	\$183,765
D-Avg	\$25,716	\$142,182
D-Low	\$20,298	\$112,227

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

75 TO 120 BEDS

Building Class	Base Limit	Add per Bed Over 74	Base Limit	Add per Bed Over 74
A-Good	\$3,732,076	\$48,210	\$278,847	\$2,808
A-Avg	\$3,044,442	\$39,327	\$227,469	\$2,291
B-Good	\$3,583,131	\$46,286	\$267,718	\$2,696
B-Avg	\$2,963,112	\$38,277	\$221,392	\$2,230
C-Good	\$2,655,654	\$34,305	\$198,421	\$1,998
C-Avg	\$2,049,668	\$26,477	\$153,143	\$1,542
C-Low	\$1,609,531	\$20,792	\$120,258	\$1,211
D-Good	\$2,459,506	\$31,771	\$183,765	\$1,851
D-Avg	\$1,902,956	\$24,582	\$142,182	\$1,442
D-Low	\$1,502,048	\$19,403	\$112,227	\$1,130

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

121 BEDS AND OVER

Building Class	Base Limit	Add per Bed Over 120	Base Limit	Add per Bed Over 120
A-Good	\$5,949,745	\$42,359	\$408,015	\$2,106
A-Avg	\$4,853,505	\$34,555	\$332,855	\$1,718
B-Good	\$5,712,287	\$40,669	\$391,734	\$2,022
B-Avg	\$4,723,848	\$30,142	\$323,972	\$1,672
C-Good	\$4,233,692	\$23,264	\$290,329	\$1,499
C-Avg	\$3,267,618	\$18,268	\$224,092	\$1,157
C-Low	\$2,565,943	\$27,916	\$175,971	\$ 908
D-Good	\$3,920,989	\$21,599	\$268,911	\$1,388
D-Avg	\$3,033,727	\$17,048	\$208,493	\$1,081
D-Low	\$2,394,592	\$19,403	\$164,220	\$ 848

~~((6))~~ (8) When some or all of a nursing home's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance shown in the attached tables for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limit in the table. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes from the Marshall and Swift Publication.

~~((7))~~ (9) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

- (a) Actual cost per square foot, including allocations; or
- (b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments.

~~((8))~~ (10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs

shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for ~~((individual))~~ each Medicaid ((facilities)) nursing facility a return on investment ~~((allowances))~~ rate composed of a financing allowance and a variable return allowance. A facility's return on investment (ROI) rate shall be determined annually in accordance with this section, to be effective July 1, regardless of whether the rate is for the first or second fiscal year of the state biennium. No nursing facility's ROI rate, in either the financing allowance or the variable return allowance, shall be established July 1 or revised subsequently to reflect rate adjustments granted in any cost center to current fund costs under the authority of WAC 388-96-774 and commencing after the prior cost report period, except for adjustments to fund capitalized additions or replacements.

(2) The department shall determine the financing allowance by:

(a) Multiplying the net invested funds of each facility by ten percent and dividing by the contractor's total patient days effective for July 1, 1991, and all following rate settings. In computing the allowance for the working capital portion of net invested funds, the department shall include in a contractor's costs from the prior report year used to establish the contractor's component rates in nursing services, food, administrative, operational, and property, all adjustments for economic trends and conditions granted under authority of WAC 388-96-719 and all costs current-funded under authority of WAC 388-96-774 and commencing during such prior report year. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less than twelve months, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset results in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level; and

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. As such, subject to provisions contained in this chapter, capitalized cost of leased land, regardless of the type of lease, shall be the lessor's historical capitalized cost. Subject to provisions

contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased on or after July 18, 1984, capitalized cost of land shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter.

(c) A contractor shall retain that portion of ROI rate payments at settlement representing the contractor's financing allowance only to the extent reported net invested funds, upon which the financing allowance is based, are substantiated by the department.

(3) The department shall determine the variable return allowance according to the following procedure:

(a) Once every two years at the start of each biennium, beginning with July 1, 1993 rate setting, the department shall, without utilizing the MSA and Non-MSA peer groups used to calculate other Medicaid component rates, rank all facilities in numerical order from highest to lowest based upon the combined average per diem allowable costs for ((the sum of the administration and operations and property cost centers for)) the nursing services, food, administrative, and operational cost centers taken from the ((preceding)) prior cost report period. The department shall use adjusted costs taken from cost reports having at least six months of data, shall not include adjustments for economic trends and conditions granted under authority of WAC 388-96-719, and shall include costs current-funded under authority of WAC 388-96-774 and commencing in the prior cost report year. In the case of a new contractor, ((property and administration and operations)) nursing services, food, administrative, and operational cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor. ((The department shall adjust the new contractor's costs to the cost year used to establish the most recent variable return ranking for all providers using inflation factors authorized by provisions of this chapter.))

(b) The department shall compute the variable return allowance by multiplying the ((total prospective rate)) sum of the nursing services, food, administrative and operational rate components for each nursing facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. The department shall assign facilities in the highest quarter a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(c) The percentages so determined and assigned to each facility for July 1 rate setting for the first fiscal year of each

state biennium, shall continue to be assigned without modification for July 1 rate setting for the second fiscal year of each biennium. Neither the break points separating the four groups nor facility ranking shall be adjusted to reflect future rate adjustments granted to contractors for any purpose under WAC 388-96-774, or granted for any other reason in the course of the biennium.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease agreement existing on January 1, 1980, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, per a provision of the lease agreement existing on January 1, 1980, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be

adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

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

NEW SECTION

WAC 388-96-757 Reimbursement for veterans' homes. (1) Notwithstanding any other provision of this chapter, reimbursement rates for any nursing facility operated by the state of Washington, Department of Veterans Affairs (DVA) shall, for the 1993/1995 biennium (July 1, 1993 through June 30, 1994 rate setting), be established according to the following procedures:

(a) DVA shall submit separately for each facility an opening-year budget utilizing the 1992 cost report form and instructions designed for all medicaid nursing facilities reimbursed for services under this chapter;

(b) Each facility budget shall be reviewed and adjusted by staff of the department's office of rates management, aging and adult services administration, utilizing rules of allowability for medicaid costs contained in this chapter;

(c) The total prospective medicaid rate for each DVA-operated facility to be effective July 1, 1993 (or effective upon the subsequent opening date of each facility), through June 30, 1995, shall be established at the lower of:

(i) Each facility's budgeted costs submitted by DVA, as reviewed and adjusted by department staff; or

(ii) One hundred fifty dollars per patient day in all cost centers combined.

(d) In the event the limit of one hundred fifty dollars at any DVA facility is exceeded by the total budgeted costs remaining after department review of the facility budget, the department will divide the one hundred fifty dollars limited amount among the costs centers in the following priority: nursing services, food, operational, administrative, property and return on investment (ROI).

(e) Once the rates are established and in effect, DVA may seek rate increases at any time during the 1993/1995 biennium to current-fund additional costs exceeding the rates, but only as authorized under the procedures and substantive criteria in WAC 388-96-774 as employed for all medicaid facilities reimbursed under this chapter.

(f) Any adjustments for economic trends and conditions in any cost center, effective July 1, 1994 for medicaid contractors under the provisions of this chapter, shall be extended to the DVA facilities as well.

(g) The DVA facilities shall submit annual facility cost reports on department forms, and according to department instructions applicable to all facilities, for 1993 and for 1994, and settlements for each of these years shall be completed for each DVA facility, with final payment being made at the

lower of cost or rate, after all allowable cost center shifting, as for all medicaid facilities reimbursed under this chapter.

(2) For July 1, 1995 rate setting and following, all rate-setting principles applicable to the DVA facilities shall be developed by the department.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing (~~(home)~~) facility which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a (~~(stand-~~) Metropolitan Statistical Area (MSA), as defined and determined by the United States (~~(Bureau of the Census)~~) Office of Management and Budget or other applicable federal office, and three acres for nursing (~~(homes)~~) facilities located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use;

or
(f) Other reasons exist which are deemed sufficient by the department.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-764 Activities assistants. Costs associated with the employment of activities assistants working under the direction of a qualified activities specialist are allowable in the nursing services cost center subject to any applicable cost center limit contained in this chapter.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable, subject to any applicable cost center limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which patients may be legally entitled, such as private insurance or Medicare, were first fully utilized.

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90)

WAC 388-96-768 Minimum wage. (1) Effective January 1, 1988, contractors shall adjust and maintain wages for all employees to conform to no less than the minimum

hourly wage established by the legislature. This wage is four dollars and seventy-six cents an hour beginning January 1, 1988, and five dollars and fifteen cents an hour beginning January 1, 1989. ~~((If moneys are appropriated by the legislature, costs to prospectively fund these minimum wage requirements shall be reimbursed in the enhancement cost center.))~~

(2) Minimum wage requirements set forth in this section shall not apply to an employee who:

(a) The department of labor and industries determines is entitled to payments for temporary and total disability; and

(b) A physician authorizes to return to available work other than the employee's usual work.

(3) The employee shall be paid the minimum wage or more when resuming usual work.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 388-96-756 Enhancement cost area rate.
- WAC 388-96-775 Public review of rate-setting methods and standards.

WSR 93-16-002
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Filed July 22, 1993, 12:30 p.m.]

Original Notice.

Title of Rule: WAC 275-16-030 Schedule of charges.

Purpose: This rule amendment revises the schedule of charges in the Washington Administrative Code for the daily per diem cost for patients residing at each of the three state-operated mental health facilities, i.e., Eastern State Hospital, Western State Hospital, and Child Study and Treatment Hospital. Increased rates result in additional revenue from Medicare, Medicaid, insurance, and private payors to the hospitals to cover rise in operations costs.

Other Identifying Information: The charges are based on the cost of operations. Costs rise due to increases authorized by the legislature and due to inflation. Increased rates result in additional revenue from Medicare, Medicaid, insurance, and private payors to the hospitals to cover their share of the rise in costs of operations. The legislature authorized a state employee salary increase which was effective January 1, 1993. This revision reflects annualization of the salary increase, and inflationary changes for medical services and drugs. It also includes the operating costs resulting from the completion of a major construction project approved by the legislature, which included the remodeling and updating of several patient wards.

Statutory Authority for Adoption: RCW 43.20B.325.
Statute Being Implemented: RCW 43.20B.325.

Summary: The purpose of the rate change is to revise the daily cost of hospital stays for state-operated mental health facilities, so that the rate reflects the cost of operations.

Reasons Supporting Proposal: RCW 43.20B.325 requires that charges for hospitalization of patients in state mental health hospitals be based on the cost of operations. The revised daily per diem rate includes the operating costs resulting from the completion of a major construction project which included the remodeling and updating of several patient wards. It also includes the annualization of salary increases which were effective January 1, 1993, and inflationary changes from the prior year.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ronald Peterson, Mental Health Division, 756-2772, SCAN 233-2772.

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: 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 10, 1993.

July 22, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3434, filed 8/6/92, effective 9/6/92)

WAC 275-16-030 Schedule of charges. Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals. The department shall require patient's hospitalization charges due and payable on or before the tenth day of each calendar month for services rendered to department patients during the preceding month, based ~~((upon))~~ on the following schedule:

(1) COSTING AND BILLING RATES

	Child Study and	
Western State Hospital	Treat- ment Center	Eastern State Hospital

(a) INPATIENT SERVICES -

Hospital Costs Per Day	(\$((272.50 341.00 280.00)) <u>286.20 342.30 293.70</u>)
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Physician Costs * ~~((14.50))~~ *
N/A

*The department ~~((f))~~ shall ~~((h))~~ bill the client for physician costs on a fee ~~((f))~~ - ~~for~~ ~~((h))~~ - service basis.

(b) OUTPATIENT SERVICES -
 Per diem

Outpatient	—	—	—
Day Treatment			
Per Day	—	((79.44))	—
		<u>37.26</u>	
Per Hour	—	((13.24))	—
		<u>6.21</u>	

(c) ANCILLARY SERVICES -
 Per relative value unit^{1/}

Radiology	12.11	12.11	12.55
Pathology	1.13	1.13	.46
Medical Clinics	4.53	4.53	9.00
Electroencephalogram	2.17	2.17	—
Electrocardiogram	.39	.39	.81
Physical Therapy	10.66	10.66	15.14
Occupational Therapy	—	—	27.04
Speech Therapy	—	—	25.36
Dental	43.55	43.55	44.83
Podiatry	—	—	1.30

(d) RESIDENTIAL SERVICES -

	Pals	Portal
Costs Per Day	((148.12))	94.35
	<u>171.00</u>	

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost of services.

^{1/}California Medical Association. *Relative Value Studies*. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

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 93-16-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed July 22, 1993, 12:34 p.m.]

Original Notice.

Title of Rule: Chapter 388-88 WAC, Medical care—Nursing home care; WAC 388-88-095 Nursing facility placement; 388-88-096 Preadmission screening and annual resident review (PASARR); 388-88-097 Preadmission screening; 388-88-098 Identification screening for current residents; 388-88-150 PASARR determination and appeal rights; 388-88-155 Utilization review; 388-88-170 Discharge planning and coordination; 388-88-180 Transfer and discharge rights, procedures, and appeal; 388-88-190 Relocation

due to decertification, license revocation, closure; and repealing WAC 388-88-080, 388-88-099, 388-88-102, 388-88-130, and 388-88-145.

Purpose: To comply with recent federal regulations implementing the preadmission screening and annual resident review (PASARR) requirements for nursing facilities. These regulations were published in the November 30, 1992, Federal Register and were effective January 29, 1993.

Statutory Authority for Adoption: RCW 34.05.350.

Statute Being Implemented: RCW 34.05.350.

Summary: Implement the preadmission screening and annual resident review (PASARR) requirements for nursing facilities.

Reasons Supporting Proposal: To comply with federal regulations 42 CFR 483.100 through 483.138.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peggy Brown, 493-2630 and Kevin Krueger, 493-2578, Aging and Adult Services Administration.

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

Rule is necessary because of federal law, 42 CFR 483.100 through 138.

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 21, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by September 7, 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 September 14, 1993.

Date of Intended Adoption: September 22, 1993.

July 22, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending WSR 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-095 Nursing facility placement. (1) Nursing facility care ~~((must))~~ shall be requested by a person's attending physician or Christian Science practitioner before the person's admission to a medicaid-certified facility.

(2) A medicaid certified nursing facility shall not admit any person unless an identification screen is completed as required under WAC 388-88-097.

(3) A person identified as having a serious mental illness or a developmental disability, as defined ~~((in WAC 388-88-097(5)))~~ under 42 CFR § 483.102 or as subsequently amended, shall be assessed under WAC 388-88-097 before the person's ~~((placement in))~~ admission to a medicaid-certified nursing facility.

(4) A medicaid applicant or recipient shall not be admitted to a medicaid-certified nursing facility unless the

department has assessed and determined the person needs nursing facility care as defined under WAC 388-88-081.

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

~~((5))~~ (6) There shall be no retroactive payment authorized for any medicaid applicant or recipient admitted to a nursing facility in violation of this section.

NEW SECTION

WAC 388-88-096 Pre-admission screening and annual resident review (PASARR). (1) The department shall assess a nursing facility applicant or resident having a serious mental illness or developmental disability according to the preadmission screening and annual resident review requirements under 42 CFR § 431 and § 483. Under the PASARR, the department, through a designee, shall determine whether a nursing facility applicant or resident having a serious mental illness or developmental disability needs nursing facility care and specialized services under 42 CFR § 438.106. The department shall determine need for nursing facility care using the nursing facility care definition under WAC 388-88-081. Need for specialized services shall be determined as follows:

(a) For a nursing facility applicant or resident likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall verify whether the person has a serious mental illness and, if so, shall recommend whether the applicant needs specialized services;

(b) For a nursing facility applicant or resident likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall verify whether the person has a developmental disability. For a nursing facility applicant or resident verified by a psychologist as having a developmental disability, staff of the division of developmental disabilities shall assess and make a final determination as to whether the person requires specialized services.

(2) "Specialized services" for a person with mental retardation or related conditions is defined under 42 CFR § 483.120 (a)(2), § 483.120(2), § 483.440 (a)(1). Specialized services does not include services to maintain a generally independent person who is able to function with little supervision or in the absence of a treatment program.

(3) "Specialized services" for a person having a serious mental illness is defined under 42 CFR § 483.120 (a)(1). Specialized services are generally considered acute psychiatric inpatient care, emergency respite care or stabilization and crisis services.

(4) The department's designee may exempt a nursing facility applicant or resident from PASARR if the person:

(a) Is admitted directly from an acute care hospital after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

(b) Is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(c) Has a severe physical illness such as coma, ventilator dependence, functioning at a brain stem level, or diagno-

ses which result in level of impairment so severe that the person could not be expected to benefit from specialized services, which may include:

(i) Chronic obstructive pulmonary disease;

(ii) Parkinson's disease;

(iii) Huntington's disease;

(iv) Amyotrophic lateral sclerosis; or

(v) Congestive heart failure.

(d) Has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(5) If a resident has continuously resided in a nursing facility for at least thirty months, and is determined by the department not to require nursing facility services, but to require specialized services for a serious mental illness or developmental disability, the department shall:

(a) Offer the resident the choice of remaining in the facility or of receiving services in an alternative appropriate setting;

(b) Inform the resident of the institutional and noninstitutional alternatives covered under the state medicaid plan for the resident;

(c) Clarify the effect on eligibility for medicaid services under the state plan if the resident chooses to leave the facility, including its effect on readmission to the facility.

AMENDATORY SECTION (Amending WSR 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-097 Preadmission screening. (1) ~~((An applicant))~~ A person requesting admission to a medicaid-certified nursing facility shall be screened ~~((prior to))~~ before admission to identify whether the ~~((applicant))~~ person may have a serious mental illness or a developmental disability as defined under 42 CFR 483.102 or as subsequently amended. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. The nursing facility shall place a copy of the completed form ~~((shall be placed))~~ in each resident's clinical record ~~((at the nursing facility)).~~

(2) ~~((Any))~~ A nursing facility applicant identified through the identification screen as likely to have a serious mental illness or a developmental disability shall not be admitted to a medicaid-certified nursing facility unless the person:

~~((In the case of a medicaid applicant, the department determines the applicant requires nursing facility care, under WAC 388-88-081; and~~

~~((b)))~~ ~~((The applicant))~~ Has been assessed under the preadmission screening and annual resident review (PASARR), as described under WAC 388-88-096((-));

(b) Has been transferred from one nursing facility to another nursing facility; or

(c) Has been exempted by the department from PASARR because the person:

~~((3))~~ ~~An applicant identified as likely to have a serious mental illness or a developmental disability shall be exempt from the PASARR requirement under subsection (2)(b) of this section if:~~

~~((a))~~ ~~The department or its designee determines the applicant:~~

(i) Is admitted directly from an acute care hospital after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

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

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

- (A) Chronic obstructive pulmonary disease;
- (B) Severe Parkinson's disease;
- (C) Huntington's Chorea;
- (D) Amyotrophic lateral sclerosis; or
- (E) Congestive heart failure.

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

((+)) (i) Has been admitted to the nursing facility for respite care, under WAC 248-14-298; or

((+)) (ii) Cannot accurately be diagnosed because of delirium; or

((b) The applicant is:

(+)) (iii) Has been readmitted to a nursing facility from an acute care hospital ((-or))

((ii) Admitted from one nursing facility to another nursing facility.)

((4) Under the PASARR, the department, through a designee, shall determine whether the applicant needs nursing facility care and specialized services. Need for nursing facility care shall be determined under WAC, 388-88-081. Need for specialized services shall be determined as follows:

(a) For an applicant likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall verify whether the applicant has a serious mental illness and, if so, shall recommend whether the applicant needs specialized services;

(b) For an applicant likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall verify whether the applicant has a developmental disability. For any applicant verified by a psychologist as having a developmental disability, the department shall assess and make a final determination as to whether the applicant requires specialized services.

(5) A medicaid client shall not be admitted to a medicaid-certified nursing facility unless the department determines that the client requires nursing facility care, per WAC 388-88-081.

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

(a) "Applicant" shall mean any individual seeking admission to a nursing facility;

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

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

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

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

(A) Related conditions attributable to:

(I) Cerebral palsy or epilepsy; or

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

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

(C) It is likely to continue indefinitely; and

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

(I) Self care;

(II) Understanding and use of language;

(III) Learning;

(IV) Mobility;

(V) Self direction; and

(VI) Capacity for independent living.

(d) "Specialized services" for a person with mental retardation or related conditions means a continuous program for each person which includes:

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

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

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

Specialized services does not include services to maintain a generally independent person able to function with little supervision or in the absence of a treatment program; and

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

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 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-098 Identification screening for current residents. (1) ~~((By July 1, 1989, every))~~ Each ~~medicaid certified nursing facility shall have a ((complete and))~~ completed identification screen ((-)) for each resident, to identify ((residents)) a resident's ((likely to have)) likelihood of having a serious mental illness or a developmental disability as defined ((in WAC 388-88-097(5):

~~((a)))~~ under 42 CFR § 483.102 or as subsequently amended. The nursing facility shall record this information on a form designated by the department((-

~~(b) For every resident of the nursing facility, except for a resident for whom a pre-admission screen has been completed under WAC 388-88-097)).~~

~~(2) The nursing facility shall ((be responsible for reviewing and updating a resident's identification screen to ensure that it accurately reflects the resident's current condition)):~~

~~(a) Record the identification screen information or subsequent changes on the resident assessment instrument according to the schedule required under 42 CFR § 483.20:~~

~~((3) The original of the))~~ (b) Maintain the identification screen form and applicable PASARR assessment information ((shall be maintained)) in the resident's ((medical)) clinical record((-

~~(4) The nursing facility shall notify the department or designee of those residents identified through the identification screen as likely to have a serious mental illness or a developmental disability and); and~~

~~(c) Refer each resident to the department or department's designee when the resident requires a PASARR assessment under WAC 388-88-096.~~

~~((5))~~ (4) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

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

NEW SECTION

WAC 388-88-150 PASARR determination and appeal rights. (1) A nursing facility applicant or resident who has been adversely impacted by a PASARR determination may appeal the department's determination of:

(a) Not in need of nursing facility care as defined under WAC 388-88-081 and 42 CFR § 483.130 (m)(2),(5), or (6);

(b) Not in need of specialized services as defined under WAC 388-88-096 and 42 CFR § 483.130 (m)(1),(2),(3), or (6); or

(c) Need for specialized services as defined under WAC 388-88-096, 42 CFR § 483.130 (4), and (5) and 42 CFR § 483.132 (a)(4).

(2) The nursing facility shall assist the nursing facility applicant or resident, or the person's representative, as needed in requesting a hearing to appeal the department's PASARR determination.

(3) If the department's PASARR determination requires that a resident be transferred or discharged, the department shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative thirty days or more before the date of transfer or discharge;

(b) Attach a hearing request form to the transfer or discharge notice;

(c) Inform the resident, in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge;

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice; and

(iii) That the resident shall be ineligible for medicaid nursing home payment:

(A) Thirty days after the receipt of written notice of transfer or discharge; or

(B) If the resident appeals under subsection (1)(a) of this section, thirty days after the final order is entered upholding the department's decision to transfer or discharge a resident.

(4) Aging and adult field services may grant extension of a resident's medicaid nursing home payment after the time specified in subsection (3)(c)(iii) of this section, when the department determines a location appropriate to the resident's medical and other needs is not available.

(5) The department shall:

(a) Send a copy of the required notice to the resident's attending physician, the nursing facility and, where appropriate, the resident's family member;

(b) Suspend transfer or discharge pending the outcome of the appeal when the resident's appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged; and

(c) Provide assistance to the resident for relocation necessitated by the department's PASARR determination.

(6) Resident appeals of PASARR determinations shall be in accordance with 42 CFR § 431 Subpart E, Chapter 388-08 WAC, and the procedures defined in this section. In the event of a conflict between a provision in this chapter and a provision in Chapter 388-08 WAC, the provision in this chapter shall prevail.

NEW SECTION

WAC 388-88-155 Utilization review. (1) To assure appropriate use of medicaid services, the medicaid certified nursing facility shall:

(a) Be responsible to determine whether each resident's health has improved sufficiently so the resident no longer needs nursing facility care;

(b) Base such determination on an accurate, comprehensive assessment process and documentation by the resident's physician.

(2) When a nursing facility determines that a resident who is a medicaid applicant or recipient no longer needs nursing facility care, except for residents the department is responsible to assess for PASARR under WAC 388-88-096(1), the nursing facility shall initiate transfer or discharge in compliance with WAC 388-88-180 and 42 C.F.R. § 483.12 or as subsequently amended.

(3) When a nursing facility initiates a transfer or discharge of a medicaid recipient under subsection (2) of this section:

(a) The resident shall be ineligible for medicaid nursing home payment:

(i) Thirty days after the receipt of written notice of transfer or discharge; or

(ii) If the resident appeals the facility determination, thirty days after the final order is entered upholding the nursing home's decision to transfer or discharge a resident.

(b) Aging and adult field services may grant extension of a resident's medicaid nursing facility payment after the time specified in subsection (3)(a) of this section, when aging and adult field services staff determine:

(i) The nursing facility is making a good faith effort to relocate the resident; and

(ii) A location appropriate to the resident's medical and other needs is not available.

(4) Department designees may review any assessment or determination made by a nursing facility of a resident's need for nursing facility care.

NEW SECTION

WAC 388-88-170 Discharge planning and coordination. (1) A resident has the right to reside in the least restrictive care setting available and appropriate to meet the resident's individual care needs. Therefore, the nursing home shall:

(a) Utilize a formal resident discharge planning system with identical policies and practices for all residents regardless of source of payment;

(b) Inform the resident in writing of the nursing home's discharge planning system when the resident is admitted or as soon as practical thereafter, including:

(i) Specific resources available to assist the resident in locating a lesser care setting;

(ii) The name of the nursing home's discharge coordinator; and

(iii) In the case of a medicaid-certified nursing facility, the address and telephone number for the local aging and adult field services office.

(2) The nursing home shall prepare a detailed, written transfer or discharge plan for each resident determined to have potential for transfer or discharge within the next three months. The nursing home shall:

(a) In the case of a medicaid resident, coordinate the plan with aging and adult field services staff;

(b) Develop and implement the plan with the active participation of the resident and, where appropriate, the resident's representative;

(c) Ensure the plan is an integral part of the resident's comprehensive plan of care and, as such, includes measurable objectives and timetables for completion;

(d) Incorporate in the plan relevant factors to include, but not be limited to, the resident's preferences, support system, assessments and plan of care, and the availability of appropriate resources to match the resident's preferences and needs;

(e) Identify in the plan specific options for more independent placement; and

(f) Provide in the plan for the resident's continuity of care and mitigation of potential transfer trauma, including, but not limited to, pretransfer visit to the new location whenever possible.

(3) For a resident whose transfer or discharge is not anticipated in the next three months, the nursing home shall:

(a) Document the specific reasons transfer or discharge is not anticipated in that timeframe;

(b) Review the resident's potential for transfer or discharge at the time of comprehensive care plan review; and

(c) Initiate discharge planning:

(i) When the resident's situation or status indicate transfer or discharge potential within the next three months; and

(ii) At the request of the resident or the resident's representative.

(4) Each resident has the right to request transfer or discharge and to choose a new location. If the resident's choice of new location is available and appropriate to the resident's medical and other care needs, the nursing home shall coordinate the resident's transfer or discharge. The resident, resident's representative or nursing facility may request assistance from aging and adult field services in the transfer or discharge planning and implementation process.

(5) The nursing home shall coordinate all transfers and discharges, and communicate resident information in written form to the resident's new location. The nursing home shall ensure such information, at a minimum, includes:

(a) A brief recap of the resident's stay;

(b) A final summary of the resident's status at the time of transfer or discharge; and

(c) A post transfer or discharge plan of care.

(6) The nursing home shall ensure information in subsection (5) of this section is made available for release only to authorized persons and agencies with the consent of the resident or legal representative where appropriate.

NEW SECTION

WAC 388-88-180 Transfer and discharge rights, procedures, and appeals. (1) The Medicare certified skilled nursing facility and the medicaid certified nursing facility shall comply with all applicable federal requirements under 42 C.F.R. § 483.10 and § 483.12, or as subsequently amended regarding resident transfer and discharge rights.

(2) The Medicare certified skilled nursing facility and the medicaid certified nursing facility that initiates transfer or discharge shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice; and

(d) Assist the resident, or the resident's representative, as needed in requesting a hearing to appeal the transfer or discharge decision;

(3) The Medicare-certified skilled nursing facility or the medicaid nursing facility shall suspend transfer or discharge pending the outcome of the appeal when the resident's appeal is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.

(4) The medicaid certified nursing facility shall send a copy of the federally required transfer or discharge notice to:

(a) The resident's attending physician;

(b) Aging and adult field services in cases where the nursing facility has determined the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

(c) The appropriate nursing home services district manager when the transfer or discharge is for any of the following reasons:

(i) The resident's needs cannot be met in the facility;

(ii) The health or safety of individuals in the facility is endangered; or

(iii) The resident has failed to pay for, or to have paid under Medicare or medicaid, a stay at the facility.

(5) The state appeals process for facility transfers and discharges mandated by sections 1819 (e)(3) and 1919 (e)(3) of the Federal Social Security Act and federal regulations promulgated thereunder, is set forth in chapter 388-08 WAC and in this chapter. In such appeals, the following shall apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 388-08 WAC, the provision in this chapter shall prevail;

(b) The resident shall be the appellant and the skilled nursing facility or the nursing facility shall be the respondent;

(c) The department shall be notified of the appeal and may choose whether to participate in the proceedings. The role of the department is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) When a nursing home's decision to transfer or discharge a resident from a nursing home is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by the nursing home.

NEW SECTION

WAC 388-88-190 Relocation due to decertification, license revocation, closure. (1) When the department or the federal Health Care Financing Administration terminates or does not renew a nursing home's medicaid certification, or the department revokes or suspends the nursing home's license or orders emergency closure of a nursing home, the department shall:

(a) Notify residents and, when appropriate, resident representatives of the action; and

(b) Upon request by the resident or the nursing home, assist with the resident's relocation and specify the location of possible alternative locations.

(2) When a resident's relocation occurs due to a nursing home's voluntary closure, or voluntary termination of its medicaid contract:

(a) The nursing home shall send written notification, sixty days before closure or contract termination, to the appropriate nursing home services district manager and to all residents; and

(b) The department may provide a resident assistance with relocation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-88-080	Utilization review.
WAC 388-88-099	Specialized service assessments for current residents.
WAC 388-88-102	Discharge planning and resident relocation.
WAC 388-88-130	Completion of resident assessment instrument.
WAC 388-88-145	Notice of relocation determination and appeal rights.

**WSR 93-16-016
PROPOSED RULES
BOARD FOR
VOLUNTEER FIREFIGHTERS**

[Filed July 23, 1993, 12:22 p.m.]

Original Notice.

Title of Rule: Providing a method for calculation of fees for emergency workers under the Volunteer Firefighters' Relief and Pension Act, chapter 41.24 RCW.

Purpose: To provide a formula for use by the State Board for Volunteer Firefighters' to determine fees to be charged to emergency medical service districts for coverage under the Volunteer Firefighters' Relief and Pension Act, chapter 41.25 [41.24] RCW.

Statutory Authority for Adoption: RCW 41.24.290(2).

Statute Being Implemented: Chapter 331, Laws of 1993.

Summary: Provides a consistent method of establishing fees to be assessed to emergency medical service districts for coverage under the Volunteer Firefighters' Relief and Pension Act, chapter 41.24 RCW.

Reasons Supporting Proposal: Recommended by the assistant attorney general.

Name of Agency Personnel Responsible for Drafting: Pamela J. Bigelow, Confidential Secretary, 605 11th Avenue S.E., Olympia, 753-7318; Implementation and Enforcement: Joseph H. Faubion, Executive Secretary, 605 11th Avenue S.E., Olympia, 753-7318.

Name of Proponent: State Board for Volunteer Firefighters, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will provide a consistent method of determining the disability and pension fees to be charged to emergency medical service districts under the Volunteer Firefighters' Relief and Pension Act, chapter 41.24 RCW. By statute, fees are to be calculated consistent with the most recent actuarial valuation.

Proposal does not change existing rules.

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

Hearing Location: Olympia, Forum Building, Room 207, Olympia, Washington 98501, on October 15, 1993, at 9:00 a.m.

Submit Written Comments to: Joseph H. Faubion, P.O. Box 114, Olympia, WA 98507, by October 10, 1993.

Date of Intended Adoption: October 15, 1993.

July 23, 1993
Joseph H. Faubion
Executive Secretary

NEW SECTION

WAC 491-10-010 Emergency medical service districts—Fees. The fees for coverage of emergency workers under the relief provisions of Chapter 41.24 RCW shall be based on the actual cost from the most recent actuarial valuation rounded to the nearest \$10.00. These fees shall be paid by the emergency medical service district.

The fees for coverage of emergency workers under the pension provisions of Chapter 41.24 RCW shall be based on the actual cost from the most recent actuarial valuation rounded to the nearest \$10.00. Fifty percent of this fee shall be paid by the emergency medical service district and fifty percent of this fee shall be paid by the emergency worker.

**WSR 93-16-018
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed July 23, 1993, 1:14 p.m.]

Continuance of WSR 93-12-129.

Title of Rule: Restrictions on the use of microencapsulated methyl parathion in chapter 16-230 WAC.

Purpose: To protect honey bees.

Statutory Authority for Adoption: Chapter 17.21 RCW. Statute Being Implemented: Chapter 17.21 RCW.

Summary: These rules place restrictions at times when there are blossoming plants.

Reasons Supporting Proposal: There were numerous bee kills involving microencapsulated methyl parathion being

applied to or drifting on to blossoming plants in 1992. It is anticipated it will be widely used again.

Name of Agency Personnel Responsible for Drafting and Enforcement: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, 902-2040; and Implementation: William Brookreson, Assistant Director, P.O. Box 42589, 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This filing is to continue the comment period and adoption date.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are being proposed to further restrict the use of microencapsulated methyl parathion when crops or weeds are blossoming to protect bees.

Proposal Changes the Following Existing Rules: Microencapsulated methyl parathion cannot be applied when there are five or more blooms per square yard on the average in a given field; if there are one or more blooms per tree or vine in an orchard or vineyard, or if there are five or more open weed blooms per square yard. Restrict the use of microencapsulated methyl parathion until 50 days after bloom of red delicious apples in all fruit-growing districts of Yakima and Benton counties and 30 days after bloom of red delicious apples in all other fruit-growing districts.

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

Submit Written Comments to: William E. Brookreson, Assistant Director, P.O. Box 42589, Olympia, WA 98504-2589, by August 5, 1993, 5:00 p.m.

Date of Intended Adoption: August 6, 1993.

July 23, 1993
William E. Brookreson
Assistant Director

**WSR 93-16-019
PROPOSED RULES
DEPARTMENT OF PERSONNEL**

[Filed July 23, 1993, 1:58 p.m.]

Original Notice.

Title of Rule: New WAC 356-56-020 and 356-56-021.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.070.

Summary: These rules are intended to create an avenue for employees previously covered under the career executive program to transition into the Washington management service.

Reasons Supporting Proposal: These rules are being proposed to comply with the adoption of the Civil Service Bill, ESHB 2054.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Effective July 1, 1993, civil service legislation (ESHB 2054) repealed the existing career executive program (CEP) and established a new Washington management service (WMS). This proposal intends to transfer eligible CEP employees into the new WMS to maintain similar employment rights until such time as rules and guidelines can be adopted for all other employees in the WMS.

Proposal does not change existing rules.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on September 9, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, P.O. Box 47500, Olympia, WA 09504-7500 [98504-9500], by September 7, 1993.

Date of Intended Adoption: September 9, 1993.

July 2, 1993
Dennis Karras
Director

Chapter 356-56 WAC WASHINGTON MANAGEMENT SERVICE

NEW SECTION

WAC 356-56-020 Washington management service—

Definition of manager. For purposes of this chapter, "manager" or "managerial employee" means the incumbent of a position that is assigned as follows:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Administers one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or,
- (5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

NEW SECTION

WAC 356-56-021 Washington management service—

Transition of career executive program. (1) The provisions of this section apply only to managerial employees appointed to career executive program positions in probationary, trial service or permanent status as of June 30, 1993.

(2) Individuals who leave the above positions, all other managerial employees, and all vacant managerial positions are subject to the provisions of the remaining chapters of WAC 356, until such time as the director adopts rules in WAC 356-56 which pertain to those employees and positions.

(3) Managerial employees referenced in sub-section (1) who successfully complete a twelve-month probationary or

trial service period shall attain permanent status in the classification to which their position is allocated.

(4) Permanent managerial employees referenced in sub-section (1) shall retain permanent status in the classification to which their position is allocated.

(5) Managerial employees referenced in sub-section (1) who have been in the same job class and position for four consecutive years from career executive appointment date shall be removed from coverage of the provisions of this section, UNLESS an extension is approved by the director or designee.

(6) An agency director may remove a managerial employee from coverage of the provisions of this section, provided that the employee was informed of a limitation of less than four consecutive years on career executive program participation upon appointment to the program.

(7) Permanent managerial employees who voluntarily leave career executive transition status or leave in accordance with sub-sections (5) and (6), shall remain in their position and retain permanent status. Agencies shall notify the director of personnel, or designee of these vacancies.

(8) Managerial employees who have not successfully completed a probationary or trial service period into positions referred in sub-section (1), or where the position is subsequently abolished, shall be entitled to return to the position or class previously held with permanent status. If such position is not available, the managerial employee shall return to a position similar in nature and salary to the position previously held. Employees appointed into these positions via the open competitive process shall not have return rights under the provisions of this section.

(9) Employees shall not be offered reduction-in-force options or trial service reversion rights to filled positions that were in the career executive program on June 30, 1993. Agencies may elect to return entitled exempt employees to these positions.

(10) This section providing for career executive transition into the Washington management service shall be in effect until the director adopts rules in WAC 356-56 replacing this section and encompassing all classified managerial employees subject to the provisions of RCW 41.06.

WSR 93-16-020 PROPOSED RULES PERSONNEL RESOURCES BOARD

[Filed July 23, 1993, 1:59 p.m.]

Original Notice.

Title of Rule: Amending WAC 251-04-030, 251-04-040, 251-04-050, 251-06-020, 251-08-005, 251-08-090, 251-18-240, 251-18-260, 251-18-280, 356-06-080, 356-10-020, 356-14-110, 356-26-060, and 356-26-100; and new section WAC 356-06-003.

Purpose: These rules govern the duties of the Personnel Resources Board, as well as the referral process and periodic increment dates.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These amendments are intended to merge the previous Higher Education Personnel Board and State Personnel Board into existing Personnel Resources Board.

It also increases the number of candidates in the referral process and sets a salary limit for eligibility to receive a periodic increment.

Reasons Supporting Proposal: These amendments are intended to comply with the adoption of the civil service bill, ESHB 2054.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment is proposed as a package to comply with the recently adopted legislation regarding the civil service reform bill, ESHB 2054. This amendment authorizes the Personnel Resources Board designated authority over Titles 251 and 356 WAC. It also increases the number of candidates referred to agencies for filling positions, and employees who will be eligible to receive periodic pay increments.

Proposal Changes the Following Existing Rules: Specifically this amendment creates a new Personnel Resources Board. It will increase the rule-of-five on a referral request to seven names to fill vacant positions. This amendment also will limit the number of employees who are eligible to receive a periodic increment date by setting a salary limit and anyone exceeding the limit shall not be eligible. It also will specify how the Personnel Resources Board will adopt changes to the classification plan.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor Board Room, Olympia, WA, on September 9, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, P.O. Box 47500, Olympia, WA 98504-7500, by September 7, 1993.

Date of Intended Adoption: September 9, 1993.

July 2, 1993

Dennis Karras
Secretary

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-04-030 Scope. The provisions of these rules shall apply to all personnel of the higher education institutions/related boards except those exempted under the provisions of WAC 251-04-040. These rules and the compensation and classification plans adopted hereunder shall continue to apply as before and shall not be used interchangeably with those adopted by the former state personnel board. Further, these rules and compensation and classification plans shall continue to apply as before until such time as the Washington personnel resources board has had adequate time to review and consider changes to the existing rules and plans.

AMENDATORY SECTION (Amending WSR 90-17-037, filed 8/10/90, effective 10/1/90)

WAC 251-04-040 Exemptions. The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chair((men))s; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Are employed in a position directly related to their major field of study to provide training opportunity; or

(c) Are elected or appointed to a student body office or student organization position such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

(5) Persons employed to work one thousand fifty hours or less in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, exclusive of overtime or work time as described in subsection (2) of this section.

(6) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an

independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

(7) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(8) The personnel director of the higher education personnel board and his confidential secretary.

(9) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, ~~((and principal assistants to executive heads of major administrative or academic divisions,))~~ as determined by the higher education personnel board: *Provided*, that no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the higher education personnel board under this provision.

(10) Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.

(11) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment. A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

(12) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

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 149, filed 4/22/86, effective 6/1/86)

WAC 251-04-050 Higher education personnel board.

(1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an

official meeting of the board or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions, with the number of names equal to ~~((four))~~ six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six to twelve months and rejections therein depending on the job requirements of the class; transfers; sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment according to seniority; determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective

bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees; certification and decertification of exclusive bargaining representatives; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigations and analysis of the duties and responsibilities of each such position: Provided, however that beginning July 1, 1993 through June 30, 1995, the board shall not adopt classification revisions or class studies unless the implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel services, and the proposed revision or study has been approved by the director of financial management in accordance with 43.88 RCW; allocation and reallocation of positions within the classification plans; adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC; training programs including in-service, promotional, and supervisory; increment increases within the series of steps for each pay grade; Provided, however, that beginning July 1, 1993 through June 30, 1995, increment increases shall not be provided to any classified or exempt employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993 exceed \$3,750; and veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

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 61, filed 8/30/77, effective 10/1/77)

WAC 251-06-020 Classification plan—Adoption. The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by

the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board. However, beginning July 1, 1993 through June 30, 1995, the board shall not adopt job classification revisions or class studies unless the implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with 43.88 RCW. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

AMENDATORY SECTION (Amending Order 155, filed 4/1/87, effective 5/1/87)

WAC 251-08-005 Compensation plans—General. The director shall prepare, and subject to board approval shall periodically revise in a manner consistent with the development of the original plan, compensation plans for all classes. The plans shall provide for:

(1) Full compensation to each employee for all work assigned and performed.

(2) Regular salary increment increases based upon length of service for all employees whose performance is such as to permit them to retain job status in the classified service: Provided, however, that beginning July 1, 1993 through June 30, 1995, increment increases shall not be provided to any classified or exempt employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993 exceeds \$3,750.

(3) Assignment of each class to a salary range reflecting prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, provided funds are available as defined in WAC 251-08-051.

(4) The rates in the salary schedules or plans to be increased if necessary to attain comparable worth.

(5) Equal pay for similar duties, responsibilities, and qualifications among classes as determined by the salary survey process.

(6) Such other provisions as are appropriate in the establishment and maintenance of compensation equity in relation to prevailing practices found in Washington state private industries and other governmental units.

AMENDATORY SECTION (Amending WSR 91-16-054, filed 8/1/91, effective 9/1/91)

WAC 251-08-090 Salary—Periodic increment. (1) Employees whose performance permits them to retain job status in the classified service shall receive periodic increments within the steps of the salary range. The salary of each employee shall be increased two steps on the periodic increment date and annually thereafter on the periodic increment date, not to exceed the maximum step of the range. An exception to the two step movement on the periodic increment date are those employees who occupy classes included in the higher education personnel board locality special pay plan per WAC 251-09-090 which applies

only to University of Washington hospitals. The salary of each employee under this plan shall be increased as specified in the higher education personnel board hospital special pay plan.

(2) When the periodic increment date falls on the same effective date as another salary action, the periodic increment shall be applied prior to, and in addition to, any other action resulting in a salary increase or decrease.

(3) However, beginning July 1, 1993 through June 30, 1995, increment increases shall not be provided to any classified employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993 exceeds \$3,750.

AMENDATORY SECTION (Amending WSR 90-17-037, filed 8/10/90, effective 10/1/90)

WAC 251-18-240 Certification—Method. (1) Upon receipt of a personnel request, the personnel officer shall provide the following number of names to the employing official in writing:

(a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification.

(b) When there are no names on the institution-wide layoff list for the class, ~~((four))~~ six more names than there are vacancies to be filled by the certification, provided that:

(i) When other applicants on the eligible list in use have scores equal to the lowest score among the names certified, their names shall be certified; and

(ii) Up to three additional names of eligibles who meet the applicable affirmative action criteria shall be certified as provided in WAC 251-23-060.

(2) Names shall be certified in strict order of standing on the eligible list(s) as established in WAC 251-18-180.

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180(10):

- (i) Institution-wide layoff list;
- (ii) Organizational unit promotional list;
- (iii) Institution-wide promotional list;
- (iv) Special employment program layoff list;
- (v) State-wide layoff list;
- (vi) Interinstitutional employee list;
- (vii) Intersystem employee list;
- (viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

- (i) Institution-wide layoff list;
- (ii) Combined eligible list.

(4) Permanent employees certified from an eligible list for consideration of appointment shall be notified by the institution at the time of referral. Upon appointment, the institution shall advise those employees certified but not appointed of the action taken.

AMENDATORY SECTION (Amending Order 115, filed 5/2/84)

WAC 251-18-260 Certification—Incomplete. When the number of names available for certification for a given vacancy is fewer than ~~((five))~~ seven, the employing official may make an appointment from the certification or decline to do so.

AMENDATORY SECTION (Amending WSR 90-17-037, filed 8/10/90, effective 10/1/90)

WAC 251-18-280 Certification—Selection—Actions required. (1) The employing official shall consider all eligibles certified.

(2) Following certification and consideration of eligibles, the personnel officer shall record one of the following dispositions of the employing official for each name certified:

- (a) Eligible was considered but not appointed;
- (b) Eligible waived consideration for the position;
- (c) Eligible could not be contacted or failed to appear for an interview; or
- (d) Eligible was appointed to the position.

~~((2))~~ (3) When the number of certified eligibles available is reduced to less than ~~((four))~~ six more than there are positions to be filled, upon request from the employing official the personnel officer may provide a replacement name for each eligible who has waived consideration, been determined to be unavailable, or did not appear for the scheduled interview.

NEW SECTION

WAC 356-06-003 Scope. The provisions of these rules shall apply to all personnel under the jurisdiction of RCW 41.06 except those exempted under the provisions of WAC 356-06-020. These rules and the compensation and classification plans adopted hereunder shall continue to apply as before and shall not be used interchangeably with those adopted under the former higher education civil service law (RCW 28B.16). Further, these rules and compensation and classification plans shall continue to apply as before until such time as the Washington personnel resources board has had adequate time to review and consider changes to the existing rules and plans.

AMENDATORY SECTION (Amending Order 348, filed 5/30/90, effective 6/30/90)

WAC 356-06-080 Personnel board—Powers—Duties. It shall be the responsibility of the personnel board to:

(1) Establish general policies for the administration of merit system examinations and the hearing of personnel appeals.

(2) Make rules and regulations providing for employee participation in the development and administration of personnel policies.

(3) Hear personnel appeals.

(4) Promote public understanding of the purposes, policies, and practices of the merit system.

(5) Adopt and promulgate rules and regulations consistent with the purposes and provisions of the state civil service law and with the best standards of personnel admin-

istration, regarding the basis and procedures to be followed for:

- (a) The demotion, suspension, reduction in salary or dismissal of an employee and appeals therefrom.
- (b) Certification of names for vacancies including departmental promotions.
- (c) Examinations for all positions in the competitive and noncompetitive service.
- (d) Appointments.
- (e) Probationary periods of six to twelve months and rejections therein.
- (f) Transfers.
- (g) Sick and vacation leaves.
- (h) Hours of work.
- (i) Layoffs, when necessary, and subsequent reemployment.
- (j) Agreements between agencies and certified exclusive representatives providing for grievance procedures and collective negotiations on personnel matters.
- (k) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of duties and responsibilities of each position. However, beginning July 1, 1993 through June 30, 1995, the board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved in accordance with 43.88 RCW.
- (l) Allocation and reallocation of positions within the classification plan.
- (m) Adoption and revision of a state salary schedule to reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature, with adoption and revision subject to approval by the director of the office of financial management in accordance with the provisions of chapter 43.88 RCW.
- (n) Training programs, including in-service, promotional and supervisory.
- (o) Regular increment within the series of steps for each pay range, based on length of service for all employees whose standards of performance are such as to permit them to retain job status within the classified service. However, beginning July 1, 1993 through June 30, 1995, increment increases shall not be provided to any classified or exempt employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993 exceeds \$3,750.
- (p) Compliance with existing veterans preference statutes.

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 36, filed 7/1/71, effective 8/1/71)

WAC 356-10-020 Classification plan—Revision. The director shall submit proposed revisions to the classification plan to the board for review and approval.

(1) The board shall hold open hearings on the proposals after 20 days' notice to employee organizations and agencies. The board may modify the proposals.

(2) Beginning July 1, 1993 through June 30, 1995, the board shall not adopt job classification revisions or class studies unless implementation of the proposed revisions or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with 43.88 RCW.

AMENDATORY SECTION (Amending Order 230, filed 9/18/85)

WAC 356-14-110 Salary—Periodic increment dates—Original—Subsequent. (1) The periodic increment date (PID) is the date on which an employee automatically advances to a higher dollar amount in the range to which the employee's position is classified; provided

(a) The employee's basic salary is not already at or above the maximum step of the assigned range, or

(b) The employee's standards of performance are such as to permit retention in a job status, or (-)

(c) Beginning July 1, 1993 through June 30, 1995, increment increases shall not be provided to any classified or exempt employees under the jurisdiction of the board whose monthly salary on or after July 1, 1993 exceeds \$3,750.

(2) The dollar amount of the increase will be two salary schedule increments; except

(a) The amount shall be one salary schedule increment if a two-increment increase would place the employee's basic salary above the maximum of the range of the employee's classification, or

(b) A fractional part of an increment amount shall be regarded as a full increment advance, if the employee's basic salary was between salary schedule steps immediately prior to the increase, or

(c) The dollar amount increase is stated otherwise in the compensation plan appendix or chapter 15.

(3) The original periodic increment date for an employee is:

(a) Six continuous months from the date the employee began work at the first step of a salary range, or

(b) One calendar year from the date on which the employee began work at an intervening salary step; provided that in either (a) or (b):

(i) Any work period starting before the 16th of the month will count as a full month.

(ii) Any work period starting after the 15th of the month will not be counted.

(iii) An employee at or above the maximum step of a salary range does not have a periodic increment date.

(4) The periodic increment date shall be recomputed following leaves of absence without pay, in accordance with WAC 356-18-220, breaks in serve due to reduction in force or reversion action. In such adjustments, calendar months of pay status already spent at a step will be credited toward the time required to advance to the next available increase in that range.

(5) An employee's periodic increment date shall be set and remain the same unless subsequently changed in accordance with the provisions of the merit system rules.

AMENDATORY SECTION (Amending Order 416, filed 4/2/93, effective 5/3/93)

WAC 356-26-060 Certification—General methods.

Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to ~~((four))~~ six more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

(a) The criteria were approved when the position was established, reallocated, or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: *PROVIDED*, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute ~~((five))~~ seven names per vacancy to be filled.

(3) The names of candidates from the same register who have the same score as the lowest score to be certified will also be certified.

(4) An unranked register may be used to complete a certification. An agency may request the transfer, reemployment, and/or voluntary demotion register(s) to complete a certification. In such cases, all names appearing on the specified register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are members of the protected groups. More than three additional names per vacancy will be certified if there are protected group candidates with the same score as the lowest score to be certified. This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Prior to the utilization of this subsection, the agency shall determine if there are protected group members on the

existing registers. If there are fewer than three protected group members on the register, the agency shall:

(a) Appoint one of the eligibles from the register; or

(b) Request assistance from the department of personnel in completing the certification. The department of personnel and the agency will then initiate targeted recruitment.

(6) When one or more of the following conditions exist, the director of personnel or designee may certify a sufficient number of names to assure that the requesting agency has not less than ~~((five))~~ seven names available for consideration:

(a) The position is in an isolated or undesirable location.

(b) The position has undesirable working conditions.

(c) The agency needs to fill several positions in the class.

(d) One or more agencies have had difficulty filling positions in the class.

(e) The director of personnel or designee determines that such certification is necessary to provide the requesting agency with efficient service.

If such certification contains ~~((five))~~ seven or more available promotional candidates, agencies shall appoint from the promotional candidates.

(7) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

AMENDATORY SECTION (Amending Order 181, filed 3/25/83)

WAC 356-26-100 Certification—Local areas—

Conditions. The appointing authority may request and the director of personnel may designate, by agency, classes of positions for which only persons living in the area of a vacancy will be considered available for employment. Such classes shall be only those for which there is evidence to show that certification on a statewide basis constitutes a hindrance to efficient and economical hiring by the agency. If certification of at least ~~((five))~~ seven names from the register for that class is not possible, certification shall be from eligibles who have indicated willingness for consideration in that geographic area.

WSR 93-16-021

**WITHDRAWAL OF PROPOSED RULES
PERSONNEL RESOURCES BOARD**

[Filed July 23, 1993, 2:00 p.m.]

The Personnel Resources Board is withdrawing notices of proposed rule making (CR-102).

The following original notices have been withdrawn: WSR 93-12-102 filed June 1, 1993; WSR 93-12-101 filed June 1, 1993; and WSR 93-12-100 filed June 1, 1993.

Dennis Karras
Director

WSR 93-16-023
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
 (By the Code Reviser's Office)
 [Filed July 23, 1993, 4:02 p.m.]

WAC 246-824-200, 246-824-210, 246-824-220, 246-824-230 and 246-824-240, proposed by the Department of Health in WSR 93-02-066, appearing in issue 93-02 of the State Register, which was distributed on January 20, 1993, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 93-16-024
PREPROPOSAL COMMENTS
DEPARTMENT OF LICENSING
 (Business License Services, Securities Division)
 [Filed July 26, 1993, 9:00 a.m.]

Subject of Possible Rule Making: Revision of capital requirements for investment advisers. Such requirements, set forth in WAC 460-24-170 [460-24A-170], are currently parallel with broker-dealer net capital requirements set by the Securities and Exchange Commission ("SEC"). Those requirements were substantially raised when the SEC revised them recently. They may, therefore, no longer be the most appropriate standard for all investment advisers required to comply with the capital requirements. Other possible bases for capital requirements include net worth of the investment adviser, and whether the investment adviser maintains a surety bond.

Persons may Comment on this Subject in the Following Ways: Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to Jack L. Beyers, Securities Administrator, P.O. Box 9033, Olympia, WA 98507-9033, FAX (206) 586-5068. The public meeting is scheduled at 11:00 a.m., September 9, 1993, at 405 Black Lake Boulevard S.W., Olympia, WA 98502. Written comments will be accepted through September 8, 1993.

Other Information or Comments by Agency at this Time, if any: Comments are sought on two issues: The basis for the investment adviser capital requirement (such as net capital, net worth, or surety bond) and the amount of capital required. Any questions concerning this request for preproposal comments should be directed to Suzanne Sarason at (206) 753-6928.

July 22, 1993
 M. C. Collins
 Assistant Director

WSR 93-16-025
PREPROPOSAL COMMENTS
DEPARTMENT OF LICENSING
 (Business License Services, Securities Division)
 [Filed July 26, 1993, 9:01 a.m.]

Subject of Possible Rule Making: Revision of rules relating to registration and examination of broker-dealers and salespersons. Principal objectives would be to align Washington examination requirements more closely with examination requirements of the securities industry self-regulatory organizations and to simplify the examination requirements for agents of issuers who receive no commissions. Rules to be considered for revision include WAC 460-20A-220, 460-20A-230, and 460-24A-050.

Persons may Comment on this Subject in the Following Ways: Comments may be submitted in writing. Comments should be addressed to Jack L. Beyers, Securities Administrator, P.O. Box 9033, Olympia, WA 98507-9033, FAX (206) 586-5068. Comments will be accepted through September 30, 1993.

Other Information or Comments by Agency at this Time, if any: The Securities Division has prepared a preliminary draft on the revised rules. However, before proposing the rule changes, the Securities Division is seeking comments on appropriate revisions to the rules to accommodate new national registration examinations and to accommodate selling agents representing issuers in small offerings. Copies of the Securities Division's draft revision may be obtained by contacting Suzanne Sarason, (206) 753-6928.

July 22, 1993
 M. C. Collins
 Assistant Director

WSR 93-16-026
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed July 26, 1993, 9:04 a.m.]

Original Notice.

Title of Rule: Performance compensation arrangements.

Purpose: To allow performance compensation arrangements for investment advisers to the extent allowed by federal law.

Other Identifying Information: This rule is made under the rulemaking authority granted in the 1993 legislative amendment to RCW 21.20.030 which governs investment advisory contracts.

Statutory Authority for Adoption: Chapter 114, Laws of 1993 and RCW 21.20.450.

Statute Being Implemented: Chapter 114, Laws of 1993.

Summary: Allows investment advisory contracts to provide for performance compensation to the investment adviser if the performance compensation is permitted under federal law.

Name of Agency Personnel Responsible for Drafting: Suzanne Sarason, Securities Examiner, 405 Black Lake Boulevard, 753-6928; Implementation: Jack L. Beyers, Securities Administrator, 405 Black Lake Boulevard, 753-

6928; and Enforcement: Michael Collins, Assistant Director, 405 Black Lake Boulevard, 753-1749.

Name of Proponent: Department of Licensing, Securities Division, public.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: In accordance with its testimony in the legislature, the department intends to adopt by reference Securities and Exchange Commission Rule 205-3.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Prior to July 25, 1993, Washington law prohibited performance based compensation in investment advisory contracts. On July 25, 1993, the director gained the authority to adopt a rule to allow performance based compensation arrangements permitted under federal law. The proposed rule allows performance based compensation arrangements to the extent they are permitted under current federal regulations.

Proposal does not change existing rules.

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

Hearing Location: 405 Black Lake Boulevard, Olympia, WA 98502, on September 9, 1993, at 10:00 a.m.

Submit Written Comments to: Jack L. Beyers, Securities Administrator, P.O. Box 9033, Olympia, WA 98507-9033, FAX (206) 586-5068, by September 8, 1993.

Date of Intended Adoption: September 23, 1993.

July 22, 1993
M. C. Collins
Assistant Director

NEW SECTION

WAC 460-24A-150. Performance compensation arrangements. An investment adviser may, without violating RCW 21.20.030(1), enter into a performance compensation arrangement with a customer that complies with Securities and Exchange Commission Rule 205-3, as made effective in Release No. IA-996, under the Investment Advisers Act of 1940. Rule 205-3 is found in the CCH Federal Securities Law Reports published by Commerce Clearing House. Copies of the rule are also available at the office of the securities administrator.

**WSR 93-16-028
PROPOSED RULES
DEPARTMENT OF HEALTH
(Dental Disciplinary Board)
[Filed July 26, 1993, 3:17 p.m.]**

Original Notice.

Title of Rule: Rules related to delegation of duties to unlicensed persons. New section WAC 246-816-225 An act that may be performed by unlicensed persons outside the treatment facility.

Purpose: To create a new section related to an act that may be performed by unlicensed persons outside the treatment facility.

Statutory Authority for Adoption: RCW 18.32.640.

Statute Being Implemented: RCW 18.32.020 and [18.32.]030.

Summary: To establish a new section which would allow unlicensed persons to select shade for crowns or fixed prostheses.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Linda McCue, 1112 S.E. Quince Street, P.O. Box 47867, Olympia, WA 98504-7867, (206) 753-1150.

Name of Proponent: Dental Disciplinary Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed new section establishes a requirement for an act that may be performed by unlicensed persons outside the treatment facility. It is in violation of the dental laws to direct a patient to a laboratory technician to select a shade. The dentist must go with the patient to the laboratory or the laboratory technician is to go to the dentist's office. In creating a new section, it will allow unlicensed persons to select shade for crowns or fixed prostheses.

Proposal does not change existing rules.

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

There is no small business economic impact. The dentist would not have to go with the patient to the laboratory or the lab technician to go to the dentist's office.

Hearing Location: Wyndham Garden Hotel, 18118 Pacific Highway South, SeaTac, WA 98118, on September 11, 1993, at 9:30 a.m.

Submit Written Comments to: Linda McCue, Program Manager, P.O. Box 47867, Olympia, WA 98504-7867, by September 1, 1993.

Date of Intended Adoption: September 11, 1993.

July 12, 1993
Linda McCue
Program Manager

NEW SECTION

WAC 246-816-225 An act that may be performed by unlicensed persons outside the treatment facility. Unlicensed persons may select shade for crowns or fixed prostheses with the use of a technique which does not contact the oral cavity to avoid contamination with blood or saliva. The procedure shall be performed pursuant to the written instructions and order of a licensed dentist.

**WSR 93-16-029
PROPOSED RULES
DEPARTMENT OF HEALTH
(Dental Disciplinary Board)
[Filed July 26, 1993, 3:21 p.m.]**

Original Notice.

Title of Rule: Administration of anesthetic agents for dental procedures. Amending WAC 246-816-370 General anesthesia (including deep sedation).

Purpose: To amend the existing rule contained in chapter 246-816 WAC related to the guidelines for *Teaching*

the Comprehensive Control of Pain and Anxiety in an Advanced Education Program published by the American Dental Association, Council on Dental Education, dated May 1987.

Statutory Authority for Adoption: RCW 18.32.640.

Statute Being Implemented: RCW 18.32.640.

Summary: The purpose of the amendment is to revise the date of the guidelines for *Teaching the Comprehensive Control of Pain and Anxiety in an Advanced Education Program* published by the American Dental Association, Council on Dental Education, dated May 1987.

Reasons Supporting Proposal: The existing rule needs to be revised to reflect the current guideline date.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Linda McCue, 1112 S.E. Quince Street, P.O. Box 47867, Olympia, WA 98504-7867, (206) 753-1150.

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: To amend WAC 246-816-370 General anesthesia (including deep sedation) (1)(a). . . *Teaching the Comprehensive Control of Pain and Anxiety in an Advanced Education Program* published by the American Dental Association, Council on Dental Education, dated May 1987.

Proposal Changes the Following Existing Rules: The Dental Disciplinary Board is proposing to revise the existing rule to reflect the current guideline date.

There is no small business economic impact. The Dental Disciplinary Board is proposing to revise the existing rule to reflect the current guideline date.

Hearing Location: Wyndham Garden Hotel, 18118 Pacific Highway South, SeaTac, WA 98118, on September 11, 1993, at 9:15 a.m.

Submit Written Comments to: Linda McCue, Program Manager, P.O. Box 47867, Olympia, WA 98504-7867, by September 1, 1993.

Date of Intended Adoption: September 11, 1993.

July 12, 1993

Linda McCue
Program Manager

AMENDATORY SECTION (Amending Order 243B, filed 2/7/92)

WAC 246-816-370 General anesthesia (including deep sedation). Deep sedation and general anesthesia must be administered by an individual qualified to do so under this chapter.

(1) Training requirements for dentists: In order to administer deep sedation or general anesthesia, the dentist must have current and documented proficiency in advanced cardiac life support. One method of demonstrating such proficiency is to hold a valid and current ACLS certificate or equivalent. Additionally, a dentist must meet one or more of the following criteria:

(a) Have completed a minimum of one year's advanced training in anesthesiology or related academic subjects, or its equivalent beyond the undergraduate dental school level, in a training program as outlined in Part 2 of *Teaching the*

Comprehensive Control of Pain and Anxiety in an Advanced Education Program, published by the American Dental Association, Council on Dental Education, dated ((~~May, 1987~~)) July, 1993.

(b) Is a fellow of the American Dental Society of Anesthesiology.

(c) Is a diplomate of the American Board of Oral and Maxillofacial Surgery, or is eligible for examination by the American Board of Oral and Maxillofacial Surgery pursuant to the July 1, 1989, standards.

(d) Is a fellow of the American Association of Oral and Maxillofacial Surgeons.

Only a dentist meeting the above criteria for administration of deep sedation or general anesthesia may utilize the services of a nurse licensed pursuant to chapter 18.88 RCW to administer deep sedation or general anesthesia under the close supervision of the dentist as defined in WAC 246-816-210(4).

(2) Training requirements for monitoring personnel: In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions. The individual monitoring patients receiving deep sedation or general anesthesia must have received a minimum of fourteen hours of documented training in a course specifically designed to include instruction and practical experience in use of all equipment required in WAC 246-816-370. This must include, but not be limited to, the following equipment:

(a) Sphygmomanometer

(b) Pulse oximeter

(c) Electrocardiogram

(d) Bag-valve-mask resuscitation equipment

(e) Oral and nasopharyngeal airways

(f) Defibrillator

(g) Intravenous fluid administration set.

A course, or its equivalent, may be presented by an individual qualified under WAC 246-816-370 or sponsored by an accredited school, medical or dental association or society, or dental specialty association.

(3) Procedures for administration: Patients receiving deep sedation or general anesthesia must have continual monitoring of their heart rate, blood pressure, and respiration. In so doing, the licensee must utilize electrocardiographic monitoring and pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at least every five minutes. During deep sedation or general anesthesia, the person administering the anesthesia and the person monitoring the patient, may not leave the immediate area.

During the recovery phase, the patient must be monitored continually by an individual trained to monitor patients recovering from general anesthesia or deep sedation. A discharge entry shall be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.

(4) Equipment and emergency medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Anesthesia records shall be

recorded during the procedure in a timely manner and must include: Blood pressure, heart rate, respiration, blood oxygen saturation, drugs administered including amounts and time administered, length of procedure, any complications of anesthesia.

(b) Office facilities and equipment shall include:

(i) An operating theater large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient.

(ii) An operating table or chair which permits the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support.

(iii) A lighting system which is adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any operation underway at the time of general power failure.

(iv) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available.

(v) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system.

(vi) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater.

(vii) Ancillary equipment which must include the following:

(A) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb.

(B) Endotracheal tubes and appropriate connectors.

(C) Oral airways.

(D) Tonsillar or pharyngeal suction tip adaptable to all office outlets.

(E) Endotracheal tube forceps.

(F) Sphygmomanometer and stethoscope.

(G) Adequate equipment to establish an intravenous infusion.

(H) Pulse oximeter.

(I) Electrocardiographic monitor.

(J) Synchronized defibrillator available on premises.

(c) Drugs. Emergency drugs of the following types shall be maintained:

(i) Vasopressor.

(ii) Corticosteroid.

(iii) Bronchodilator.

(iv) Muscle relaxant.

(v) Intravenous medications for treatment of cardiac arrest.

(vi) Narcotic antagonist. Sedative antagonist, if available.

(vii) Antihistaminic.

(viii) Anticholinergic.

(ix) Antiarrhythmic.

(x) Coronary artery vasodilator.

(xi) Antihypertensive.

(xii) Anticonvulsant.

(5) Continuing education: A dentist granted a permit to administer general anesthesia (including deep sedation) under this chapter, must participate in eighteen hours of continuing education every three years. A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years. The education must be provided by organizations approved by the dental disciplinary board and must be in one or more of the following areas: General anesthesia, conscious sedation, physical evaluation, medical emergencies, monitoring and use of monitoring equipment, pharmacology of drugs and agents used in sedation and anesthesia, or basic life support (BLS), or advanced cardiac life support (ACLS).

(6) Permit of authorization: Required.

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 93-16-048
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed July 28, 1993, 11:10 a.m.]

Continuance of WSR 93-13-056.

Title of Rule: Chapter 388-150 WAC, Minimum licensing requirements for child day care centers.

Purpose: Definitions added to more easily determine which agencies are exempt from licensing. Creates less requirements for smaller centers permitting elimination of separate mini-day care center requirements. The amendments make minor revisions to day care center requirements. Creates new section WAC 388-150-295.

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

Hearing Location: Spokane Sheriff's Office, Public Safety Building, West 1100 Mallon Avenue, Spokane, WA 99260, (meeting held in East Room), on August 17, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 3, 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 10, 1993.

Date of Intended Adoption: August 18, 1993.

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

**WSR 93-16-049
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY**
[Filed July 28, 1993, 2:09 p.m.]

July 23, 1993
Terryl Nyman
Control Officer

Original Notice.

Title of Rule: Northwest Air Pollution Authority regulation.

Purpose: To adjust maximum civil penalty amount to account for inflation, to establish local authority to administer the operating permit program and to charge fees to cover operating cost, to establish a new source category for small emitters of toxic air pollutants, and to collect registration fees to cover the costs.

Other Identifying Information: The regulations upon adoption will be submitted to the Department of Ecology for inclusion in the Washington state implementation plan.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Summary: Maximum civil penalty will increase 3.5%, Class T toxic sources will pay \$100/yr, an annual work load analysis will determine total fees to operating permit program, penalties imposed for failure to file a Notice of Construction.

Reasons Supporting Proposal: Penalties need to reflect inflation, fees are required to cover the cost of the operating permit program, and the registration program, Authority need enabling legislation to administer the operating permit program.

Name of Agency Personnel Responsible for Drafting: Jamie Randles, 302 Pine Street, #207, Mount Vernon, WA 98273, 428-1617 ext. 2; Implementation: Valerie Lagen, 302 Pine Street, #207, Mount Vernon, WA 98273, 428-1617 ext. 2; and Enforcement: Terry Nyman, 302 Pine Street, #207, Mount Vernon, WA 98273, 428-1617 ext. 2.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal increases maximum civil penalty amounts, establishes fees and registrations criteria for small toxic air pollutant sources, establishes authority to run an operating permit program and to establish adequate funding levels.

Proposal Changes the Following Existing Rules: The maximum civil penalty will increase. Penalties will be established for failure to file a Notice of Construction. Potential to emit instead of actual emissions will be used in operating permit fee determination if emission data is not in by the required date.

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

Hearing Location: Skagit County Administration Building, Hearing Room A, Second and Kincaid Street, Mount Vernon, Washington 98273, on September 8, 1993, at 1:30 p.m.

Submit Written Comments to: Terry Nyman, 302 Pine Street, #207, Mount Vernon, WA 98273, by July [August] 23, 1993.

Date of Intended Adoption: September 8, 1993.

AMENDATORY SECTION

NWAPA REGULATION SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation the Authority is hereby adopted by reference and made part of the Regulation of the Authority as of September 8, 1993. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04) and RCW 43.21A and 43.21B and the following state rules: 173-400 WAC, 173-402 WAC, 173-403 WAC, 173-410 WAC, 173-415 WAC, 173-425 WAC, 173-430 WAC, 173-433 WAC, 173-434 WAC, 173-440 WAC, 173-460 WAC, 173-470 WAC, 173-474 WAC, 173-475 WAC, 173-480 WAC, 173-481 WAC, 173-490 WAC, and 173-491 WAC.

104.2 All provisions of the following federal rules are hereby adopted by reference and made part of the Regulation of the Authority as of September 8, 1993: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Ca, Cb, D, Da, Db, Dc, E, Ea, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, FF, GG, HH, KK, LL, MM, NN, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, SSS, TTT, VVV; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, I, J, K, L, M, N, O, P, Q, R, T, V, W, Y, BB, FF.

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

AMENDATORY SECTION

NWAPA REGULATION SECTION 133 - CIVIL PENALTY

133.1 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, chapter 70.120 RCW, any of the rules in force under such chapters, including regulation of the Northwest Air Pollution Authority may incur a civil penalty in an amount not to exceed ten thousand ~~three~~ six hundred ~~sixty~~ sixty dollars (~~\$10,300~~) (\$10,660) per day for each violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable

for a civil penalty of not more than ten thousand ~~three six~~ hundred ~~sixty~~ dollars ~~(\$10,300)~~ (\$10,660) for each day of continued noncompliance. ~~Each such violation shall be a separate and distinct offense, and in case of a separate and distinct violation.~~ The maximum daily fine for violations of standards by a specific emissions unit shall be ten thousand ~~three six~~ hundred ~~sixty~~ (\$10,300) (\$10,660) dollars.

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

AMENDATORY SECTION

NWAPA REGULATION SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES

150.1 Every person operating a class A registered air contaminant source or a source subject to the operating permit program shall file annually at a time determined by the Authority and on forms furnished by the Authority a report setting forth:

150.13 The estimated annual total production of wastes discharged into the air in units and contaminants designated by the Authority. Annual emission reports shall be submitted to the NWAPA by March 31 of the next calendar year. If the emission report is not submitted by the required date and the emissions are used to determine operating permit fees as described in section 324.126 then potential to emit will be used to determine said fees.

NEW SECTION

NWAPA REGULATION SECTION 300 - NOTICE OF CONSTRUCTION WHEN REQUIRED

300.4 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 324.2, shall be assessed in an amount equal to 3 times the plan examination fees of Section 324.2. 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.

NEW SECTION

NWAPA REGULATION SECTION 323 - CLASSES OF REGISTRATION

323.19 Class T - All air contaminant sources with potential uncontrolled annual emissions usually less than 10 tons/year of any compound listed in WAC 173-460 Sections 150 and 160, or CAA Section 112(b),

shall be classified as T sources. The registration of all Class T sources will be subject to review at the discretion of the Control Officer.

AMENDATORY SECTION

NWAPA REGULATION SECTION 324 - FEES

324.11 Sources classified as class "A", Class "B", Class "I", Class "G", Class "O", and Class "T" as defined in Section 323, and holders of each Variance issued by NWAPA, shall, upon notification by the Control Officer, pay the Authority an annual registration fee on or before January 1 of each year in accordance with the following schedule except that any new source which has paid a Notice of Construction filing fee and plan, examination and inspection fee shall not be required to pay an additional registration fee during that same calendar year.

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

NWAPA REGULATION SECTION 324 - FEES

~~324.119 The Authority shall collect interim fees to cover operating permit program development costs. The fees will be assessed to all sources in the jurisdiction that emit one hundred tons or more of a regulated pollutant. A regulated pollutant is defined in Section 502(b) of the Federal Clean Air Act Amendments of 1990. Fees shall be based on emissions determined in the most recent emissions inventory. The costs shall be determined by a workload analyses done by the Authority and approved by the Board. The fees shall be collected beginning fiscal year 1994. All Class "T" registered sources \$100.00.~~

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

NWAPA REGULATION SECTION 324 - FEES

324.120 The Authority shall collect interim fees to cover operating permit program development costs. The fees will be assessed to all sources in the jurisdiction that emit one hundred tons or more of a regulated pollutant. A regulated pollutant is defined in Section 502(b) of the Federal Clean Air Act Amendments of 1990. Fees shall be based on emissions determined in the most recent emissions inventory. The costs shall be determined by a workload analyses done by the Authority and approved by the Board. The fees shall be collected beginning fiscal year 1994.

NEW SECTION

NWAPA REGULATION SECTION 324 - FEES

324.121 Commencing with the effective date of the operating permit program the Authority shall assess and collect annual air operating permit fees in its jurisdiction for any source specified in section 7661(a) of Title V of the Federal Clean Air Act (FCAA) (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWAPA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by resolution by the Board of Directors in a public hearing. Allocation of the fees to individual affected sources shall be based on the following:

- a. Twenty percent of the total fees shall be allocated equally among all affected sources.
- b. Eighty percent of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory, or potential emissions if actual data are unavailable. A Regulated pollutant for fee calculation shall include:

- Nitrogen oxides
- Volatile organic compounds
- Particulate matter with an aerodynamic particle diameter less than or equal to 10 m (PM₁₀)
- Sulfur dioxide
- Lead
- Any pollutant subject to the requirements under section 112 (b) of the FCAA.

324.122 Upon assessment by the Authority, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under Section 324 within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under Section 324.

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

NWAPA REGULATION SECTION 326 - OPERATING PERMITS

Section 326: OPERATING PERMITS

326.1 Purpose

The purpose of this Section is to provide for the implementation of a renewable operating permit program consistent with the requirements of Title V of the Federal Clean Air Act Amendments of 1990 and RCW 70.94.

326.2 Applicability

The provisions of this section shall apply to all sources within the NWAPA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of section 7661(a) of the Federal Clean Air Act (FCAA).

326.3 Compliance

It shall be unlawful for any person to operate a source that is subject to the requirements of this section without complying with the provisions of Title V of the Federal Clean Air Act.

326.4 Operating Permit Program Fees

326.41 The Authority shall levy annual operating permit program fees as set forth in section 324.121 to cover the cost of administering the operating permit program.

326.42 The Authority shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWAPA jurisdiction. Fees shall be allocated to affected sources in the same manner specified in Section 324.121 (a) and (b).

326.43 An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.11.

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 93-16-052
PROPOSED RULES
GAMBLING COMMISSION
 [Filed July 28, 1993, 4:10 p.m.]

Original Notice.

Title of Rule: WAC 230-04-201 Fees.

Purpose: WAC 230-04-201, to update fee schedule for amusement games and to refine narrative for bona fide nonprofit/charitable organizations.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: WAC 230-04-201, lowers license fees requirements on amusement games.

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: See Purpose above.

Proposal Changes the Following Existing Rules: See Summary above.

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

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, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, by September 8, 1993.

Date of Intended Adoption: September 10, 1993.

July 22, 1993
Frank L. Miller
Director

AMENDATORY SECTION (Amending Order 233, filed 10/19/92, effective 11/19/92)

WAC 230-04-201 Fees. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

LICENSE TYPE	DEFINITION	FEE
1. AMUSEMENT GAMES	(Fee based on annual gross receipts)	
* Class A	((Up to \$ 5,000) Premises only)	\$ 50
Class B	((Up to \$ 15,000 150)) Up to \$ 10,000	50
Class C	Up to \$ 25,000	250
Class D	Up to \$ 50,000	400
Class E	over \$ 50,000	700
<u>*Allows a charitable or nonprofit organization to enter into a contract with Class B or above commercial amusement game licensee to locate and operate amusement games on their premises.</u>		
2. BINGO GROUP	CLASS (Fee based on annual gross gambling receipts)	
I	Class A Up to \$15,000	\$ 50
	Class B \$ 15,001 to 50,000	150
	Class C \$ 50,001 to 100,000	300
	Class D \$ 100,001 to 300,000	800
	Class E \$ 300,001 to 500,000	1,350
	Class F \$ 500,001 to 1,000,000	2,700
II	Class G \$ 1,000,001 to 1,500,000	3,900
	Class H \$ 1,500,001 to 2,000,000	5,200
	Class I \$ 2,000,001 to 2,500,000	6,500
	Class J \$ 2,500,001 to 3,000,000	7,800
III	Class K \$ 3,000,001 to 3,500,000	8,750
	Class L \$ 3,500,001 to 4,000,000	10,000
	Class M Over \$4,000,000	11,250

3. BINGO GAME MANAGER	Original \$ 150 Renewal 75
4. CARD GAMES	
Class A	General (fee to play charged) \$ 500
Class B	Limited card games - to hearts, rummy, mah-jongg, pitch, pinochle, and/or cribbage - (fee to play charged) 150
Class C	Tournament only - no more than ten consec. days per tournament 50
Class D	General (no fee to play charged) 50
Class R	Primarily for recreation (WAC 230-04-199) 25
5. CHANGES	
NAME	(See WAC 230-04-310) \$ 25
LOCATION	(See WAC 230-04-320) 25
FEE	(Reno Nite date(s)/time(s)) (See WAC 230-04-325) 25
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus 25
DUPLICATE LICENSE REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-04-290) 25
6. FUND RAISING EVENT	
Class A	One event not more than 24 consec. hrs. \$ 300
Class B	One event not more than 72 consec. hrs. 500
Class C	Additional participant in joint event (not lead organization) 150
Class D	Fund Raising Event Equipment Distributor - Rents or leases, equipment for fund raising event or recreational gaming activity more than 4 times per year. 200
Class E	Fund Raising Event Equipment Distributor - Rents or leases equipment for fund raising event or recreational gaming activity more than 10 times per year. 500
NOTE: Charitable and nonprofit organizations licensed to conduct fund raising events may rent equipment up to four occasions without getting licensed as a distributor.	
7. PERMITS	
	Agricultural fair/special property bingo One location and event only (see WAC 230-04-191) \$ 25
	Recreational gaming activity permit (RGA) (see WAC 230-25-330 and 230-02-505) 50
8. PUNCHBOARDS/ (Fee based on annual gross gambling receipts) (One time variance)	
PULL TABS	
Class A	Up to \$ 50,000 \$ 5,000 \$ 475
Class B	Up to \$ 100,000 \$ 5,000 850
Class C	Up to \$ 200,000 \$ 10,000 1,600
Class D	Up to \$ 300,000 \$ 10,000 2,325
Class E	Up to \$ 400,000 \$ 10,000 3,000
Class F	Up to \$ 500,000 \$ 10,000 3,625
Class G	Up to \$ 600,000 \$ 10,000 4,200
Class H	Up to \$ 700,000 \$ 10,000 4,725
Class I	Up to \$ 800,000 \$ 10,000 5,200
Class J	Up to \$ 1,000,000 \$ 20,000 5,900
Class K	Up to \$ 1,250,000 \$ 25,000 6,550
Class L	Up to \$ 1,500,000 \$ 25,000 7,150
Class M	Up to \$ 1,750,000 \$ 25,000 7,650
Class N	Up to \$ 2,000,000 \$ 25,000 8,100
Class O	Over \$ 2,000,000 Nonapplicable 8,900

A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260; Provided, a licensee utilizing the variance

shall be required to upgrade upon recertification.

9.	RAFFLES	(Fee based on annual gross gambling receipts)	
	Class A	Up to \$ 5,000	\$ 50
	Class B	Up to \$ 10,000	150
	Class C	Up to \$ 25,000	300
	Class D	Up to \$ 50,000	500
	Class E	Up to \$ 75,000	800
	Class F	Over \$ 75,000	1,200
10.	SEPARATE PREMISES BINGO	Occasion (see WAC 230-04-300)	\$ 25
11.	SPECIAL FEES		
	INVESTIGATION IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-04-240)	As required
	EXCEEDING LICENSE CLASS	(See WAC 230-30-015 and 230-30-030)	As required
		(See WAC 230-04-260)	As required
		In addition to all normal license fees, a licensee may be assessed an exceeding class fee for a present or previous license year, not to exceed 50% of the difference between the present class fee and the new license class or \$1,000, whichever is less.	
12.	SIX-MONTH PAYMENT PLAN	The commission may allow an applicant renewing an annual license or an applicant applying for an additional license with a fee of \$800 or above, to pay a license fee in two payments. SIX-MONTH PAYMENT PLAN PROCEDURE: The administrative processing fee, plus the first half of the annual license fee must be submitted at the time of application/renewal. The second half payment must be submitted and received in the commission's Olympia headquarters office, prior to the expiration date of the first six-month period: Provided, That participants electing the six-month payment plan will be limited to 50% of the authorized class limitation for annual gross receipts during the first six-month period. Licensees exceeding 50% of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus \$25.00.	\$ 25

Table 2. (For commercial stimulant/profit seeking organizations)

LICENSE TYPE	DEFINITION	FEE
1. CARD GAMES		
Class B	(Fee to play charged) limited card games - to hearts, rummy, pitch, pinochle, mah-jongg, and/or cribbage	\$ 150
Class C	Tournament only, no more than ten consec. days per tournament	150
Class D	General (no fee to play charged)	50
Class E	General (fee to play charged)	
E-1	One table only	350
E-2	Up to two tables	600
E-3	Up to three tables	1,000

E-4	Up to four tables	2,000	
E-5	Up to five tables	3,000	
2.	CHANGES		
	NAME	(See WAC 230-04-310)	\$ 25
	LOCATION	(See WAC 230-04-320)	25
	BUSINESS CLASSIFICATION	(Same owners - see WAC 230-04-340(3))	50
	LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
	DUPLICATE LICENSE	(See WAC 230-04-290)	25
	OWNERSHIP OF STOCK REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-04-340(1))	50
	LICENSE TRANSFERS	(See WAC 230-30-016)	25
		(See WAC 230-04-125, 230-04-340 and 230-04-350)	50
3.	DISTRIBUTOR	(Fee based on annual gross sales of gambling related supplies and equipment)	
(a)	Class A	Nonpunchboard/pull tab only	\$ 500
	Class B	Up to \$250,000	\$ 1,000
	Class C	\$250,001 to \$500,000	\$ 1,500
	Class D	\$500,001 to \$1,000,000	\$ 2,000
	Class E	\$1,000,001 to \$2,500,000	\$ 2,600
	Class F	Over \$2,500,000	\$ 3,200
		In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the initial investigation and inspection necessary for certification.	
(b)	Fund Raising Event Equipment Distributor		
	Class A	Rents or leases equipment for fund raising event or recreational gaming activity up to ten times per year.	\$ 200
	Class B	Rents or leases equipment for fund raising event or recreational gaming activity more than ten times per year.	\$ 500
4.	DISTRIBUTOR'S REPRESENTATIVE	Original	\$ 200
		Renewal	125
5.	MANUFACTURER	(Fee based on annual gross sales of gambling related supplies and equipment)	
	Class A	Machines only	\$ 500
	Class B	Up to \$250,000	\$ 1,000
	Class C	\$250,001 to \$500,000	\$ 1,500
	Class D	\$500,001 to \$1,000,000	\$ 2,000
	Class E	\$1,000,001 to \$2,500,000	\$ 2,600
	Class F	Over \$2,500,000	\$ 3,200
		In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the initial investigation and inspection necessary for certification.	
6.	MANUFACTURER'S REPRESENTATIVE	Original	\$ 200
		Renewal	125
7.	PERMITS		
	Class A	Agricultural fair/special property bingo One location and event only (see WAC 230-04-191)	\$ 25
	Class B	Annual permit for specified different events and locations (see WAC 230-04-193)	150
8.	PUBLIC CARD ROOM EMPLOYEE	Original	\$ 150
		Renewal	75

9. PUNCHBOARDS/ (Fee based on annual gross PULL TABS gambling receipts) (One time variance)

Class A	Up to \$ 50,000	\$ 5,000	\$ 475
Class B	Up to \$ 100,000	\$ 5,000	850
Class C	Up to \$ 200,000	\$ 10,000	1,600
Class D	Up to \$ 300,000	\$ 10,000	2,325
Class E	Up to \$ 400,000	\$ 10,000	3,000
Class F	Up to \$ 500,000	\$ 10,000	3,625
Class G	Up to \$ 600,000	\$ 10,000	4,200
Class H	Up to \$ 700,000	\$ 10,000	4,725
Class I	Up to \$ 800,000	\$ 10,000	5,200
Class J	Up to \$ 1,000,000	\$ 20,000	5,900
Class K	Up to \$ 1,250,000	\$ 25,000	6,550
Class L	Up to \$ 1,500,000	\$ 25,000	7,150
Class M	Up to \$ 1,750,000	\$ 25,000	7,650
Class N	Up to \$ 2,000,000	\$ 25,000	8,100
Class O	Over \$ 2,000,000	Nonapplicable	8,900

A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260; Provided, a licensee utilizing the variance shall be required to upgrade upon recertification.

SIX-MONTH PAYMENT PLAN PROCEDURE: The administrative processing fee, plus the first half of the annual license fee must be submitted at the time of application/renewal. The second half payment must be submitted and received in the commission's Olympia headquarters office, prior to the expiration date of the first six-month period: Provided, That participants electing the six-month payment plan will be limited to 50% of the authorized class limitation for annual gross receipts during the first six-month period. Licensees exceeding 50% of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus \$25.00.

10. SPECIAL FEES

INVESTIGATION IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-04-240)	As required
EXCEEDING LICENSE CLASS	(See WAC 230-30-015 and 230-30-030)	As required
REVIEW/EVALUATION/ APPROVAL OF AMUSEMENT GAMES OR DEVICES	(See WAC 230-04-260) In addition to all normal license fees, a licensee may be assessed an exceeding class fee for a present or previous license year, not to exceed 50% of the difference between the present class fee and the new license class or \$1,000, whichever is less.	As required
	(See WAC 230-20-605)	\$100

11. COMMERCIAL AMUSEMENT GAMES

* Class A	Premises only	** \$250/100
Class B	Up to \$ 50,000	\$ 350
Class C	Up to \$ 100,000	900
Class D	Up to \$ 250,000	2,000
Class E	Up to \$ 500,000	3,500
Class F	Up to \$ 1,000,000	6,000
Class G	Over \$ 1,000,000	7,500

* Allows the owner of a business operated at any location qualified under WAC 230-04-138 ((1)(f), (g), (h), (i), or (j)) (5) to enter into a contract with a Class B or above commercial amusement game licensee to locate and operate amusement games on their premises.

** Provides for a fee reduction of \$150 when:
 - Renewing an annual license;
 - Applying for an additional license(s); and/or
 - Applying for multiple licenses.

WSR 93-16-054
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Filed July 29, 1993, 10:54 a.m.]

Original Notice.

Title of Rule: WAC 388-83-046 Relative financial responsibility for AFDC-related programs, 388-83-130 Eligibility—Special situations, and 388-99-020 Eligibility determination—Medically needy in own home.

Purpose: Amendments delete financial responsibility from WAC 388-83-130 and move them to WAC 388-83-046. Section WAC 388-83-046 revised to meet the intent of the *Sneede vs. Kizer* 9th Circuit Court decision which changes financial responsibility rules and how medical care family units are formed.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: WAC 388-83-130 amended to state specifically that JOBS registration or referral is not an eligibility requirement for medical programs and to clarify technical language. WAC 388-99-020 is revised to add a cross reference to WAC 388-83-046 due to impact of *Sneede* decision and to clarify technical language.

Reasons Supporting Proposal: 9th Circuit Court decision.

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

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

Rule is necessary because of federal court decision, *Sneede vs. Kizer* 9th Circuit Court decision U.S. Court of Appeals D.C. #CV-89-1932-TEH.

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.

12. SIX-MONTH PAYMENT PLAN

	The commission may allow an applicant renewing an annual license or an applicant applying for an additional license with a fee of \$800 or above, to pay a license fee in two payments.	\$25
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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 29, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3546, filed 5/12/93, effective 6/12/93)

WAC 388-83-046 Relative financial responsibility for ~~((SSI-nonrelated clients))~~ AFDC-related programs. (1) When determining ~~((program))~~ eligibility for medical care programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship; ~~((and))~~

(b) A relative to be financially responsible only as follows:

(i) The natural or adoptive parent or stepparent ~~((or parent))~~ to a child under ~~((age))~~ nineteen years of age living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when all family members are not eligible for a categorically needy medical care program:

(i) A child with countable income or resources;

(ii) A child in common of unmarried parents;

(iii) Each unmarried parent of a child in common with such parent's separate children, if any; or

(iv) A nonresponsible caretaker relative.

(d) Family members, other than those described under subsection (1)(c), in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and the spouses' children living in the same household ~~((when none are SSI related, with the following exceptions:~~

~~(a) Pregnant minor as described under WAC 388-83-130; or~~

~~(b) Excluded child as described under WAC 388-83-130)) unless the exceptions in this section are met. See WAC 388-92-025 for the financial responsibility requirements for SSI-related clients.~~

(3) When determining eligibility for medical care, the department shall not consider the countable income or resources of a child available to any person other than the child.

(4) The department shall consider the income of a parent of a child under nineteen years of age;

(a) Living in the same household, available to the child, whether or not actually contributed, as follows:

(i) A parent's income shall be allocated to each child for whom the parent is financially responsible; and

(ii) A parent shall be allowed one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU. The department shall allocate income in excess of one hundred percent of the FPL on a prorated basis to all children under nineteen years of age in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child under nineteen years of age:

(a) Living in the same household, available to the child whether or not actually contributed. A parent's countable resources shall be:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent who is not legally liable for support of the stepchildren;

(b) Grandparent;

(c) Legal guardian other than the parent of the client;

(d) Alien sponsor; or

(e) Sibling.

(7) The department shall determine each MAU's medical care eligibility using:

(a) The MAU's countable income and resources; and

(b) Household size for the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-28-435 when such vehicle is owned by a person in the MAU.

AMENDATORY SECTION (Amending Order 3516, filed 2/24/93, effective 3/27/93)

WAC 388-83-130 Eligibility—Special situations. (1) ~~((In determining eligibility for medical services, the department shall:~~

~~(a) Consider parent's income available whether or not actually contributed, when determining:~~

~~(i) Eligibility of a non SSI-related person under nineteen years of age residing in the same family unit with parents; or~~

~~(ii) SSI-related eligibility of a person under eighteen years of age residing in the same family unit with parents.~~

~~(b) In determining a pregnant minor's medical eligibility, the department shall:~~

~~(i) Not consider the income of her natural, adoptive or stepparents unless the income is actually contributed; and~~

~~(ii) Consider a pregnant minor as living on her own.~~

(2)) The department shall not allow the AFDC earned income exemption of thirty dollars plus one-third of remainder to a client((s)):

(a) Applying solely for medical assistance, except for ((families)) a family applying for medical assistance who received AFDC or FIP cash assistance in any of the four preceding months; and

(b) After the client receives the thirty dollars plus one-third income disregard for a maximum of four consecutive months. A client is not eligible for the disregard until the client does not receive AFDC or FIP cash assistance for twelve consecutive months.

~~((3) For family units determined ineligible for AFDC or FIP cash assistance solely due to the requirements of WAC 388-24-050 or 388-77-210 that certain siblings be included in the assistance unit, at the applicant's option, such individuals and their income may be excluded from the assistance unit when determining eligibility of the remaining assistance unit members for categorically needy medical assistance.~~

~~(4) For family units determined ineligible for AFDC or FIP financial assistance solely due to the requirements of WAC 388-28-500(4) or 388-77-285 that income of the nonapplying parents of a minor parent be considered available to the assistance unit of the minor parent and such minor's child or children, such income shall be disregarded when determining eligibility of such minor's child or children.~~

(5)) (2) The department shall consider an AFDC ((and FIP children sixteen and seventeen years of age;)) client terminated from cash assistance((;)) as eligible for Medicaid ((on the same basis as dependent children)) when termination was solely due to the AFDC client:

(a) ((AFDC or FIP children)) Ceasing to attend school; or

(b) ((AFDC children)) Refusing to participate in the Job Opportunities and Basic Skills Training (JOBS) program.

~~((6) The department shall consider a person eligible for Medicaid when the person is denied AFDC or FIP cash assistance solely because:~~

~~(a) Of income and resources deemed available from the following person who is not a member of the AFDC or FIP unit, unless actually available to the assistance unit:~~

~~(i) Stepparent who is not legally liable for support of stepchildren;~~

~~(ii) Grandparent;~~

~~(iii) Legal guardian who is not a parent;~~

~~(iv) Alien sponsor; or~~

~~(v) Sibling.~~

~~(b) Of counting a sibling's income or resources or both to determine AFDC or FIP cash assistance when the sibling is residing in the same residence, unless the sibling actually contributes or makes available the income or resources or both to the AFDC or FIP assistance unit; and~~

~~(c) After July 1, 1989, a member of the family transferred a resource without receiving adequate compensation))~~

(3) The department shall not consider the transfer of a resource when determining Medicaid eligibility for a person who is not institutionalized. If the ((family member)) client is institutionalized, refer to chapter 388-95 WAC.

~~((7) The department shall consider a person eligible for Medicaid when the person is denied SSI cash assistance~~

~~solely because of income and resources deemed available from an alien sponsor;))~~

AMENDATORY SECTION (Amending Order 3522, filed 3/10/93, effective 4/10/93)

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

(a) One person	\$ 467
(b) Two persons	\$ 592
(c) Three persons	\$ 667
(d) Four persons	\$ 742
(e) Five persons	\$ 858
(f) Six persons	\$ 975
(g) Seven persons	\$ 1,125
(h) Eight persons	\$ 1,242
(i) Nine persons	\$ 1,358
(j) Ten persons and above	\$ 1,483

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

(a) AFDC eligibility for families and children ((in a non-designated FIP geographic area)). The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except ((for families)) as described under WAC 388-83-130 ((2)(a))(1); and

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

~~(c) FIP eligibility for families and children)).~~

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

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

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

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

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

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

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

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

(6) ((If)) When countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base

period. The department shall determine the base period under WAC 388-99-055.

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

(a) In the same household, available to the ~~((applicant))~~ client, whether or not actually contributed, unless the exception in subsection (7)(c) of this section is met; ~~((and))~~

(b) Not in the same household, only to the extent ~~((of what is actually))~~ the income and/or resources are contributed; and

(c) Under WAC 388-83-046, when the family unit includes a child with income or resources, unmarried parents with a child in common, or a nonresponsible caretaker relative.

(8) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under ~~((chapter 388-92))~~ WAC 388-92-025 and 388-92-027.

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

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

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

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

**WSR 93-16-056
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed July 29, 1993, 10:55 a.m.]

Original Notice.

Title of Rule: WAC 388-24-050 Aid to families with dependent children—Assistance unit.

Purpose: Removes the option of the caretaker relative to include nonsibling children in one assistance unit. Amended subsection (3)(d) to say "a child receiving Title IV-E, state, or local foster care."

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Clarifies that nonsiblings shall not be included in the same assistance unit.

Reasons Supporting Proposal: In spite of the federal court ruling, this rule continued to allow caretaker relatives the option to include nonsiblings in the same assistance unit. Also, subsection (3)(d) had editorial change only.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Culhane, Division of Income Assistance, 438-8310.

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: 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 29, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3188, filed 6/4/91, effective 7/5/91)

WAC 388-24-050 Aid to families with dependent children—Assistance unit. (1) Except as specified ~~((#))~~ under subsection (3) of this section, the department shall include, in a single assistance unit, the following persons living together:

(a) A woman in her third trimester of pregnancy who has no other child; or

(b) ~~((The))~~ A child~~((ren))~~, including all full, half, or adopted brothers and sisters of ~~((such a))~~ the child~~((ren))~~; and

(c) ~~((The))~~ A parent~~((s))~~, adoptive parent~~((s))~~, or stepparent~~((s))~~ with whom the child~~((ren))~~ lives; and

(d) A minor parent's parent who claims to be the needy caretaker relative of:

(i) The minor parent;

(ii) The minor parent's child; or

(iii) The minor parent's full or half brother or full or half sister.

(2) Except as specified ~~((#))~~ under subsection (3) of this section, the department may include in the assistance unit at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child~~((ren))~~, if a parent does not reside in the family home; or

(b) The stepbrother~~((s))~~ or stepsister~~((s))~~ of a child included in the assistance unit, except as required ~~((#))~~ under subsection (1) of this section~~((;~~

~~((c) Needy eligible nonsibling children)).~~

(3) The department shall exclude from the assistance unit ~~((those))~~ a person~~((s))~~ ineligible due to factors not related to need. Exclusions include, but are not limited to:

(a) A recipient of SSI benefits;

(b) An alien not meeting the citizenship and alienage requirements ~~((see))~~ as described under WAC 388-26-120~~((;))~~;

(c) Adopted children receiving Title IVE, state, or local adoption assistance if inclusion of such child~~((ren))~~ and ~~((their))~~ the child's income will result in a decrease in benefits to the assistance unit;

(d) ~~A child~~ who receives Title IV-E, state ~~((and))~~, or local foster care maintenance payments; and

(e) A person under sanction for noncooperation with:

(i) The Job Opportunities Basic Skills Training (JOBS) program ~~((see))~~ as described under WAC 388-24-107~~((3))~~; or

(ii) The department's office of support enforcement ~~((see))~~ as described under WAC 388-24-108 and 388-24-109~~((3))~~.

WSR 93-16-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed July 29, 1993, 10:57 a.m.]

Original Notice.

Title of Rule: WAC 388-11-143 Department review of support orders.

Purpose: This proposed rule will govern when Office of Support Enforcement will review and initiate an action to modify a child support order as a result of a review.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Establishes standards regulating when OSE will review a child support order, and initiate a modification as a result of a review of a child support order.

Reasons Supporting Proposal: 45 CFR 302.70, 303.7, and 303.8 require the state to provide for periodic review and adjustment of child support orders.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Kellington, Office of Support Enforcement, 586-3426.

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

Rule is necessary because of federal law, 45 CFR 302.70, 303.7, and 303.8.

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 29, 1993

Rosemary Carr

Acting Director

Administrative Services

NEW SECTION

WAC 388-11-143 Department review of support orders. (1) The office of support enforcement (OSE) shall review a superior court or administrative order for child support to determine whether OSE will petition to modify the child support provisions of the order when OSE is providing support enforcement services under Title IV-D of the Social Security Act.

(2) OSE shall review orders for child support under subsection (1) of this section when:

(a) The department is paying public assistance or has determined that the children are eligible for medical assistance, and thirty-five months have passed since:

(i) OSE last reviewed the order under this section;

(ii) The order was last modified; or

(iii) The order was entered; or

(b) A party to the order, or another state's IV-D agency submits a request for review to OSE and thirty-five months have passed since:

(i) OSE or another state's IV-D agency last reviewed the order under this section;

(ii) The order was last modified; or

(iii) The order was entered.

(3) OSE may refer a request for review to another state's IV-D agency for action.

(4) OSE shall send notice of the pending review by regular mail to the last known address of the parties to the order thirty days before the review.

(5) Under this section, OSE shall petition to modify the order when OSE finds during the review that each of the following conditions are present:

(a) OSE has knowledge of the address of both parties to the order;

(b) The proposed change in child support based on the Washington state child support schedule is at least:

(i) Twenty-five percent above or below the current support obligation;

(ii) One hundred dollars per month above or below the current support obligation; and

(iii) A two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the responsible parent pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(c) The case meets the legal requirements for modification under RCW 26.09.170 or WAC 388-11-140.

(6) OSE may move to modify the order without regard to subsection (5)(b) of this section when:

(a) The order does not require the responsible parent to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the responsible parent's employer or union at a reasonable cost.

(7) OSE shall notify the parties of:

(a) The findings of the review by regular mail at their last known addresses;

(b) Their rights to challenge the review findings; and

(c) The appropriate forum and procedure for challenging the review findings.

(8) This section does not limit the right of any party to petition for a modification of the order independent from the review process.

**WSR 93-16-062
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed July 30, 1993, 8:19 a.m.]

Original Notice.

Title of Rule: Amending WAC 390-16-038 Definition—Aggregate; and new WAC 390-17-050 Independent expenditure—Definition.

Purpose: Adopt new rule and amend existing rule per Initiative 134.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: WAC 390-16-038 Definition—Aggregate, defines "aggregate"; and WAC 390-17-050 Independent expenditure—Definition, defines "independent expenditure."

Reasons Supporting Proposal: Needed to implement Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, Attorney General, Olympia, 586-1913; **Implementation:** Graham Johnson, Public Disclosure Commission, Olympia, 753-1111; and **Enforcement:** David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 390-16-038 Definition—Aggregate, for purposes of determining the total amount of contributions from a source, all contributions received or expended by a candidate or political committee must be added to the contributions of any other affiliated political committee. All contributions from a person to any candidate or political committee during the applicable reporting period must be added together; and WAC 390-17-050 Independent expenditure—Definition, the definition of independent expenditure in RCW 42.17.630(10) shall apply throughout chapter 42.17 RCW except for RCW 42.17.100.

Proposal does not change existing rules.

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

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on September 28, 1993, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by September 15, 1993.

Date of Intended Adoption: September 28, 1993.

July 29, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-038 Definition—Aggregate. The term "aggregate" means, for purposes of

(1) a candidate for state office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;

(2) a candidate for local or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;

(3) a bona fide political party or legislative caucus committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(4) a political committee, the total amount of contributions received by the committee from the date of organization;

(5) a continuing political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(6) a contributor, the total amount of all contributions from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) a person making independent campaign expenditures, the total amount of expenditures made to a person or vendor during the period for which the report is submitted;

(8) the special reports required by RCW 42.17.105 and .175, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) an employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition during the preceding calendar year;

(10) the sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in 42.17.200(1);

(11) RCW 42.17.245, the total amount of all time and demand deposits in each financial institution on December 31;

(12) RCW 42.17.395(4), the total amount of monetary penalty that the commission may impose for multiple violations of the act.

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

NEW SECTION

WAC 390-17-050 Independent expenditure—Definition. The definition of "independent expenditure" in RCW 42.17.630(10) shall apply to that term as used throughout chapter 42.17 RCW, except for RCW 42.17.100. "Candidate" as that term is used in RCW 42.17.630(10) shall have the meaning set forth in RCW 42.17.020(5).

WSR 93-16-065
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed July 30, 1993, 10:20 a.m.]

Original Notice.

Title of Rule: Specifies types of accidents and information regarding accidents which must be submitted to state parks, chapter 352-70 WAC, Boating accident and casualty reports.

Purpose: To carry out legislative mandate and update the state accident reporting program to be consistent with changes in federal requirements.

Statutory Authority for Adoption: RCW 43.51.400.

Statute Being Implemented: Section 18, chapter 244, Laws of 1993.

Summary: Amendments update definitions, minimum threshold for reporting of property damage and incorporate local law enforcement agencies in accident reporting as mandated by 1993 legislature.

Reasons Supporting Proposal: To reduce confusion over boating accident reporting. To specify law enforcement agency responsibilities.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim French, 7150 Cleanwater Lane, Olympia, WA 98504, 586-2165.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Federal Boat Safety Act of 1971 established nationwide program for state boating safety and reporting financial assistance. Original rule adopted in 1983 needs amending to reflect changes in state law (definition changes, law enforcement responsibilities) and federal regulation changes. Reduced reporting of minor accidents, increased participation in accident reporting and investigation by local law enforcement.

Proposal Changes the Following Existing Rules: New definitions, property damage threshold changed from \$200 to \$500.

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

Hearing Location: Best Western Hallmark Inn, 3000 West Marina Drive, Moses Lake, WA 98837, on September 17, 1993, at 9:00 a.m.

Submit Written Comments to: Jim French, 7150 Cleanwater Lane, Olympia, WA 98504, by September 3, 1993.

Date of Intended Adoption: September 17, 1993.

July 30, 1993

Sharon Howdeshell
Office Manager

AMENDATORY SECTION (Amending Order 73, filed 12/19/83)

WAC 352-70-010 Purpose. This chapter is promulgated in accordance with RCW 43.51.400 and 88.12.130 in order to establish procedures by which boating accident and casualty reports are to be submitted to the Washington state

parks and recreation commission (~~in accordance with RCW 43.51.400~~) and to the law enforcement agencies having jurisdiction.

AMENDATORY SECTION (Amending Order 73, filed 12/19/83)

WAC 352-70-020 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Commission" means the Washington state parks and recreation commission.

(2) "Operator" means ~~((the person who is in control of in charge of a vessel while it is in use))~~ an individual who steers, directs, or otherwise has control of a vessel that is underway or exercises actual authority to control the person at the helm.

(3) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(4) "Use" means operate, navigate, or employ.

(5) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers.

(6) "Waters of Washington state" means any waters within the territorial limits of Washington state.

AMENDATORY SECTION (Amending Order 73, filed 12/19/83)

WAC 352-70-040 Written accident and casualty report. (1) The operator of a vessel shall submit a complete written report to the ~~((commission))~~ law enforcement agency that has jurisdiction where the accident occurred. The report shall be on a form prescribed by the commission in WAC 352-70-050. The report shall be submitted when as a result of an occurrence that involves the vessel or its equipment:

(a) A person dies;

(b) A person is injured and requires medical treatment beyond first aid;

(c) Damage to the vessel and other property totals more than ~~((two))~~ five hundred dollars or there is a complete loss of a vessel; or

(d) A person disappears from the vessel under circumstances that indicate death or injury.

(2) A report required by this section must be submitted within forty-eight hours of the occurrence if a person dies within twenty-four hours of the occurrence, is injured and requires medical treatment beyond first aid, or disappears from a vessel.

All other reports required by this section must be submitted within ten days of the occurrence.

(3) If the operator of a vessel cannot submit the report required by this section, the owner shall submit the report, and, if the owner cannot submit the report, ~~((another person acting on behalf of the owner shall submit the report))~~ the law enforcement agency that has jurisdiction where the

accident occurred shall complete the report on behalf of the owner.

(4) The completed report shall be submitted to the commission by the law enforcement agency that has jurisdiction within ten days of receiving or completing the report.

AMENDATORY SECTION (Amending Order 73, filed 12/19/83)

WAC 352-70-050 Content of written accident and casualty report. Each written report required by WAC 352-70-040 shall be on a form prescribed by the commission. Each report must be dated upon completion, signed by the person who prepared it, and must contain, if available, at least the following information about the accident or casualty:

- (1) The registration numbers or names as documented of each vessel involved.
- (2) The name and address of each owner of each vessel involved.
- (3) The name of the nearest city or town, the county, the state, and the body of water.
- (4) The time and date the accident or casualty occurred.
- (5) The location on the water.
- (6) The visibility, weather, and water conditions.
- (7) The estimated air and water temperatures.
- (8) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator of the vessel of the person making the report.
- (9) The name and address of each operator of each other vessel involved.
- (10) The number of persons on board and towed on skis by each vessel.
- (11) The name, address, and date of birth of each person injured or killed.
- (12) The cause of each death.
- (13) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.
- (14) The name and address of each owner of property involved.
- (15) The number, availability, and use of personal flotation devices.
- (16) The type and amount of each fire extinguisher used.
- (17) The nature and extent of each injury.
- (18) A description of all property damage and vessel damage with an estimate of the cost of all repairs.
- (19) A description of each equipment failure that caused or contributed to the cause of the accident or casualty.
- (20) A description of the vessel accident or casualty.
- (21) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other) and the type of accident (capsizing, sinking, fire, explosion, or other).
- (22) The opinion of the person making the report as to the cause of the accident or casualty including whether or not alcohol or drugs, or both, was a cause or contributed to causing the casualty.
- (23) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horse power, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other),

construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year) of the vessel of the person making the report.

(24) The name, address, and telephone number of each witness.

(25) The manufacturer's hull identification number, if any, of the vessel of the person making the report.

(26) The name, address, and telephone number of the person submitting the report.

AMENDATORY SECTION (Amending Order 73, filed 12/19/83)

WAC 352-70-060 Submission of notification and report. The report required by this chapter shall be submitted to the commission at the following address by the law enforcement agency that has jurisdiction where the accident occurred:

Washington State Parks and
Recreation Commission
Boating (~~(Safety and Education))~~ Programs
7150 Cleanwater Lane (~~(KY-11)~~)
P.O. Box 42654
Olympia, Washington 98504-2654
~~((206) 753-5755))~~

**WSR 93-16-066
PROPOSED RULES
PARKS AND RECREATION
COMMISSION**

[Filed July 30, 1993, 10:22 a.m.]

Original Notice.

Title of Rule: Establishes testing procedures to be employed by law enforcement agencies to determine vessel sound levels, chapter 352-67 WAC, Vessel sound level measurement procedures.

Purpose: Specify testing procedures required by 1993 state legislature.

Statutory Authority for Adoption: RCW 43.51.400.

Statute Being Implemented: Section 39, chapter 244, Laws of 1993.

Summary: Technical procedures for measuring decibel levels will be adopted from nationally recognized test procedures of the Society of Automotive Engineering.

Reasons Supporting Proposal: Test procedures are necessary for due process of state laws.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim French, 7150 Cleanwater Lane, Olympia, WA 98504, 586-2165.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Technical enforcement procedures validated by national engineering testing experts will enable law enforcement officers to identify and apprehend operators of excessively noisy boats. Increased law enforcement citations and decreased environmental noise.

Proposal Changes the Following Existing Rules: It will bring about the repeal of chapter 173-70 WAC.

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

Hearing Location: Best Western Hallmark Inn, 3000 West Marina Drive, Moses Lake, WA 98837, on September 17, 1993, at 9:00 a.m.

Submit Written Comments to: Jim French, 7150 Cleanwater Lane, Olympia, WA 98504, by September 3, 1993.

Date of Intended Adoption: September 17, 1993.

July 30, 1993
Sharon Howdeshell
Office Manager

**Chapter 352-67 WAC
VESSEL SOUND LEVEL MEASUREMENT
PROCEDURES**

NEW SECTION

WAC 352-67-010 Purpose. The purpose of these rules is to adopt vessel sound level measurement procedures. These rules are adopted pursuant to chapter 88.12 RCW Regulation of motor boats, under authority of chapter 88.12 RCW and RCW 43.51.400. These test procedures are based on SAE recommended practices SAE J1970, Shoreline Sound Level Measurements Procedure, and SAE J2005, Stationary Sound Level Measurement Procedures for Pleasure Motorboat, and are obtained from and printed with the permission of the Society of Automotive Engineers Inc., 400 Commonwealth Drive, Warrendale, PA 15096-0001.

NEW SECTION

WAC 352-67-020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

- (1) "dB" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter.
- (2) "Commission" means the state parks and recreation commission.
- (3) "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.
- (4) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.
- (5) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.
- (6) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute (ANSI), Specifications for Sound Level Meters, S1.4-1983 and S1.4A-1985.
- (7) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers.

(8) "Waters of the state" means any waters within the territorial limits of Washington state.

(9) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

NEW SECTION

WAC 352-67-030 Instrumentation. (1) A sound level meter which meets Type 1 or Type 2 specifications shall be used.

(2) A microphone windscreen that does not affect the overall reading by more than +0.5 dB shall be used.

(3) A sound level calibrator shall be used to calibrate the sound level meter. Proper acoustical calibration shall comprise the complete measurement system including extension cables, etc. Field calibration shall be performed immediately before and after each test sequence.

NEW SECTION

WAC 352-67-040 General requirements. The following general requirements shall be followed when conducting sound level measurement procedures:

- (1) The measurements shall be conducted only by persons qualified by training to perform these procedures.
- (2) Proper use of all test instrumentation is essential to obtain valid measurements. Operating manuals or other literature furnished by the instrument manufacturer should be consulted for both recommended operation of the instrument, and precautions to be observed.
- (3) A measurement shall be invalid if changes in the background sound level affect the applicable reading.

NEW SECTION

WAC 352-67-050 Specific requirements. (1) A person who is qualified to conduct sound level measurement procedures may use either the shoreline sound level measurement procedure, or the stationary sound level measurement procedure, or both.

(2) The shoreline sound level measurement procedure shall be performed as follows:

- (a) A suitable measurement site is the shore of a body of water, or dock projecting out from the shore into the body of water, or a raft, or a vessel moored to a dock, or anchored so that the sound level meter or microphone is not more than six meters (twenty feet) from shore. If the measurement is made from a dock, the dock shall be of open construction so that it presents a minimum of reflecting surfaces. The area around the microphone and vessel being measured shall be free of large obstructions or reflective surfaces including but not limited to buildings, high embankments, sea walls, hills, large piers, or breakwaters, for a minimum distance of thirty meters (one hundred feet).
- (b) The applicable reading does not require that the vessel subject to the procedure be at any specific distance from the shoreline or microphone.
- (c) This measurement procedure shall not be used during the time period of thirty seconds following engine start-up and/or preceding engine shutdown.

(d) The microphone shall be placed 1.2 meters to 1.5 meters (four feet to five feet) above the water, and no less than 0.6 meter (two feet) above the curve of the shore, dock, or platform. If on a dock or platform, the microphone shall be placed near or beyond the end of the dock or platform. If the measurement is made from a vessel, the microphone shall be held at a height of not less than 0.6 meter (two feet) above the surface of the water. A suitable vessel for this purpose is of open hull construction.

(e) The meter shall be set for slow response and the A-weighting network on the sound level meter.

(f) The observer reading the meter shall not be closer than arm's length from the microphone. Only one other person may be within fifteen meters (fifty feet) of the microphone when measuring from the dock or shoreline, and that person shall be directly behind the observer reading the sound level meter.

(g) The applicable reading shall be the highest sound level measured during a period when the background sound level is at least ten dB lower than the maximum allowable sound level. Background sound level includes wind effects, noise from boats other than the one being measured, wave action, boat wakes, and other extraneous noises. Readings due to hull slaps which create intermittent sound levels shall be disregarded.

(h) The observer shall record the applicable reading and the background sound levels taken immediately before and immediately after applicable reading.

(i) When sound level readings are taken from inside a vessel, three dB shall be subtracted from the reading to better correlate with shoreline readings.

(3) The stationary sound level measurement procedure shall be performed as follows:

(a) A suitable measurement site is a body of water free of large obstructions or reflective surfaces including but not limited to buildings, vessels other than those involved in the procedure, large embankments, or breakwaters, for a minimum distance of eight meters (twenty-five feet) from the vessel being measured. The vessel being tested shall either be moored to a dock or lashed to another vessel. If moored to a dock, the dock shall be of open construction so that it presents a minimum of reflecting surfaces. If the measurement is made in open water, the vessel being measured shall be lashed to the measurement vessel to prevent relative motion and to allow positioning of the microphone in the prescribed location. The measurement vessel shall be positioned to minimize reflected sound.

(b) The engine or motor of the vessel being evaluated shall be operated at low idle speed within the engine manufacturer's recommended operating range, in neutral gear if so equipped. For vessels without a neutral gear, the engine or motor shall be operated at its lowest operational speed. The engine or motor shall be operated for a sufficient amount of time to allow water to flow through the exhaust system before taking measurements.

(c) The microphone shall be placed at a distance of 1.2 meters to 1.5 meters (four feet to five feet) above the water and no closer than one meter (3.3 feet) from the vertical projection of any part of the vessel in the area adjacent to the exhaust outlet(s).

(d) The meter shall be set for slow response and the A-weighting network.

(e) The observer reading the meter shall not be closer than arm's length from the microphone to minimize sound reflections.

(f) The applicable reading shall be the average sound level measured during a period when the background sound level is at least ten dB lower than the measured sound level. Background sound level includes wind effects, noise from vessels other than the one being measured, wave action, vessel wakes, and other extraneous noises. Peak readings of intermittent sound levels created by wave slaps or changes in sound level due to wave action and/or engine or motor speed variation shall not be included in the applicable reading.

(g) The observer shall record the applicable reading and the background sound levels taken immediately before and immediately after the applicable reading.

WSR 93-16-067
PROPOSED RULES
WASHINGTON STATE PATROL
 [Filed July 30, 1993, 11:15 a.m.]

Original Notice.

Title of Rule: Chapter 204-30 WAC, Sunscreen tint film decals.

Purpose: Repeal chapter 204-30 WAC, legislature adopted laws to cover the purpose of the rule.

Statutory Authority for Adoption: RCW 46.37.005.

Statute Being Implemented: RCW 46.37.430.

Summary: The rule is no longer required as legislature adopted laws covering the decals.

Reasons Supporting Proposal: Reason the rule was adopted no longer exists. New amendment to law covers this requirement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lt. Lonnie Brackins, 515 15th Avenue, Olympia, 753-0347.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 204-30 WAC is being repealed because the legislature passed legislation which covers the requirement in the WAC.

Proposal Changes the Following Existing Rules: Repeals tint decal requirements no longer required in WAC.

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

Hearing Location: Washington State Patrol, Research and Development Section, General Administration Building, Room G-130, P.O. Box 42607, Olympia, WA 98504-2607, on October 7, 1993, at 1:30 p.m.

Submit Written Comments to: Washington State Patrol, P.O. Box 42607, Olympia, WA 98504-2607, by October 7, 1993.

Date of Intended Adoption: October 15, 1993.

July 30, 1993
 Roger W. Bruett
 Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 204-30-010 Authority.
- WAC 204-30-020 Purpose.
- WAC 204-30-030 Scope.
- WAC 204-30-040 Definitions.
- WAC 204-30-050 Decal material, dimensions and characteristics.
- WAC 204-30-060 Decal information requirements.
- WAC 204-30-070 Decal mounting requirements.
- WAC 204-30-080 Tint manufacturer requirements.

Date of Intended Adoption: September 10, 1993.

July 19, 1993

S. A. Moon

Deputy Secretary

**WSR 93-16-069
PROPOSED RULES**

DEPARTMENT OF TRANSPORTATION

[Filed July 30, 1993, 1:20 p.m.]

Original Notice.

Title of Rule: WAC 468-38-280 Special equipment.

Purpose: Regulates equipment using special axle groupings other than conventional single or tandem axles.

Other Identifying Information: Specifically addresses lift or retractable axles.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: RCW 46.44.090.

Summary: Regulates nonconventional axle groupings, specifically the use of lift or retractable axles on power units and trailers.

Reasons Supporting Proposal: Provides a uniform policy, identifies specific lift axle configurations for use; thereby enhancing safety and protection of the infrastructure.

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Motor Carrier Services, 664-9497; and Enforcement: Capt. Richard F. Randolph, Washington State Patrol, 753-6554.

Name of Proponent: Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: Exempts vehicles equipped with hydraulically or pneumatically loaded lift axles, that can not be activated when vehicle is in motion, from having the lift controls out of reach of the drivers compartment; and exempts power units and trailers with lift axles within 60 inches of fixed axles from self steering requirements.

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

Hearing Location: Transportation Building, Commission Board Room 1D2, Olympia, Washington 98504, on September 10, 1993, at 10:00 a.m.

Submit Written Comments to: Barry Diseth, Administrator, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX 664-9440, by September 3, 1993.

AMENDATORY SECTION (Amending Order 50, Resolution No. 253, filed 10/24/85)

WAC 468-38-280 Special equipment. Special equipment employing axle groupings other than the conventional single or tandem axle must first be approved by the department before permits will be granted authorizing the unit to operate on state highways.

A retractable axle carrying weight allowed under RCW 46.44.041 shall have a manufacturers rating of at least 10,000 pounds, shall be self-steering, and shall have the capacity to be activated only from ~~((outside))~~ a location out of reach of the driver's compartment: Provided, The requirement that controls be activated only from ((outside)) a location out of reach of the driver's compartment shall not apply to ((existing trucks, presently equipped with hydraulically loaded lift axles which presently can be activated inside the driver's compartment)) vehicles equipped with hydraulically or pneumatically loaded lift axles that can not be activated when the vehicle is in motion. Any variable control used to adjust axle loadings by regulating air pressure or by other means must be out of reach of the driver's compartment: And Provided Further, The requirement that the retractable lift axle shall be self-steering does not apply to a truck/tractor where the retractable axle equipped with four tires is used to create a tandem and the distance between the drive axle and the retractable axle is no greater than 60 inches. The self-steering requirement shall also not apply to a trailing unit where the distance between a fixed axle and the retractable axle is no greater than 60 inches.

**WSR 93-16-070
PROPOSED RULES**

DEPARTMENT OF AGRICULTURE

[Filed July 30, 1993, 1:28 p.m.]

Original Notice.

Title of Rule: Promotional hosting, Washington Red Raspberry Commission.

Purpose: Set forth the parameters governing promotional hosting expenditures for the Washington Red Raspberry Commission.

Statutory Authority for Adoption: RCW 15.04.200 and 15.65.380.

Statute Being Implemented: RCW 15.65.380.

Summary: Provide the rules for governing the expenditures of funds from the Washington Red Raspberry Commission for promotional hosting.

Reasons Supporting Proposal: The commission needs the ability to do promotional hosting. Promotional hosting will benefit the marketing program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Red Raspberry Commission, 1333 Lincoln Street, Bellingham, WA 98226, (206) 671-1437.

Name of Proponent: Washington State Red Raspberry Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will provide for the Red Raspberry Commission to approve specific budget rules to be used to host individuals and groups at meetings, meals, and other gatherings to cultivate trade relations, promote sales, develop industry unity, and further the objectives of the commission.

Proposal Changes the Following Existing Rules: Adopts rules governing promotional hosting expenditures by officials and agents of the Red Raspberry Commission.

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

Hearing Location: Washington State Department of Agriculture, Natural Resources Building, 1111 Washington Street, Room 259, Olympia, WA 99501 [98504], on September 9, 1993, at 10:30 a.m.

Submit Written Comments to: Walter Swenson, Washington State Department of Agriculture, Box 42560, Olympia, WA 98504-2560, by September 9, 1993.

Date of Intended Adoption: September 21, 1993.

July 30, 1993

Walter Swenson

Agriculture Program Administrator

PROMOTIONAL HOSTING

NEW SECTION

WAC 16-561-100 Purpose. The laws set forth in section 1, chapter 26, Laws of 1985, of the state of Washington (RCW 15.04.200) enacted under the authority of Article VIII section 11 of the Washington state Constitution as amended, authorized the expenditure of agricultural commodity commission assessments for agricultural development or trade promotion and promotional hosting and provides that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners.

The purpose of these rules is to set forth the parameters governing promotional hosting expenditures for the Washington red raspberry commission.

NEW SECTION

WAC 16-561-110 Definitions. "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations, promoting sales of red raspberries, developing industry unity, and furthering the objectives of the commission.

"Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment and normal incidental expenses at meetings or gatherings.

NEW SECTION

WAC 16-561-120 Implementation. The implementation of the rules governing promotional hosting expenditures for the Washington red raspberry commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at regular meetings held to review such matters.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

(a) Commissioners;

(b) Administrator;

(c) Marketing director;

(d) Contractors, as specifically authorized by the commission.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms may be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required;

(b) General purpose of the hosting;

(c) Date of hosting;

(d) Location of the hosting;

(e) To whom payment was or will be made;

(f) Signature of person seeking payment or reimbursement.

(4) The chairman and vice-chairman-treasurer of the commission and the administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations, promote sales of red raspberries, or develop industry unity, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business;

(b) Foreign government officials;

(c) Federal and state officials, provided lodging, meals and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer;

(d) The general public, at meetings and gatherings open to the general public;

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate trade relations, promote sales of red raspberries, or further the objectives of the commission;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse will serve to cultivate trade relations, promote the sale of red raspberries or develop industry unity.

(2) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170(3) shall:

(a) Pass the oral examination administered by the board pursuant to RCW 18.83.050.

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 93-16-074
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Examining Board of Psychology)
 [Filed August 2, 1993, 1:45 p.m.]

WSR 93-16-076
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD
 [Filed August 2, 1993, 1:49 p.m.]

Original Notice.
 Title of Rule: Amending WAC 246-924-100 Qualifications for granting of license by reciprocity.

Purpose: Amend RCW reference within body of WAC that was incorrectly cited for purposes of reciprocity.

Statutory Authority for Adoption: RCW 18.83.050(5).

Statute Being Implemented: RCW 18.83.170, [18.83.]070, and [18.83.]050.

Summary: Amending RCW number which was incorrectly cited.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry J. West, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 753-3095.

Name of Proponent: Examining Board of Psychology, Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amending rule to cite the correct statute on reciprocity rather than the statute on exemptions. Original rule filed several years ago was intended to site the statute on reciprocity for applicants.

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: Sea-Tac Airport Hilton, Peninsula East Room, 17620 Pacific Highway South, Sea-Tac, WA 98168, on October 8, 1993, at 9:00 a.m.

Submit Written Comments to: Terry J. West, Program Manager, by October 1, 1993.

Date of Intended Adoption: October 8, 1993.

July 16, 1993

Kathleen O'Shaunessy, Ph.D.
 Chair

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

WAC 246-924-100 Qualifications for granting of license by reciprocity. (1) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170 (1) and (2) shall:

(a) Provide evidence of meeting the educational requirements set forth in (~~RCW 18.83.200~~) RCW 18.83.070 in effect at the time the applicant entered his/her doctoral program;

(b) Pass the oral examination administered by the board pursuant to RCW 18.83.050.

Original Notice.

Title of Rule: Residency status for higher education, chapter 250-18 WAC, adoption of amendments modifying sections of chapter 250-18 WAC dealing with establishing residency status for higher education purposes.

Purpose: This statement of purpose is written in compliance with section 23, chapter 186, Laws of 1980, and to accompany the notice of intent to adopt, amend, or to repeal rules by the Higher Education Coordinating Board.

Statutory Authority for Adoption: RCW 28B.15.015.

Statute Being Implemented: Sections 4 and 5, chapter 18, Laws of 1993.

Summary: Provides amendatory language to existing Washington Administrative Code regulating statutory intent regarding residency status for higher education purposes.

Reasons Supporting Proposal: To establish or amend regulations for the statewide determination of students' residency status for higher education purposes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patty Mosqueda, Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, 98504-3430, (206) 586-8111.

Name of Proponent: Higher Education Coordinating Board (HECB), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adoption of amendments modifying sections of chapter 250-18 WAC dealing with establishing residency status for higher education purposes.

Proposal Changes the Following Existing Rules: Clarifies residency status of active duty military personnel for tuition purposes in the state of Washington, clarifies residency status of spouse or dependent of active duty military personnel stationed in the state of Washington for tuition purposes, adds criteria to exemptions from nonresident status for domestic exchange students participating under RCW 28B.15.725 and dependents of members of the United States Congress representing the state of Washington, and provides miscellaneous clarification to existing language.

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

Hearing Location: Higher Education Coordinating Board, 3rd Floor Conference Room, 917 Lakeridge Way, Olympia, WA 98504-3430, on September 8, 1993, at 10 a.m.

Submit Written Comments to: Patty Mosqueda by September 1, 1993.

Date of Intended Adoption: September 16, 1993.

July 30, 1993

Elson S. Floyd
Executive Director

AMENDATORY SECTION (Amending Order 10-82, filed 9/8/82)

WAC 250-18-010 Purpose and applicability. This chapter is promulgated pursuant to RCW 28B.15.015 by the ~~((council))~~ board to establish the necessary regulations for the administration of residency status in higher education. Institutions shall apply the provisions of the regulations specified in chapter 250-18 WAC for the uniform determination of a student's resident and nonresident status and for recovery of fees for improper classification of residency.

AMENDATORY SECTION (Amending Order 5-87, filed 10/21/87)

WAC 250-18-020 Student classification. (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she shall:

(a)(i) Have established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) Be financially independent; or

(b) Be a dependent student, with one or both of whose parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; or

~~((c) Be a student who was classified as a resident, based upon domicile, by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-83 academic year, so long as such student's enrollment (excepting summer sessions) is continuous; or)~~

~~((d))~~ (c) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year(-); or

(d) Be the spouse or dependent of an active duty military person stationed in the state of Washington.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection 1 of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year

immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other non-educational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "Refugee - Parolee," or "Conditional Entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035(=);

~~((d) Is not otherwise qualified as a "resident" under subsection (1)(c) of this section.))~~

(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore, been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to continued classification as a resident student so long as such student is continuously enrolled during the academic year.

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 10-82, filed 9/8/82)

WAC 250-18-050 Appeals process. Any final institutional determination of classification shall be considered a ruling on a contested case and shall be subject to court review only under procedures prescribed by chapter ~~((28B.19))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 5-87, filed 10/21/87)

WAC 250-18-060 Exemptions from nonresident status. In accordance with RCW 28B.15.014, certain nonresidents ~~((shall))~~ may be exempted from paying the nonresident tuition and fee differential. Exemption from the

nonresident tuition and fee differential shall apply only during the term(s) such persons shall hold such appointments or be so employed. To be eligible for such an exemption, a nonresident student must provide documented evidence that he or she does reside in the state of Washington, and:

(1) Holds a graduate service appointment designated as such by an institution involving not less than twenty hours per week;

(2) Is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week;

(3) Is a faculty member, classified staff member, or administratively exempt employee who resides in the state of Washington and is holding not less than a half-time appointment, or the spouse or dependent child of such a person;

(4) Is ~~((an active duty military personnel stationed in the state of Washington or the spouse or dependent child of such person))~~ an active duty military person stationed in the state of Washington; ~~((or))~~

(5) Is an immigrant having refugee classification from the U.S. Immigration and Naturalization Service or the spouse or dependent child of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship((-));

(6) Is a domestic exchange student participating under 28B.15.725 RCW; or

(7) Is a dependent of a member of the United States Congress representing the state of Washington.

WSR 93-16-083
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed August 3, 1993, 4:46 p.m.]

Subject of Possible Rule Making: Amending WAC 458-20-125 Miscellaneous sales for farm use.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 31, 1993, at 9:30 a.m. (Written comments should be submitted by this date to assure full consideration, but will be accepted to date of adoption.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule at the same time it amends WAC 458-20-122. This rule is being amended to make it more current. No substantive changes are intended. The rule explains that sales to farmers of equipment and other items of tangible personal property which do not become an ingredient of a product produced for sale, or is not a packing material or container which is resold with such products are generally retail sales. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

August 3, 1993
 Les Jaster
 Rules Coordinator

WSR 93-16-084
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed August 3, 1993, 4:48 p.m.]

Subject of Possible Rule Making: Amending WAC 458-20-165 Laundries, dry cleaners, laundry agents, self service laundries and dry cleaners.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 31, 1993, at 9:30 a.m. (Written comments should be submitted by this date to assure full consideration, but will be accepted to date of adoption.)

Other Information or Comments by Agency at this Time, if any: The department plans to amend this rule to indicate that coin operated laundry facilities are subject to retail sales tax when located in apartment houses or motels for the exclusive use of tenants or guests. This change is required because of a law change enacted by chapter 25, Laws of 1993 1st sp.s. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

August 3, 1993
 Les Jaster
 Rules Coordinator

WSR 93-16-085
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed August 3, 1993, 4:50 p.m.]

Subject of Possible Rule Making: Amending WAC 458-20-210 Sales of agricultural products by persons producing the same.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 31, 1993, at 9:30 a.m. (Written comments should be submitted by this date to assure full consideration, but will be accepted to date of adoption.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule to clarify the B&O tax exemption available to farmers who make wholesale sales of agricultural products produced by them. This rule clarifies that the B&O tax exemption does not apply to farmers who produce agricultural products for use as an ingredient in a manufacturing process. The rule will incorporate the changes to the definitions of "farmer" and "agricultural product" reflected in section 302, chapter 25, Laws of 1993 1st sp.s. Effective July 1, 1993, turf was added to the definition of "agricultural product," while

animals intended to be pets were deleted. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

August 3, 1993
Les Jaster
Rules Coordinator

WSR 93-16-086
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed August 3, 1993, 4:52 p.m.]

Subject of Possible Rule Making: Amending WAC 458-20-122 Sales of feed, seed, fertilizer and spray materials.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 31, 1993, at 9:30 a.m. (Written comments should be submitted by this date to assure full consideration, but will be accepted to date of adoption.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule. The rule will incorporate the changes reflected in sections 301-302, chapter 25, Laws of 1993 1st sp.s. This legislation broadened the retail sales tax exemption for purchases of feed, seed, fertilizer, and spray materials by farmers producing agricultural products for sale. Effective July 1, 1993, farmers are no longer required to sell exclusively at wholesale in order to qualify for the retail sales tax exemption for purchases of feed, seed, fertilizer, and spray materials. Effective that same date, turf was added to the definition for "agricultural products," while animals intended to be pets were deleted. Farmers may now purchase agents for enhanced pollination, such as leaf cutter bees, exempt of sales tax. This rule clarifies that fertilizers applied directly to the agricultural products qualify for the retail sales tax exemption. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

August 3, 1993
Les Jaster
Rules Coordinator

WSR 93-16-087
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed August 3, 1993, 4:55 p.m.]

Subject of Possible Rule Making: Amending WAC 458-20-209 Farming operations performed for hire.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on August 31, 1993, at 9:30 a.m.

(Written comments should be submitted by this date to assure full consideration, but will be accepted to date of adoption.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule at the same time it amends WAC 458-20-122. The law was changed during the first special session of 1993 to make landscape maintenance and horticultural services a retail sale. However, horticultural services continue to be taxable under the service classification when performed for farmers. This rule clarifies that persons performing horticultural services for farmers are generally subject to the service B&O tax upon the gross proceeds. However, if the person providing the horticultural services also sells tangible personal property for a separate and distinct charge, either wholesaling or retailing B&O tax and/or retail sales tax will apply to that charge. The rule provides that retail sales or use tax applies to the purchase of tangible personal property by persons performing horticultural services, unless purchased for resale for a charge separate from the charge for the horticultural services. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

August 3, 1993
Les Jaster
Rules Coordinator

WSR 93-16-088
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 4, 1993, 8:11 a.m.]

Original Notice.

Title of Rule: Chapter 16-46 WAC, Domestic and imported animal semen.

Purpose: Establishes disease testing requirements for bulls and boars that produce semen for commercial artificial insemination purposes.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Statute Being Implemented: Chapter 16.36 RCW.

Summary: Proposal to include boars in addition to bulls and requires testing for diseases in swine.

Reasons Supporting Proposal: Boars' semen is also used for artificial insemination and is capable of transmitting disease.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. Mead, 1111 Washington Street, Olympia, 902-1878.

Name of Proponent: Food Safety and Animal Health Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes disease testing requirements for bulls and boars that produce semen for commercial artificial insemination purposes. Prevents disease transmission from semen used in artificial insemination.

Proposal Changes the Following Existing Rules: Adds boars to existing rule concerning semen from bulls for artificial insemination.

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

Hearing Location: Washington State Department of Agriculture, Food Safety/Animal Health Division, Conference Room #250, 1111 Washington Street, Olympia, WA 98504-2577, on September 7, 1993, at 1:00 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Food Safety/Animal Health Division, P.O. Box 42577, Olympia, WA 98504-2577, by September 3, 1993.

Date of Intended Adoption: September 10, 1993.

August 4, 1993

Candace A. Jacobs

Acting Assistant Director

NEW SECTION

WAC 16-46-005 Definitions. For the purposes of this chapter:

(1) "Stud" means the facilities required for the collection of semen from bulls and boars for use in artificial insemination.

(2) "Boar" means the intact male of the porcine species.

(3) "Bull" means the intact male of the bovine species.

AMENDATORY SECTION (Amending Order 854, effective 7/19/61)

WAC 16-46-010 (~~Permission to import or produce~~)

Commercial semen production. (~~Permission in writing from the director of agriculture must be obtained before bovine semen may be shipped into or produced~~) All individuals, partnerships, or corporations shipping or producing semen from bulls and boars within the state of Washington for artificial insemination purposes for commercial use shall comply with the following regulations: Provided, That this regulation does not apply to an individual, partnership, or corporation whose production and use of bovine and boar semen is confined to his/her or its own cattle and/or swine on his/her or its own premises.

AMENDATORY SECTION (Amending Order 854, effective 7/19/61)

WAC 16-46-020 Health certificate. The director of agriculture of the state of Washington must be furnished (~~an approved health certificate on all bulls from which the semen is collected~~) a list of all bulls or boars producing semen in each calendar year for use in the state of Washington by those individuals, partnerships or corporations producing semen for artificial insemination purposes with a statement signed by an accredited veterinarian certifying that they have been tested according to chapter 16-46 WAC.

AMENDATORY SECTION (Amending Order 854, effective 7/19/61)

WAC 16-46-030 Requirements of animals producing. All bovine (~~animals~~) bulls used in the production of semen for artificial insemination shall meet the following requirements:

(1) Negative to tuberculosis test (~~once yearly~~) every six months.

(2) Negative to brucellosis test every six months.

(3) Negative to examination for trichomoniasis and campylobacteriosis culture every six months.

(4) Negative to test for leptospirosis (~~once yearly~~) every six months.

(5) (~~Negative to examination for vibriosis every 6 months by swab cultured method.~~

~~(6) Semen:~~

~~(a) Negative to brucella semen plasma agglutination test, 1:25 dilution, by tube method, every six months.~~

~~(b)) FDA approved antibiotics must be added to all semen (at least six hours before release for use) during process.~~

NEW SECTION

WAC 16-46-035 Test requirements for boars producing semen. All boars used in the production of semen for artificial insemination shall meet the following requirements:

(1) Negative to tuberculosis test every six months.

(2) Negative to brucellosis, leptospirosis, vesicular stomatitis, transmissible gastroenteritis, toxoplasmosis, and PRRS tests every six months.

(3) Negative to pseudorabies every four months.

(4) FDA approved antibiotics must be added to all semen during processing.

(5) Not used for natural service.

AMENDATORY SECTION (Amending Order 854, effective 7/19/61)

WAC 16-46-040 Addition of (~~animals~~) bulls to stud. Addition of (~~animals~~) bulls to stud must be:

(1) (~~From a tuberculosis negative herd and be tested for tuberculosis not more than thirty days before introduction to stud.~~

~~(2) From a brucellosis negative herd and be tested for brucellosis (two tests not less than thirty days apart) and not more than thirty days before admission to stud.~~

~~(3) Negative to a series of six weekly examinations for trichomoniasis before introducing to stud to be completed not more than thirty days before entry to stud.~~

~~(4) Negative to vibriosis, using swab culture method examination before introduction to stud.~~

~~(5) Negative to brucella semen plasma agglutination test, 1:25 dilution by the tube method before introducing to stud.)~~ Isolated for forty-five to sixty days before addition to stud.

(2) Within the isolation period tested for:

(a) Tuberculosis.

(b) Brucellosis.

(c) Leptospirosis.

(d) Trichomoniasis and campylobacteriosis by six weekly preputial cultures with the exception of virgin bulls under twelve months of age where a series of three weekly cultures is adequate.

NEW SECTION

WAC 16-46-045 Addition of boars to stud. Addition of boars to stud must be:

(1) Isolated for forty-five to sixty days before addition to stud.

- (2) Within the isolation period tested for:
 - (a) Tuberculosis.
 - (b) Brucellosis.
 - (c) Pseudorabies, two negative tests thirty days apart.
 - (d) Leptospirosis.
 - (e) Vesicular stomatitis.
 - (f) Transmissible gastroenteritis.
 - (g) Toxoplasmosis.
 - (h) PRRS.

AMENDATORY SECTION (Amending Order 854, effective 7/19/61)

WAC 16-46-070 Permits. Importation and production of other domestic animal semen in the state of Washington ((with)) may require a permit from the director of agriculture. Such permit may be issued following application and proof of compliance with general health and testing requirements and laboratory examination of semen.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-46-050 Sample testing.
- WAC 16-46-060 Director's list of producers.

WSR 93-16-089
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed August 4, 1993, 8:14 a.m.]

Original Notice.

Title of Rule: Chapter 16-54 WAC, Animal importation.

Purpose: Establish animal health requirements for all animals imported into the state.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Statute Being Implemented: Chapter 16.36 RCW.

Summary: Propose to require by rule that all livestock entering Washington stop at posted livestock inspection points, clarify "farm animal" definition and tuberculosis and elaphostrongylinae for cervidae requirements.

Reasons Supporting Proposal: Animals have been entering Washington without stopping for livestock inspections.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. Mead, 1111 Washington Street, Olympia, WA, 902-1878.

Name of Proponent: Food Safety and Animal Health Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Sets requirements for importation of animals into Washington.

Proposal Changes the Following Existing Rules: Establishes sites for examination of animals and health papers when livestock are imported into Washington; makes minor changes to definition of "farm animal" to make it

clear that farm animals are to be considered farm animals even though kept as pets and neutered. Dogs and cats are not traditionally raised as farm animals; adds alpacas to WAC 16-54-135 requiring a health certificate and certain tests; and clarifies cervidae importation pertaining to tuberculosis and elaphostrongylinae.

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

Hearing Location: Washington Department of Agriculture, Food Safety/Animal Health, Conference Room #250, 1111 Washington Street, Olympia, WA 98504-2577, on September 7, 1993, at 1:15 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Food Safety/Animal Health Division, P.O. Box 42577, Olympia, WA 98504-2577, by September 3, 1993.

Date of Intended Adoption: September 10, 1993.

August 4, 1993

Candace A. Jacobs

Acting Assistant Director

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-010 Definitions. For purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his duly authorized representative.

(2) "Breeding cattle" shall be those females and bulls not consigned to a federally inspected slaughter establishment, a restricted feedlot, or other authorized slaughter only channel.

(3) "Official brucellosis test" means blood samples are to be tested only by cooperating state-federal laboratories or by such persons as may be authorized by state of origin animal health officials to conduct the standard agglutination tests or the card test. All samples initially tested at other than cooperating state-federal laboratories shall be promptly submitted and confirmed at the cooperating state-federal laboratory.

(4) "Official calthood vaccinate" means a female bovine animal vaccinated between the ages of four and twelve months (one hundred twenty days to three hundred sixty-five days) with an approved brucella vaccine.

(5) "Class free and Class A, B, and C states" means states as classified by the current federal brucellosis eradication uniform methods and rules.

(6) "Stage I, II, III, IV, or V Pseudorabies state" means states as classified by the current federal pseudorabies eradication Uniform Methods and Rules.

(7) "Official health certificate" means a legible certificate of veterinary inspection executed on an official form of the state of origin or of the Animal and Plant Inspection Service (APHIS), United States Department of Agriculture (USDA), by a licensed and accredited veterinarian or a veterinarian approved by the proper official of APHIS, USDA.

(8) "Animal" means any animal species except fish and insects.

(9) "Domestic animal" means any farm animal raised for the production of food and fiber or companion animal or both.

(10) "Farm animal" means any species which have normally and historically been kept and raised on farms in Washington, the United States, or elsewhere (~~and~~) or used or intended for use as food, fiber, breeding, or draft and which may be legally kept for such use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-020 Illegal importation. (1) All animals being shipped into this state must have met requirements of Title 9, Code of Federal Regulations, in effect at the time of movement or importation from foreign countries and in addition thereto must meet all the applicable laws, rules and regulations of the state of Washington pertaining to animal health and care of animals.

(2) It shall be unlawful for any person, firm or corporation to import any animal unless in compliance with the requirements set forth hereafter in this order, and regulations relating to importation into and movement within the state of Washington of poultry, hatching eggs and wildlife. No animal, including poultry and wildlife, that is affected with any infectious or communicable disease shall be imported into the state unless written permission for the importation is obtained from the director and in the instance of wildlife, written permission from the director of the department of wildlife shall also be obtained.

(3) It shall be unlawful for any person, firm, or corporation importing livestock into the state of Washington to fail to stop for inspection at any posted livestock inspection point.

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-035 Certification of health—Wild and exotic animals. (1) An official interstate health certificate or certificate of veterinary inspection stating that all listed animals are free from clinical symptoms of infectious or communicable disease shall be prepared prior to entry into the state of Washington and issued by an accredited veterinarian licensed in the state of origin for all captive wild and exotic animals and shall contain the following:

- (a) Common and scientific name(s) of the animals.
- (b) Number of animals.
- (c) Appropriate description of animals by criteria such as sex, age, weight, coloration.
- (d) Permanent individual animal identification.
- (e) Date of anticipated shipment.
- (f) Name and address of consignor and consignee.
- (g) Origin of shipment.
- (h) Signature of veterinarian and owner or agent.
- (i) Permit number issued by the Washington state veterinarian.

(2) The following tests or qualifications required for wild and exotic animals shall be performed by a licensed and accredited veterinarian prior to entry into the state of Washington:

(a) **Brucellosis.** The interpretation of brucellosis test results on captive wild or exotic animals shall be held by the Washington state veterinarian. Serologic testing must be

conducted in accordance with state/federal brucellosis protocol within thirty days prior to entry for the following categories of captive wild or exotic animals over six months of age.

- (i) *Brucella abortus*.
- (A) Camelidae: Such as vicuna, guanaco.
- (B) Cervidae: Such as elk, caribou, moose, reindeer, deer.

- (C) Giraffidae: Such as giraffe, okapi.
- (D) Bovidae: Such as antelopes, wild cattle (gaur, banteng, kaupre, yak), bison (American bison, also refer to WAC 16-54), European bison, buffalo (Asian water buffalo, tamaraw, lowland anoa, mountain anoa, African buffalo), wild sheep (bighorn sheep, dalls sheep, mouflon, argoli, uriol, blue sheep, barbary sheep, red sheep), wild goats (rocky mountain goat, ibex, walia ibex, west caucasion tur, east caucasion tur, spanish ibex, markhor).

- (ii) *Brucella suis*.
- (A) Suidae: Wild swine (European wild boar, bearded pig, Jovan pig, pygmy hog, wart hog, giant forest pig, Babirusa, African bush pig, peccaries).

- (B) Caribou, reindeer (*Brucella suis* Biovar 4).
- (iii) *Brucella ovis*. All wild sheep and goats must be tested and found negative to *B. ovis* within thirty days prior to entry.

(b) Tuberculosis (*mycobacterium bovis* and *mycobacterium tuberculosis*) a skin test or other approved test must be conducted in accordance with federal tuberculosis protocols within thirty days prior to entry into Washington for the following categories of captive wild exotic animals as specified by the director. Animals under six months of age that are nursing negative tested dams may be excluded from the test requirements.

- (i) Ceropithecidae: Old world primates.
- (ii) Hylobotidae: Gibbons or Lessor apes.
- (iii) Pongidae: Great apes.
- (iv) Bovidae: Such as antelopes, wild cattle, wild sheep and wild goats.

(v) Cervidae: Such as elk, caribou, moose, reindeer, deer must be from herds not known to be affected with or exposed to tuberculosis and comply with the following *Mycobacterium bovis* testing requirements:

(A) Be negative to a 0.1 ml single cervical tuberculin test within thirty days prior to importation and originate from a herd which has had a negative complete herd test within twelve months or as otherwise required by the director of all eligible animals using the 0.1 ml single cervical test and all additions to the herd have been tested negative by the same test procedure and standards; or

(B) Be negative to a 0.1 ml single cervical tuberculin test within thirty days prior to importation and be confined at the destination for at least ninety days after arrival and retested for *M. bovis* after the confinement period using the 0.1 ml single cervical test. Testing and confinement under this subsection will be allowed only where the director can be assured of the negative tuberculosis status of the herd by methods other than by those in (v)(A) of this subsection.

(C) Originate from a state with a state program substantially equivalent to chapter 16-88 WAC, "Control of tuberculosis in cervidae," and meet the requirements of a herd status plan and interstate testing requirements outlined in WAC 16-88-030 and 16-88-040.

(vi) Giraffidae: Giraffe, okapi must be tested by a single cervical test.

(c) Animals that show positive reaction on a skin test may be tested by additional approved skin tests, microbiological cultures, radiographs or serology to fully assess the status in regard to tuberculosis and to confirm or deny the possibility of a false positive reading of the skin test. Final decision on the tuberculosis classification status of such animals will be made by the Washington state veterinarian.

(d) For all captive wild or exotic animals not listed in (b) of this subsection, the following statement signed by the owner or agent shall be placed on the health certificate. "To my knowledge the animals listed herein are not infected with tuberculosis and have not been exposed to animals infected with tuberculosis during the past twelve months."

(e) Pseudorabies: Tested negative within thirty days of import. Held in quarantine for thirty to sixty days pending retest post entry.

Suidae: All wild swine.

(f) Equine Infectious Anemia: Tested negative on an approved test for equine infectious anemia within six months prior to entry for all wild horses, asses and hybrids.

(g) Elaphostrongylinae: *Parelaphostrongylus tenvis* (meningeal worm) and (~~*Elaphostrongylus*~~) *Elaphostrongylus cervis* (muscle worm).

All cervidae must be examined prior to entry into Washington state for Elaphostrongylinae infection in the absence of anthelmintic treatment that could mask detection of the parasite.

(i) Cervidae as specified by the director which have resided for at least six months west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian must have a negative fecal exam for dorsal-spined larvae made by an approved laboratory using the Baermann technique. Animals tested shall be certified to have not been treated with or exposed to anthelmintics, including ivermectin (IVOMEC R) for at least thirty days prior to testing.

(ii) Cervidae as specified by the director which have resided for less than six months west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian or from east of that line shall be held in preentry quarantine for thirty to sixty days and two fecal tests for dorsal-spined larvae made by an approved laboratory using the Baermann technique. The first test must be conducted at least thirty days and not more than forty days before the second test. During this period, which shall be at least thirty days, test animals must be held in quarantine and isolated from all other cervidae not included in the shipment. Animals so tested shall be certified to have not been treated with or exposed to anthelmintics including ivermectin (IVOMEC R) during the time period beginning at least thirty days before the first fecal test and extending to at least one hundred eighty days after importation. Fecal samples of at least thirty grams per sample are to be collected by an accredited veterinarian from the rectum and identified to the animal by the official animal identification number. If any animal tests positive to either of the two fecal tests, neither the consign-

ment or any portion of the consignment may be imported into Washington.

Postentry animals must be held for one hundred eighty days in on-site quarantine and they must be available for inspection by the director of agriculture during this time. Thirty, sixty, ninety, one hundred twenty, one hundred fifty, and one hundred eighty days after arrival, fecal samples must be tested by the Baermann technique in an approved laboratory and found negative for dorsal-spined larvae; animals that test positive must be removed from the state or destroyed.

The quarantine site must be prepared and inspected prior to the entrance of the imported animals to prevent the presence of the gastropod intermediate hosts of Elaphostrongylinae larvae by:

(A) Keeping the animals on a hard surface, such as asphalt or concrete; or

(B) Spraying a four-meter wide tract around the perimeter of the holding compound with an EPA registered molluscicide and also spraying within the quarantine area. The perimeter tract has to be treated once every five days and within twenty-four hours of precipitation (10 mm or more) to ensure the gastropod population is kept to zero within the compound.

(h) Rabies: Any mammal of the order carnivora that has been taken from the wild may not enter the state if a diagnosis of rabies has been made in the state of origin during the past twelve months.

(i) Qualifications, specific tests, or statements required for birds prior to entry into the state of Washington:

Pullorum and Fowl Typhoid.

(A) Commercial game birds and their eggs unless going directly to slaughter, must originate from a producer who is participating in the pullorum-fowl typhoid control phase of the National Poultry Improvement Plan (NPIP) or the birds must test serologically negative for pullorum and fowl typhoid within the past thirty days. In the case of eggs and hatchling birds, negative serologic tests for pullorum and fowl typhoid from a breeder flock not participating in the NPIP must be shown negative within the past thirty days. Serum testing or NPIP member status are also required for the following species: Bobwhite quail (*Colinus virginianus*), Coturnix quail (*Coturnix coturnix*), pure or hybrid Ring-necked pheasant (*Phasianus colchicus*), Chukar (*Alectoris chukar*), Hungarian partridge (*Perdix perdix*), Wild turkey (*Meleagris gallopavo*).

(B) In lieu of pullorum and fowl typhoid testing for certain other birds, the following statement can be placed on the health certificate: "To my knowledge, birds listed herein are not infected with pullorum or fowl typhoid and have not been exposed to birds infected with pullorum or fowl typhoid during the past twelve months." This statement should be signed by the owner or the owner's representative. This rule would apply to the following birds: All Galliformes except those listed in (i)(A) of this subsection; all Anseriformes.

(j) Mycoplasmosis.

All wild turkeys of the species *Meleagris gallopavo* and their eggs, unless going directly to slaughter must originate from a producer who is participating in the mycoplasmosis control phase of the NPIP or the birds must have tested serologically negative for *Mycoplasma gallisepticum* and *M.*

synoviae within the past thirty days. In the case of eggs and hatchling birds, the breeder flock must be an NPIP participant or must have tested negative in the past thirty days.

(k) Duck Plague (Duck Virus Enteritis, D.V.E.) and Avian Cholera.

The statement, "To my knowledge, birds listed herein are not infected with duck plague or avian cholera and have not been exposed to birds known to be infected with duck plague or avian cholera within the past one hundred eighty days." must be written on the health certificate of all Anseriformes entering the state. The statement must be signed by the owner or the owner's representative.

Exotic Newcastle Disease (viscerotropic, velogenic viruses) and Psittacosis.

(i) The statement, "To my knowledge, birds listed herein are not infected with exotic Newcastle disease or psittacosis and have not been exposed to birds known to be infected with exotic Newcastle disease or psittacosis within the past thirty days," must be written on the health certificate of all psittacine birds entering the state. The statement must be signed by the owner or the owner's representative.

(ii) While in transit or while being offered for sale, the following birds which have been repeatedly associated with introductions of exotic Newcastle disease must be identified with a numbered leg band or other approved method of identification:

Yellow naped Amazon parrot (*Amazona ochrocephala auropalliata*).

Mexican double yellow head parrot (*Amazona ochrocephala oratrix*).

Mexican red head parrot (*Amazona viridigenalis*).

Spectacled Amazon parrot (*Amazona albifrons albifrons*).

Yellow checked Amazon parrot (*Amazona autumnalis autumnalis*).

Green conure (*Aratinga holochlora*, *A. strenua*, *A. leucophthalms*).

Military macaw (*Ara militaris*).

Lilac crowned Amazon parrot (*Amazona finschi*).

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.

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-135 Llamas and alpacas. All llamas and alpacas imported into Washington shall be accompanied by a health certificate stating that the animals are free from signs or exposure to infectious or contagious disease. Llamas and alpacas six months of age and over must be tested negative for brucellosis and tuberculosis not more than thirty days prior to entry. The tuberculosis test is to be performed just caudal to the elbow joint in a similar manner to the single strength single cervical test.

WSR 93-16-090
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 4, 1993, 8:16 a.m.]

Original Notice.

Title of Rule: Chapter 16-70 WAC, Animal diseases—Reporting.

Purpose: Lists animal diseases to be reported to the state veterinarian.

Statutory Authority for Adoption: RCW 16.36.090 and [16.36.1040].

Statute Being Implemented: Chapter 16.36 RCW.

Summary: Requires licensed veterinarians to report listed diseases within a time specified for each list that are encountered in all animals. Lists have been updated to include new diseases and eliminates others not considered important.

Reasons Supporting Proposal: Some listed diseases are outdated. Wild and other animal diseases are included.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. Mead, 1111 Washington Street, Olympia, 902-1878.

Name of Proponent: Food Safety and Animal Health Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Requires licensed veterinarians to report listed diseases within a time specified for each list that are encountered in all animals including wild, exotic, alternative livestock and domestic animals.

Proposal Changes the Following Existing Rules: Eliminates some diseases named in old rule and adds others; changes some time requirements to report some diseases; and includes all animals now including wild, exotic and alternative livestock.

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

Hearing Location: Washington State Department of Agriculture, Food Safety/Animal Health Division, Conference Room #250, 1111 Washington Street, Olympia, WA 98504-2577, on September 7, 1993, at 1:30 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Food Safety/Animal Health Division, P.O. Box 42577, Olympia, WA 98504-2577, by September 3, 1993.

Date of Intended Adoption: September 10, 1993.

August 4, 1993

Candace A. Jacobs
Acting Assistant Director

NEW SECTION

WAC 16-70-005 Definitions. For the purpose of this chapter:

(1) "Animal" means any animal species except fish and insects including all those so classified as wild, captive wild, exotic wild, alternative livestock, semidomesticated, domestic or farm.

(2) "Domestic animal" means any farm animal raised for the production of food and fiber or companion animal or both.

(3) "Farm animal" means any species which have normally and historically been kept and raised on farms in Washington, the United States, or elsewhere and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for such use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(4) "Alternative livestock" means any species which can be kept or raised on farms and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(5) "Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

(6) "Exotic wild animal" means those species of class Mammalia whose members do not exist in the state of Washington but exist elsewhere in the world in the wild state.

AMENDATORY SECTION (Amending Order 1005, filed 7/22/66, effective 8/22/66)

WAC 16-70-010 Reporting diseases—Requirements.

(1) Any person (~~registered~~) licensed to practice veterinary medicine in the state of Washington shall report to the director of agriculture or his authorized representative the discovery of the existence or suspected existence among any wild, captive wild, exotic wild, alternative livestock, semi-domesticated or domestic animals within the state any of the reportable diseases as published by the director of agriculture.

(2) The following listed emergency diseases, suspected or confirmed, shall be reported immediately (by telephone or ~~(first class mail)~~) FAX on day discovered) to the office of the ~~(supervisor of animal industry)~~ state veterinarian whenever encountered among ~~(domestic)~~ animals within the state:

~~((Telephone))~~

All suspected foreign or eradicated diseases

- Anthrax
- ~~((Aphthous fever (foot and mouth disease)~~
- ~~Aujeszky's disease (pseudorabies)~~
- ~~Botulism (mink) (poultry) (swine)~~
- ~~Contagious ecthyma~~
- ~~Dourine~~
- ~~Encephalomyelitis (equine)~~
- ~~Equine infectious anemia~~
- ~~Glanders~~
- ~~Hog cholera~~
- ~~Infectious coryza (poultry)~~
- ~~Laryngotracheitis (poultry)~~
- ~~Ornithosis (psittacosis))~~
- Contagious equine metritis
- Rabies
- ~~((Rinderpest~~
- ~~Scabies (chorioptic) (psoroptic) (sarcoptic) (demodectic)~~
- ~~(cattle, sheep and horses))~~
- Sylvatic plague
- ~~((Fularemia~~
- ~~Vesicular exanthema))~~

Vesicular stomatitis
~~((All other infectious contagious exotic or foreign diseases~~

~~Telephone or rapid mail~~

- ~~Aleutian disease of mink~~
- ~~Blue tongue~~
- ~~Bovine virus diarrhea~~
- ~~Brucellosis~~
- ~~Erysipelas (porcine)~~
- ~~Footrot (sheep)~~
- ~~Inf. bovine rhinotracheitis (IBR)~~
- ~~Malignant catarrhal fever~~
- ~~Mucosal disease~~
- ~~Mycotic stomatitis~~
- ~~Paratuberculosis (Johne's disease)~~
- ~~Piroplasmosis~~
- ~~Pullorum typhoid (poultry)~~
- ~~Scrapie~~
- ~~Screw worm infestation (cochliomyia)~~
- ~~Trichinosis~~
- ~~Tuberculosis))~~

(3) The following ~~((list of))~~ listed diseases suspected or confirmed shall be reported ~~((on the monthly disease reporting cards distributed by the animal industry division whenever encountered during the reporting month among domestic animals))~~ by the phone the next working day, by telephone or FAX to the office of the state veterinarian whenever encountered among animals within the state.

- ~~((Anaplasmosis~~
- ~~Atrophic rhinitis~~
- ~~Blackleg~~
- ~~Coccidiosis (clinical cases only)~~
- ~~Edema disease of swine~~
- ~~Equine viral arteritis (abortion)~~
- ~~Equine viral rhinopneumonitis~~
- ~~Influenza (swine) (equine)~~
- ~~Leptospirosis~~
- ~~Listeriosis~~
- ~~Malignant edema~~
- ~~Infectious mastitis (bovine) (caprine)~~
- ~~Newcastle disease~~
- ~~Salmonellosis (including paratyphoid)~~
- ~~Scabies (swine and small animals) (nonotodectic)~~
- ~~Strangles~~
- ~~Tetanus (clostridium tetani) (equine) (ovine)~~
- ~~Transmissible gastroenteritis (TGE of swine)~~
- ~~Trichomoniasis~~
- ~~Vibriosis))~~
- Brucellosis
- Contagious ecthyma (sheep, goats, llamas)
- Equine encephalitis EEE, WEE (horses)
- Infectious coryza (poultry)
- Laryngotracheitis (poultry)
- Lyme disease (any species)
- Ornithosis (birds)
- Potomac Horse Fever (horses)
- Pseudorabies (swine)
- Scrapie (sheep, goats)
- Tuberculosis
- Tularemia (sheep, dog, cats, rabbits, wildlife)

(4) The following list of diseases suspected or confirmed shall be reported if notified to do so by letter from the state veterinarian's office whenever encountered in any animals during the reporting month. These diseases are to be reported by the 10th day of the next month.

Anaplasmosis
Aleutian disease (mink)
Atrophic rhinitis
Blackleg
Bovine viral diarrhea
Botulism (horses, swine, mink)
Bluetongue
Coccidiosis (clinical cases only)
Chronic wasting diseases of deer (captive)
Distemper (dogs, mink)
Edema disease of swine
Equine viral arteritis (abortion or respiratory)
Equine viral rhinopneumonia (abortion)
Erysipelas (swine)
Feline panleukopenia
Heartworm
Histoplasmosis
Influenza (swine) (horses)
Leptospirosis
Leukosis (cattle)
Leukemia (cats)
Listeriosis
Malignant edema (horses, cattle)
Malignant catarrhal fever
Mycotic stomatitis
Infectious mastitis (cattle) (goats)
Newcastle disease
Paratuberculosis (Johne's disease, confirmed only)
Parvo and related viruses (dogs)
Salmonellosis (including paratyphoid, enteritidis and typhoid in poultry and any in horses)
Scabies (swine and small animals) (nonotodectic)
Strangles (confirmed Strep. equi)
Tetanus (clostridium tetani) (horses) (sheep)
Transmissible mink encephalopathy
Toxoplasmosis
Transmissible gastroenteritis (TGE of swine)
Tuberculosis (dogs, cats)
Trichomoniasis
Vibriosis

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 1005, filed 7/22/66, effective 8/22/66)

WAC 16-70-020 Reporting diseases—Not required, requested only. The ~~((animal industry division))~~ state veterinarian may request reports on any other diseases that concern the director from a statistical or survey standpoint associated with overall disease control measures. The veterinarian may also voluntarily report any diseases of this nature on the monthly disease report ~~((cards))~~ forms as he determines they are pertinent to the purposes of the department and advantageous to disease control in the state.

WSR 93-16-091
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 4, 1993, 8:18 a.m.]

Original Notice.

Title of Rule: Chapter 16-78 WAC, Hog cholera, swine plague, swine erysipelas and vesicular exanthema.

Purpose: Control and eradicate hog cholera.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Statute Being Implemented: Chapter 16.36 RCW.

Summary: This rule is being repealed in its entirety.

Reasons Supporting Proposal: Hog cholera has been eradicated.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. W. Mead, DVM, 1111 Washington Street, Olympia, 902-1787.

Name of Proponent: Food Safety/Animal Health Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule was issued in 1953 to control and eradicate hog cholera. Other diseases with similar signs were included. Washington rule was part of a national effort to eradicate this disease. Hog cholera does not now exist in Washington or the United States and is considered a foreign animal disease. Emergency provisions exist in chapter 16.36 RCW in the event a foreign animal disease is diagnosed in Washington.

Proposal Changes the Following Existing Rules: Eliminate rule.

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

Hearing Location: Washington State Department of Agriculture, Food Safety/Animal Health Division, Conference Room #250, 1111 Washington Street, Olympia, WA 98504-2577, on September 7, 1993, at 2:00 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Food Safety/Animal Health Division, P.O. Box 42577, Olympia, WA 98504-2577, by September 3, 1993.

Date of Intended Adoption: September 10, 1993.

August 4, 1993

Candace A. Jacobs

Acting Assistant Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-78-001 Promulgation.

WAC 16-78-002 Promulgation.

WAC 16-78-003 Promulgation.

WAC 16-78-010 General.

WAC 16-78-020 Virulent hog cholera virus.

WAC 16-78-030 Penalty.

**WSR 93-16-092
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed August 4, 1993, 8:20 a.m.]

Original Notice.

Title of Rule: Chapter 16-88 WAC, Control of tuberculosis in cervidae.

Purpose: Control and eliminate tuberculosis in cervidae if diagnosed in a herd, outlining testing procedures, herd status plans and regulating interstate, intrastate and international movement, with regard to tuberculosis status.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Statute Being Implemented: Chapter 16.36 RCW.

Summary: Outlines testing procedure, herd status plans and regulates intrastate, interstate and international movement with regard to tuberculosis status.

Reasons Supporting Proposal: These procedures are based on the recommendations by various cervidae organizations, individual herd owners and tuberculosis experts and concurred on by the Tuberculosis Committee of the U.S. Animal Health Association.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. W. Mead, 1111 Washington Street, Olympia, WA, 902-1878.

Name of Proponent: Food Safety and Animal Health Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule establishes standards for cervidae to be tested for tuberculosis, herd status established after testing and how often to test to maintain status and establishes movement requirements pertaining to tuberculosis in an intrastate, interstate and international basis.

Proposal does not change existing rules.

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

Hearing Location: Washington State Department of Agriculture, Food Safety/Animal Health, Conference Room #250, 1111 Washington Street, Olympia, WA 98504-2577, on September 7, 1993, at 1:45 p.m.

Submit Written Comments to: Dr. Robert W. Mead, Food Safety/Animal Health Division, P.O. Box 42577, Olympia, WA 98504-2577, by September 3, 1993.

Date of Intended Adoption: September 10, 1993.

August 4, 1993
Candace A. Jacobs
Acting Assistant Director

**Chapter 16-88 WAC
CONTROL OF TUBERCULOSIS IN CERVIDAE**

NEW SECTION

WAC 16-88-010 Definitions. "Accredited herd (cervidae)" means a cervid herd that has passed at least three consecutive official tuberculosis tests of all eligible animals conducted at ten to fourteen month intervals, and has no other evidence of bovine tuberculosis, and meets the accredited herd requirements of WAC 16-88-030.

"Accredited veterinarian" means a veterinarian approved by the administrator of APHIS in accordance with the provisions of Part 161, 9 CFR to perform functions required by cooperative state-federal disease control and eradication programs.

"Anniversary date" means the date of the last of three consecutive official qualifying tests.

"APHIS-VS" means Animal and Plant Health Inspection Service - Veterinary Services.

"Approved accredited veterinarian" means an accredited veterinarian who has been given special instruction and approved to administer the single cervical tuberculin test (cervidae).

"Approved slaughter facility" means a federal or state slaughter facility operating with individual animal inspection by federal or state inspectors.

"Approved state or federal veterinarian" means a veterinarian employed by the state or federal government and who has been specifically instructed in the comparative cervical tuberculin (CCT) test and approved to administer that test by USDA, APHIS-VS.

"Bovine tuberculosis" means a disease in Cervidae caused by *Mycobacterium bovis*.

"Cervidae" means all species of deer, elk, and moose raised under agricultural conditions for the production of meat or other agricultural products, sport, or exhibition.

"Comparative cervical tuberculin (CCT) test" means the intradermal injection of biologically balanced bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area and a determination as to the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins seventy-two hours (plus or minus six hours) following injection. This test shall only be administered by an approved state or federal veterinarian.

"Cooperating state-federal official" means officials of USDA, APHIS-VS and state animal health officials performing functions required by cooperative state-federal disease control and eradication programs.

"Eligible animals" means all cervidae over six months of age and any other animals other than natural additions under six months of age.

"Exposed animals" means cervidae that have been exposed to bovine tuberculosis by reason of associating with known tuberculosis animals.

"Herd" means a group of cervidae maintained on common ground or two or more groups of cervids under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status. (A group means one or more animals.)

"Monitored herd" means a herd on which identification records are maintained on animals inspected for tuberculosis at an approved slaughter facility or approved diagnostic laboratory. A monitored herd must identify animals at slaughter at a rate to detect infection at a two percent prevalence level with ninety-five percent confidence evenly distributed over a three-year period. This rate would require a maximum number of one hundred forty-eight animals as graphically depicted in Appendix 1.

"Natural additions" means animals born and raised in a herd.

"Negative animals" means any cervids that show no response to a tuberculosis test or have been classified negative by the testing veterinarian based on history, supplemental tests, examination of carcasses, or laboratory results.

"No gross lesion (NGL) animal" means any cervids that do not reveal a lesion(s) of bovine tuberculosis upon postmortem inspection.

"Official eartag" means an identification eartag that provides unique identification for each individual animal by conforming to the alpha-numeric National Uniform Eartagging System.

"Official tuberculin test (cervidae)" means a test for bovine tuberculosis applied and reported by approved personnel in accordance with WAC 16-88-030 and 16-88-040. The official tests for cervidae are the single cervical test and the comparative cervical test.

"Permit" means an official document issued by a representative of APHIS-VS, a state veterinarian, or an accredited veterinarian that is required to accompany reactor, suspect, or exposed cervids to slaughter. The permit will list the reactor tag number or official eartag number in the case of suspect cervids and exposed cervids; the owner's name and address; origin and destination locations; number of cervids covered; and the purpose of the movement. If a change in destination becomes necessary, a new permit must be issued by a state, federal or accredited veterinarian. No diversion from the destination of the permit is allowed.

"Qualified herd" means a cervid herd that has undergone an official negative test of all eligible animals within the past twelve months and is not classified as an accredited herd.

"Reactor" means any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian.

"Single cervical tuberculin test (cervidae)" means the intradermal injection of 0.1 ml (5,000 tuberculin units) of USDA Bovine PPD tuberculin in the mid-cervical (neck) region with reading by visual observation and palpation in seventy-two hours (plus or minus six hours) following injection. This test shall only be administered by a state, federal, or approved accredited veterinarian.

"Tuberculin" means a product that is approved by and produced by USDA license for injection into cervids for the purpose of detecting bovine tuberculosis.

"Tuberculosis" means a disease of cervidae caused by *Mycobacterium bovis*.

"USDA" means the United States Department of Agriculture.

NEW SECTION

WAC 16-88-020 Testing procedures. (1) Presumptive diagnostic test. The single cervical (SCT) test is the tuberculin test for routine use in individual cervids, and herds of such animals where the tuberculosis status of the animals is unknown.

(2) Supplemental diagnostic test. The comparative-cervical (CCT) test should be used for retesting of suspects. This test should not be used in known infected herds without the prior written consent of cooperating state-federal officials and should not be used as a primary test for animals of unknown status.

Other tests may be used as supplemental diagnostic tests for purposes other than interstate or international movement.

(3) Primary/diagnostic test. The single cervical test is the recommended primary test for use in herds affected with bovine tuberculosis. It should be applied only by a veterinarian employed in full time capacity by the state or federal government.

(4) Tuberculin test interpretation. Decisions will be based upon the professional judgment of the testing veterinarian, after observation and palpation of the injection site, in accordance with the policies established by the cooperating state and federal officials and the test requirements described in subsection (5) of this section, Classification of cervidae tested.

(5) Classification of cervidae tested.

(a) Single cervical tuberculin test:

(i) Herds of unknown status - all response should be recorded and the animals classified as suspects and quarantined for retest with the CCT, unless in the judgment of the testing veterinarian the reactor classification is indicated.

(ii) Known infected herds - all responses should be recorded and the animals classified as reactors.

(b) Comparative cervical test - animals having a response to bovine PPD which is 1mm or greater, and is 0.5mm greater than the response to avian PPD shall be classified as reactors. Animals having a bovine response greater than 2mm and that response is equal to the avian response shall be classified as suspects except when in the judgment of the testing veterinarian the reactor classification is indicated. Animals meeting the criteria for suspect classification on two successive CCT shall be classified as reactors.

(c) Suspect animals in cervid herds may be retested by the CCT. The CCT shall be applied within ten days following the SCT injection or after ninety days. Animals positive to the CCT should be classified as reactors.

(d) Suspects may be necropsied in lieu of retesting and if found without evidence of *Mycobacterium bovis* infection by histopathology and culture (including selected NGL specimens submitted from animals having no gross lesions indicative of tuberculosis) should be considered negative for tuberculosis.

(e) Other diagnostic tests will be classified in accordance with the specific criteria outlined by the test.

(6) Reporting of tests. A report of all tuberculin tests - including the individual identification of each animal by eartag number or tattoo, age, sex, and breed - and a record of the size of the response and test interpretation should be submitted, in accordance with state requirements, to the cooperating state-federal officials.

(7) Procedures in affected herds. Disclosure of tuberculosis in any herd must be followed by a complete epidemiologic investigation. All cervids in herds from which tuberculosis livestock originate and all cervids or other affected livestock should be tested promptly. The herd should be handled as outlined under subsection (8) of this section, Quarantine procedures (cervidae).

(8) Quarantine procedures (cervidae).

(a) All herds in which reactor animals are disclosed must be quarantined in accordance with state laws.

(b) Cervidae herds in which *Mycobacterium bovis* is confirmed will remain under quarantine and must pass three

official tuberculosis tests in succession at ninety-day, one hundred eighty-day and one hundred eighty-day minimum intervals. Five annual complete herd tests of all eligible animals should be given following the release from quarantine.

(c) Reactors shall remain on the premises where they were disclosed until a state or federal permit for movement has been obtained. Movement for immediate slaughter will be directed to a slaughtering establishment where approved state or federal inspection is maintained within fifteen days of classification. Alternatively, the animals may be destroyed and a postmortem conducted by or under the supervision of a veterinarian employed in a full-time capacity by state or federal government.

(9) Retest schedules for high risk herds (cervidae).

(a) In herds with a history of lesions compatible or suggestive for tuberculosis by histopathology, two complete annual herd tests should be given after release from quarantine. Herds with a bacteriologic isolation of a species other than *M. bovis* should be considered negative for bovine tuberculosis with no further testing requirements.

(b) Source herds of slaughter animals having lesions of tuberculosis should be tested.

(c) Source herds of lesioned animals found in infected herds should be tested.

(10) Cleaning and disinfection of premises, conveyances, and materials. Premises including structures, holding facilities, conveyances, and materials that are determined by the appropriate cooperating state-federal officials to constitute a health hazard to humans or animals because of tuberculosis should be properly cleaned and disinfected. This should be done in accordance with procedures approved by said officials.

(11) Identification. All cervidae tested must be individually identified. An official eartag is required for all interstate or international movements.

NEW SECTION

WAC 16-88-030 Herd status plans. (1) Accredited herd plan for cervidae.

(a) Animals to be tested - testing of herds for accreditation or reaccreditation shall include all cervidae over six months of age and any animals other than natural additions under six months of age. All natural additions shall be individually identified by official eartag and recorded on the test charts as members of the herd at the time of the herd test.

(b) Qualifying standards - to meet the requirements for accredited herd status the herd must pass at least three consecutive official tests for tuberculosis conducted at ten to fourteen month intervals with no evidence of bovine tuberculosis disclosed. All animals must be bona fide members of the herd. Herds meeting these standards shall be issued a certificate by the cooperating state-federal officials.

(c) Additions - herd additions must originate directly from one of the following:

(i) An accredited herd.

(ii) A qualified or monitored herd: *Provided*, That the individual animals for addition were negative to an official tuberculosis test conducted within ninety days prior to entry and must be kept in isolation from all members of the

accredited herd until negative to an official tuberculosis test conducted after ninety days following entry.

(iii) A herd not meeting the requirements of (c)(i) or (ii) of this subsection. Individual animals for addition must be isolated from all other members of the herd of origin and pass two negative official tests for tuberculosis conducted at least ninety days apart provided that the second test was conducted within ninety days prior to movement to the premises of the accredited herd. The animals must then be kept in isolation from all members of the accredited herd until negative to an official tuberculosis test conducted at least ninety days following the date of entry.

Animals added under (c)(ii) and (iii) of this subsection shall not receive accredited herd status for sale purposes until they have entered the accredited herd from isolation following a negative retest ninety days after entry.

(d) Reaccreditation - to qualify for reaccreditation, the herd must pass a biannual test within a period of twenty-two to twenty-six months of the anniversary date. The accreditation period will be twenty-four months (seven hundred thirty days) from the anniversary date (not twenty-four months from the date of the reaccreditation test).

(2) Monitored herd plan for cervidae.

(a) Requirements - for a herd to be eligible for monitored herd status, the herd must be a herd on which identification records are maintained on animals slaughtered and inspected for tuberculosis at an approved slaughter facility. A monitored herd must identify animals at slaughter at a rate to detect infection at a two percent prevalence level with ninety-five percent confidence evenly distributed over a three-year period. This rate would require a maximum number of one hundred forty-eight animals.

(b) Maintenance of monitored herd status - for monitored herd status to be renewed, an annual report shall be submitted by the person, firm, or corporation responsible for the management of the herd to the cooperating state-federal officials prior to the anniversary date to give the number of animals identified and slaughtered at an approved slaughter facility during the preceding year, as well as all other information necessary to maintain herd status.

(c) Additions - herd additions must originate directly from one of the following:

(i) Accredited herd.

(ii) A qualified or monitored herd: *Provided*, That the individual animals for addition were negative to a tuberculosis test conducted within ninety days prior to entry.

(iii) A herd not meeting the requirements of (c)(i) or (ii) of this subsection. Individual animals for addition must be isolated from all other members of the herd of origin and pass two negative official test for tuberculosis conducted at least ninety days apart provided that the second test was conducted within ninety days prior to movement to the premises of the monitored herd. The animals must then be kept in isolation from all members of the monitored herd until negative to an official tuberculosis test conducted at least ninety days following the date of entry.

Animals added under (c)(iii) of this subsection shall not receive monitored herd status for sale purposes until they have entered the monitored herd from isolation following a negative retest ninety days after entry.

(3) Qualified herd plan for cervidae.

(a) Animals to be tested - testing of herds for qualification shall include all cervidae over six months of age and any animals other than natural additions under six months of age. All natural additions shall be individually identified by official eartag and recorded on the test charts as members of the herd at the time of the herd test.

(b) Qualifying standards - to meet the requirements for qualified herd status, the herd must pass one official test for tuberculosis of all eligible animals with no evidence of bovine tuberculosis disclosed. The qualifying status remains in effect for twelve months following the qualifying test. All animals tested must be bona fide members of the herd.

(c) Additions - herd additions must originate directly from one of the following:

(i) An accredited herd.

(ii) A qualified or monitored herd: *Provided*, That the individual animals for addition were negative to a tuberculosis test conducted within ninety days prior to entry.

(iii) A herd not meeting the requirements of (c)(i) or (ii) of this subsection. Individual animals for addition must be isolated from all other members of the herd of origin and pass two negative official tests for tuberculosis conducted at least ninety days apart provided that the second test was conducted within ninety days prior to movement to the premises of the qualified herd. The animals must then be kept in isolation from all members of the qualified herd until negative to an official tuberculosis test conducted at least ninety days following the date of entry.

Animals added under (c)(iii) of this subsection shall not receive qualified herd status for sale purposes until they have entered the qualified herd from isolation following a negative retest ninety days after entry.

NEW SECTION

WAC 16-88-040 Intrastate, interstate, or international movement—Tuberculosis testing requirements. (1) No animal with a response to any tuberculosis test is eligible for international movement into the state of Washington.

(2) No animal with a response to any tuberculosis test is eligible for intrastate or interstate movement unless said animal is subsequently classified "negative for tuberculosis" based upon an official tuberculosis test or is consigned directly to slaughter.

(3) Cervids that originate from accredited herds may be moved intrastate or interstate without further tuberculosis testing provided they are accompanied by a certificate stating such cervids have originated from an accredited free herd.

(4) Cervids not known to be affected with or exposed to tuberculosis that originate from qualified herds may be moved intrastate or interstate if they are accompanied by a certificate stating that such cervids originate from a qualified herd and have been classified negative to an official tuberculosis test which was conducted within ninety days prior to the date of movement. If the qualifying test was administered within ninety days of movement, the animal(s) do not require an additional test.

(5) Cervids not known to be affected with or exposed to tuberculosis that originate from monitored herds may be moved intrastate or interstate if they are accompanied by a certificate stating such cervids originate from a monitored herd and have been classified negative to an official tubercu-

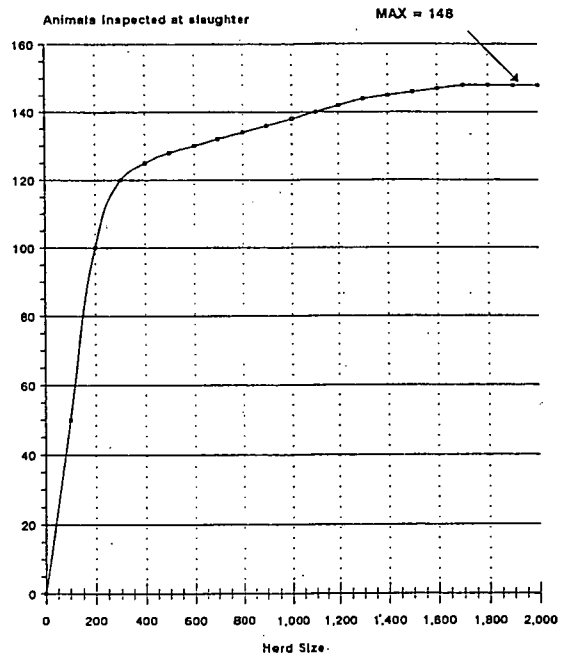
losis test which was conducted within ninety days prior to the date of movement.

(6) Cervids not known to be affected with or exposed to tuberculosis that originate from all other herds may be moved intrastate or interstate if they are accompanied by a certificate stating that such cervids have been classified negative to two official tuberculosis tests which were conducted no less than ninety days apart, that the second test was conducted within ninety days prior to the date of movement and that the animals were isolated from all other members of the herd during the testing period.

(7) This section shall not apply to domestically raised cervids moved intrastate, interstate or imported internationally for immediate slaughter as provided by RCW 16.36.050 for domestic animals.

Appendix 1:

Monitored Herd Plan for Cervidae requirements for herd eligibility*



* detection at a 2% prevalence level with 95% confidence

**WSR 93-16-093
PROPOSED RULES
LAKE WASHINGTON
TECHNICAL COLLEGE**
[Filed August 4, 1993, 8:25 a.m.]

Original Notice.

Title of Rule: WAC 495D-135-040 Tuition and special course/program connected fees refund policy.

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.

Other Identifying Information: Amendment to subsections (3) and (4) of existing rule.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

Summary: WAC 495D-135-040 Tuition and special course/program connected fees refund policy.

Reasons Supporting Proposal: To comply with revised 484B Title IV institutional refund policy.

Name of Agency Personnel Responsible for Drafting and Implementation: Gary Cohn, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034-8506, (206) 828-5608; and Enforcement: Don Fowler, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034-8506, (206) 828-5601.

Name of Proponent: Lake Washington Technical College, public.

Rule is necessary because of federal law, 484B Title IV institutional refund policy.

Explanation of Rule, its Purpose, and Anticipated Effects: To set forth policies governing refund of tuition and special course/program fees that comply with revised 484B Title IV institutional refund policy. Provides for pro rata refunds for first-time federal financial aid students consistent with applicable federal rules.

Proposal Changes the Following Existing Rules: Provides for pro rata refunds for first-time federal financial aid students consistent with applicable federal rules.

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

Hearing Location: Lake Washington Technical College, 11605 132nd Avenue N.E., Room W-305, Kirkland, WA 98034-8506, on September 8, 1993, at 7:30 p.m.

Submit Written Comments to: Gary Cohn, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034-8506, by September 1, 1993.

Date of Intended Adoption: September 8, 1993.

August 3, 1993

Gary D. Cohn

Vice-President

AMENDATORY SECTION (Amending WSR 93-01-084, filed 12/15/92, effective 1/15/93)

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 93-16-095

PROPOSED RULES

DEPARTMENT OF PERSONNEL

[Filed August 4, 1993, 10:08 a.m.]

Original Notice.

Title of Rule: WAC 251-10-060 Layoff lists—State-wide; 251-10-061 Layoff list—State-wide—Additional certification; 251-17-090 Examination—Eligibility; 251-18-180 Eligible lists—Definition—Composition; 251-18-190 Eligible lists—Duration; 251-18-240 Certification—Method; 251-19-010 Returning employee provisions—Layoff; 251-19-060 Trial service period; and 251-19-100 Transfer—Lateral movement—Voluntary demotion.

Purpose: WAC 251-10-060 establishes how layoff lists are administered; WAC 251-10-061 grants the personnel officer additional certification of eligibles; WAC 251-17-090 establishes who is eligible for the examination process; WAC 251-18-180 defines and determines the composition of eligible lists; WAC 251-18-190 states the duration of eligible lists; WAC 251-18-240 states method for certifying eligibles; WAC 251-19-010 outlines provisions for employees returning from layoff; WAC 251-19-060 establishes how trial service periods are administered; and WAC 251-19-100 requires personnel officer to develop a transfer/lateral movement/voluntary demotion procedure.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: Proposed rule modifications and the proposed new rule provide enhanced access to individuals facing layoff. The revised rules permit personnel officers to allow individuals in layoff status from their own institution, other institutions, and state agencies into the examination for positions they would not otherwise be considered.

Reasons Supporting Proposal: The proposed rule amendments and new section were developed in response to the state Department of Personnel's development of a transition pool to provide enhanced layoff rights to state employees. The rule package parallels the Department of Personnel's program for employees of state agencies yet reflects the decentralized of the higher education system. The revisions allow individuals who have acceptable job skills to enter into an examination in a class in which he/she has no layoff status, and, if successful, be placed on the register for a class when it is not normally open for application.

Name of Agency Personnel Responsible for Drafting: Kris Brophy, 1202 Black Lake Boulevard, Olympia, WA, (206) 753-3819; Implementation and Enforcement: Department of Personnel, 521 Capitol Way South, Olympia, WA, (206) 664-0381.

Name of Proponent: Interinstitutional Personnel Officers Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 251-10-060 establishes how layoff lists are administered. Revisions expand eligibility of employees for placement of layoff lists; WAC 251-10-061 provides the personnel officer the ability to certify three additional eligibles from the state-wide layoff list; WAC 251-17-090 defines eligibility for exam process. Revisions allow the personnel officer to add employees on layoff status to institutional promotion lists; WAC 251-18-180 defines and determines composition of eligible lists. Revisions expand institution-wide promotional lists to include for employees laid off from the institution; WAC 251-18-190 states the duration of eligibility lists. Revisions extend the duration for state-wide layoff lists from one year to two years; WAC 251-18-240 states the method for certifying eligibles. Revisions allow the personnel officer to certify three additional names of eligibles from the state-wide layoff list provided that all higher lists have been exhausted; WAC 251-19-010 states the provisions for employees returning from layoff status. Revisions extend the provisions to cover former employees appointed from an institution-wide promotional list or through the institution's transfer/lateral movement/voluntary demotion procedure; WAC 251-19-060 establishes how trial service periods are administered. Revisions require a trial service period be served upon appointment from an institutional-wide layoff list; and WAC 251-19-100 requires personnel officers to develop a transfer/lateral movement/voluntary demotion procedure. Revisions extend the procedures to include former employees laid off from the institution and on an institution-wide layoff list.

Proposal Changes the Following Existing Rules: WAC 251-10-060 revisions expand eligibility of employees for placement of layoff lists; WAC 251-17-090 revisions allow the personnel officer to add employees on layoff status to

institutional promotion lists; WAC 251-18-180 revisions expand institution-wide promotional lists to include for employees laid off from the institution; WAC 251-18-190 revisions extend the duration for state-wide layoff lists from one year to two years; WAC 251-18-240 revisions allow the personnel officer to certify three additional names of eligibles from the state-wide layoff list provided that all higher lists have been exhausted; WAC 251-19-010 revisions extend the provisions to cover former employees appointed from an institution-wide promotional list or through the institution's transfer/lateral movement/voluntary demotion procedure; WAC 251-19-060 revisions extend the provisions to cover former employees appointed from an institution-wide promotional list or through the institution's transfer/lateral movement/voluntary demotion procedure; WAC 251-19-060 revisions require a trial service period be served upon appointment from an institution-wide layoff list; and WAC 251-19-100 revisions extend the procedures to include former employees laid off from the institution and on an institution-wide layoff list.

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

Hearing Location: State Department of Personnel, 2nd Floor Board Room, 521 Capitol Way South, Olympia, WA, on September 9, 1993, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, P.O. Box 40918, Olympia, WA 98504-0918, by September 8, 1993.

Date of Intended Adoption: September 9, 1993.

August 4, 1993

Dennis Karras

Director

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-10-060 Layoff lists—State-wide. (1) A permanent employee of any institution of higher education, related board, or state agency who is on layoff status or is scheduled for layoff shall, upon his/her request, be placed on the state-wide layoff list(s) at any higher education institutions or related boards: *Provided*, That:

(a) The employee must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination; and

(b) The list must be for:

(i) Class(es) in which he/she has held permanent status;

or

(ii) Lower class(es) in the same class series; or (~~for~~)

(iii) Equivalent classes under the jurisdiction of the state department of personnel; (~~and~~) or

(iv) Class(es) at the same or lower level as the class from which laid off and in which permanent status has not been held; and

(c) The option must be exercised by the affected employee within thirty calendar days of the effective date of layoff.

(2) Employees shall be ranked by their total layoff seniority as measured by their last period of unbroken service in the classified service of the state. The list shall consist of two categories, provided that, employees who have held permanent status in the class or in higher level classes

in the series shall be certified prior to employees who have not held permanent status, and certification within each category shall be in order of:

- (a) Employees of higher education institutions/related boards;
- (b) Employees of other state agencies.
- (3) The duration of eligibility on this list shall be ~~((one))~~ two years from the date of placement on the list.
- (4) Referral from this list shall be on a rule of five.
- (5) Employees appointed from this list shall be required to serve a ~~((probationary))~~ trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the institution-wide layoff list at the institution/related board from which he/she came or the corresponding state agency department of personnel register. ~~((Termination))~~ Failure to satisfactorily complete ~~((during))~~ the ~~((probationary))~~ trial service period shall not affect the employees' status on other state-wide layoff lists upon which they previously have been placed.

(6) Employees appointed from this list shall be credited with unused sick leave accrued at the time of layoff. Vacation leave shall be computed as provided in WAC 251-22-060.

(7) The institution will provide each employee scheduled for layoff with a copy of this rule and the comparable state department of personnel rule and a listing of institutions, related boards, or offices of the state department of personnel which they may contact. It shall be the responsibility of the employee to contact the institution/related board, or the state department of personnel if he/she has an interest in being placed on the respective state-wide layoff list(s).

(8) Certification from the state-wide layoff list shall be as provided in WAC 251-18-240.

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

NEW SECTION

WAC 251-10-061 Layoff list—State-wide—Additional certification. When the certification process per WAC 251-18-240 does not provide the names of at least three eligibles from the state-wide layoff list, the personnel officer shall certify from the state-wide layoff list up to three additional eligibles, provided that all higher lists have been exhausted. Such additional certification(s) shall be made in strict order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the state-wide layoff list.

AMENDATORY SECTION (Amending Order 176, filed 3/23/89, effective 5/1/89)

WAC 251-17-090 Examination—Eligibility. (1) Open-competitive examinations shall be open to all persons who apply according to the provisions of these rules and meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to those current permanent employees of the classified service at the institution, and those former permanent employees of the institution seeking to return from separation pursuant to

WAC 251-10-080, who apply according to the provisions of these rules and meet the minimum qualifications for the class. The personnel officer may open promotional examinations on either an organizational unit or institution-wide basis, whichever the personnel officer determines to be in the interest of the service.

(3) When the number of qualified applicants for a class in the competitive service is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may limit the applications to be admitted to the intermediate and/or final phase(s) of the examination to those most qualified, based on an assessment of qualifications in the initial and/or intermediate phase(s) of the examination. Such limitation must be specified in the recruitment notice. If no such limitation is specified, all applicants who pass the entire examination shall be placed on the eligible list for the class.

(4) The personnel officer may add members of underutilized groups to all eligible lists, except layoff lists, at anytime in accordance with the institution's affirmative action program as provided in WAC 251-23-040 (7)(b), provided such persons pass the examination for the class. The personnel officer shall also add the names of those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080 to all eligible lists at any time, provided such persons pass the examination for the class.

(5) The personnel officer may add employees who complete institution-approved training programs to the appropriate eligible list at any time, provided such employees meet the minimum qualifications and pass the examination for the class.

(6) The personnel officer may add to the institution-wide promotional list at any time:

(a) Current employees on layoff status or scheduled for layoff;

(b) Former employees laid off from the institution per WAC 251-10-030 who are on an institution-wide layoff list;

Provided that persons covered in (a) and (b) above meet the minimum qualifications and pass the examination for the class.

AMENDATORY SECTION (Amending WSR 92-05-034, filed 2/11/92, effective 4/1/92)

WAC 251-18-180 Eligible lists—Definition—Composition. Eligible lists shall be established by class as follows:

(1) **Institution-wide layoff lists** shall contain the names of:

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

(b) Former permanent employees of the institution who (i) have transferred, promoted, voluntarily demoted or laterally moved to positions at other institutions/related boards, and (ii) have not successfully completed their trial service periods at the institution to which they moved, ranked in order of layoff seniority.

(2) **Organizational unit promotional lists** shall contain the names of all permanent employees of the organizational

unit for which the list is established who have passed the examination for the class. This list shall also contain the names of former employees separated from the organizational unit per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(3) **Institution-wide promotional lists** shall contain the names of all permanent employees of the institution who have passed the examination for the class. This list shall also contain the names of:

(a) ~~(#)~~ Former employees separated from the institution per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(b) Former employees laid off from the institution per WAC 251-10-030, who are on an institution-wide layoff list.

(i) Persons appointed under subsection (b) of this section shall serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be returned to the position and/or status held immediately prior to the appointment.

(4) **Special employment program layoff lists** shall contain the names of permanent employees of the institution laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035 ranked in order of layoff seniority.

(5) **State-wide layoff lists** shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060, ranked in order of layoff seniority as provided in WAC 251-10-060(2).

(6) **Interinstitutional employee lists** shall contain the names of permanent employees of an institution or related board other than the one at which he/she is applying, who have passed the examination for the class, ranked in order of their final examination scores.

(7) **Intersystem employee lists** shall contain the names of permanent employees under the jurisdiction of chapter 41.06 RCW who have passed the examination for the class, ranked in order of their final examination scores.

(8) **Open competitive lists** shall contain the names of all other applicants who have passed the examination for the class, ranked in order of their final examination scores.

(9) **Noncompetitive lists** shall be established per WAC 251-17-040 and shall contain the names of applicants who meet the minimum qualifications and have passed the noncompetitive examination, if any, for the class, ranked by priority in time of filing application.

(10) For positions assigned to EEO-6 categories executive, administrative, managerial, and professional nonfaculty, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide

layoff list, and the open competitive list into a single eligible list:

(a) The combined list option must be specified in the recruitment notice for a class in order for the personnel officer to combine lists for positions in the class;

(b) The combined list shall contain the names of eligibles ranked in order of their final examination scores. Permanent employees of the institution and former permanent employees eligible to return to work pursuant to WAC 251-10-080 shall have a five percent credit added to their final passing scores.

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 123, filed 1/30/85)

WAC 251-18-190 Eligible lists—Duration. (1) The duration of eligibility on a list begins the date the name is placed on the list and ends as follows:

(a) After two years on an institution-wide layoff list or state-wide layoff list;

(b) After one year on an organizational unit or institution-wide promotional list, special employment program layoff list, interinstitutional employee list ~~((=))~~ or intersystem employee list ~~((= or state-wide layoff list))~~;

(c) After six months on an open competitive or noncompetitive list.

(2) Prior to the original expiration date of a name on an institution-wide layoff list, an organizational unit promotional list, an institution-wide promotional list, a special employment program layoff list, an interinstitutional employee list, or an intersystem employee list, the eligible shall be notified of the expiration and given the opportunity to extend eligibility for one additional year by written request to the personnel officer.

(3) The personnel officer may extend an entire eligible list for the following periods:

(a) Six months for open competitive and noncompetitive lists;

(b) One year for all other lists.

(4) The personnel officer shall cancel the entire eligible list when the class or examination has been changed to the degree that the list would be invalid. All affected eligibles shall be notified of the cancellation.

AMENDATORY SECTION (Amending WSR 90-17-037, filed 8/10/90, effective 10/1/90)

WAC 251-18-240 Certification—Method. (1) Upon receipt of a personnel request, the personnel officer shall provide the following number of names to the employing official in writing:

(a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification.

(b) When there are no names on the institution-wide layoff list for the class, four more names than there are vacancies to be filled by the certification, provided that:

(i) When other applicants on the eligible list in use have scores equal to the lowest score among the names certified, their names shall be certified; and

(ii) Up to three additional names of eligibles who meet the applicable affirmative action criteria shall be certified as provided in WAC 251-23-060.

(iii) Up to three additional names of eligibles from the state-wide layoff list per WAC 251-10-061, provided that all higher lists have been exhausted.

(2) Names shall be certified in strict order of standing on the eligible list(s) as established in WAC 251-18-180.

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180(10):

- (i) Institution-wide layoff list;
- (ii) Organizational unit promotional list;
- (iii) Institution-wide promotional list;
- (iv) Special employment program layoff list;
- (v) State-wide layoff list;
- (vi) Interinstitutional employee list;
- (vii) Intersystem employee list;
- (viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

- (i) Institution-wide layoff list;
- (ii) Combined eligible list.

(4) Permanent employees certified from an eligible list for consideration of appointment shall be notified by the institution at the time of referral. Upon appointment, the institution shall advise those employees certified but not appointed of the action taken.

AMENDATORY SECTION (Amending Order 165, filed 12/30/87, effective 2/1/88)

WAC 251-19-010 Returning employee provisions—Layoff. An eligible appointed from an established institution-wide layoff list shall be credited with the following:

(1) Assumption of appointment status, salary step as provided in WAC 251-08-115 and seniority held at the time of layoff;

(2) Sick leave accrued at the time of layoff;

(3) Periodic increment date extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff.

(4) The provisions of subsections (1), (2) and (3) above also shall apply to former employees appointed as follows:

(a) From an institution-wide promotional list per WAC 251-18-180 (3)(b);

(b) Through the institution's transfer/lateral movement/voluntary demotion procedure per WAC 251-19-100(3).

AMENDATORY SECTION (Amending Order 165, filed 12/30/87, effective 2/1/88)

WAC 251-19-060 Trial service period. (1) A trial service period of six months shall be required upon appoint-

ment of a permanent employee to a new class at the institution, unless

(a) During the current period of employment at the institution, permanent status has been held in the class to which the employee is moving, or

(b) The class is lower in that same class series, or

(c) The employee is being reallocated per the provisions of WAC 251-06-080 (1)(a), or

(d) The employee is moving to the class as part of a recognized apprenticeship program as provided in WAC 251-19-140(5).

(2) A trial service period of six months shall be required upon employee movement as specified in WAC 251-19-110.

(3) A trial service period shall be required upon appointment from an institution-wide promotional list as provided in WAC 251-18-180 (3)(b).

(4) The trial service period provides the employing official an opportunity to observe and evaluate the new employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

(a) With preemptive rights to the former position in which permanent status was last held, or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion or employee movement as specified in WAC 251-19-110). The personnel officer shall determine which position to preempt. However, if the employee was in a trial service appointment in another class prior to the current trial service period, the personnel officer may provide the employee the opportunity to complete the first interrupted trial service period.

(b) Reversion must be preceded by written notice at least one work day (eight hours), before the effective date.

(c) If the former position to which the employee has preemptive rights has been abolished and a vacant position in the class is not available, or if there is no class to which the reverted employee has preemptive rights, the affected employee shall be accorded such bumping rights and placement on layoff lists as would be provided in layoff from his/her former class.

~~(4)~~ (5) Reversion from trial service must be preceded by:

(a) Written notice detailing deficiencies in performance, which shall include the specific changes required; and

(b) A reasonable opportunity to overcome identified deficiencies.

~~(5)~~ (6) An employee who is reverted may appeal to the board regarding:

(a) Whether the employer complied with the requirements of subsection (4)(a) and (b) of this section; and

(b) Whether the claimed deficiencies existed at the time of reversion.

~~(6)~~ (7) The board may uphold the reversion action, extend the trial service period, overturn the reversion, grant permanent status or order such other actions as may be determined appropriate pursuant to the best standards of personnel administration.

~~(7)~~ (8) In the event an employee is on leave without pay status for more than ten work days during the trial service period, the completion date of the trial service period

shall be extended by an amount of time equal to the period of leave without pay.

((8)) (9) Successful completion of the trial service period shall result in permanent status in the class.

((9)) (10) Salary and periodic increment date shall be determined as follows:

(a) Upon promotional trial service appointment, the salary shall be established as provided in WAC 251-08-110; and the existing periodic increment date shall be eliminated and a new date established to be effective the date of completion of trial service;

(b) Upon trial service reversion the salary shall be established as provided in WAC 251-08-115(4) and the former periodic increment date shall be reestablished;

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged.

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 180, filed 6/21/89, effective 8/1/89)

WAC 251-19-100 Transfer—Lateral movement—Voluntary demotion. (1) The personnel officer for each institution shall develop a "transfer/lateral movement/voluntary demotion procedure" to provide reasonable opportunity for employees desiring to transfer within class or to voluntarily demote or move laterally to classes where they have previously attained permanent status at the institution, or equivalent classes as determined by the personnel officer, when:

(a) The action is by employee request; or

(b) The employee's position is being reallocated upward and the employee is not appointed to the reallocated position; or

(c) The personnel officer determines that the employee seeking the action is no longer able to perform in the current class due to a medically verified physical, mental, or sensory disability. An employee is eligible to apply for appointment to a position under the provisions of this subsection if the employee meets the minimum qualifications and is able to perform the work of the position as confirmed by medical verification which provides adequate guidance to the employer.

(2) Except as provided in subsection (1) of this section, permanent employees who wish to be considered for appointment to classes with an equal or lower salary range maximum than their current class must apply in accord with institutional procedure, meet the minimum qualifications, pass the examination and be placed on the appropriate eligible list for the class.

(3) Former employees laid off from the institution, per WAC 251-10-030, who are on an institution-wide layoff list, also shall be included in the procedures developed per subsections (1)(a) and (2) above.

(4) Upon appointment via the provisions of this rule, the following shall apply:

(a) For voluntary demotion, the salary shall be determined by the personnel officer and the periodic increment date shall remain unchanged.

(b) For transfer within class or lateral movement, the salary and periodic increment date shall remain unchanged.

WSR 93-16-096
PROPOSED RULES
LOTTERY COMMISSION
[Filed August 4, 1993, 10:16 a.m.]

Original Notice.

Title of Rule: New sections WAC 315-11A-106 Instant Game Number 106 ("Cash Explosion"), 315-11A-107 Instant Game Number 107 ("Break the Bank"), 315-11A-108 Instant Game Number 108 ("Money Bags"), and 315-11A-109 Instant Game Number 109 ("Black Jacks"); and amending WAC 315-33A-030 Play for Quinto, 315-33A-050 Ticket purchases, 315-33A-060 Drawings, 315-33B-060 Drawings, 315-11-990, 315-11-991, and 315-11-992 Definitions, criteria, ticket validation requirements for Instant Game Number 99 ("Megamoney"), and 315-06-125 Debts owed the state.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 106 (Cash Explosion), 107 (Break the Bank), 108 (Money Bags) and 109 (Black Jacks); to amend the rules for Instant Game No. 99 (Megamoney); to amend the rules for the on-line game Quinto, to discontinue the on-line game "Beat the State;" and to amend WAC 315-06-125 to include debts from the state Department of Revenue in the prize validation process.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeffrey Burkhardt, Rules Coordinator, Olympia, 586-6583; Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-106, 315-11A-107, 315-11A-108, 315-11A-109, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal Changes the Following Existing Rules: WAC 315-33A-030, 315-33A-050 and 315-33A-060 are amended to reflect changes in the rules of the on-line game, Quinto; WAC 315-33B-060 is changed to discontinue the on-line game, Beat the State; WAC 315-11-990, 315-11-991 and 315-11-992 are amended to reflect changes in the play action of the instant game "Megamoney"; and WAC 315-06-125 is amended to include the state Department of Revenue in the lottery debt collection process.

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

The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, East 10517 Sprague Avenue, Spokane, WA, 99206-3631, on September 10, 1993, at 10:00 a.m.

Submit Written Comments to: Jeff Burkhardt, P.O. Box 43025, Olympia, WA 98504-3025, by September 9, 1993.

Date of Intended Adoption: September 10, 1993.

August 3, 1993
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-11A-106 Instant Game Number 106 ("Cash Explosion"). (1) Definitions for Instant Game Number 106.

(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 106, 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," "\$7.00," "\$12.00," "\$50.00," "\$100.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below 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 106, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 12.00	TLV DOL
\$ 50.00	\$FIFTY\$
\$ 100.00	ONEHUND
\$ 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 10600001-000 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 106 constitute the "pack number" which starts at 10600001; 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 106, 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 (\$2, \$2; \$1, \$1, \$1 AND \$1)
SVN	\$ 7.00 (\$4, \$1, \$1 AND \$1; \$7)
TLV	\$ 12.00 (\$7, \$4, AND \$1; \$12)
NIT	\$ 19.00 (\$12, \$7; \$12, \$4, \$2 AND \$1)

(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 106.

(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 106 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 106; and/or

(ii) Vary the number of tickets sold in Instant Game Number 106 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 106.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 106 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-107 Instant Game Number 107 ("Break the Bank"). (1) Definitions for Instant Game Number 107.

(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 107, 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," "\$3.00," "\$5.00," "\$8.00," "\$16.00," "\$40.00," "\$80.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below 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 107, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 3.00	THR DOL
\$ 5.00	FIV DOL
\$ 8.00	EGT DOL
\$ 16.00	SXT DOL
\$ 40.00	\$FORTY\$
\$ 80.00	\$EIGHTY
\$ 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 10700001-000 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 107 constitute the "pack number" which starts at 10700001; 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 107, 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)
THR	\$ 3.00 (\$1, \$1, AND \$1; \$3)
EGT	\$ 8.00 (\$5, \$1, \$1 AND \$1; \$8)
SXT	\$ 16.00 (\$8 AND \$8; \$8, \$5 AND \$3; \$16)

(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 107.

(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 107 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 107; and/or

(ii) Vary the number of tickets sold in Instant Game Number 107 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 107.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 107 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-108 Instant Game Number 108 ("Money Bags"). (1) Definitions for Instant Game Number 108.

(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 108, 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," "\$7.00," "\$11.00," "\$21.00," "\$50.00," "\$500.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below 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 108, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 11.00	ELV DOL
\$ 21.00	TTN DOL
\$ 50.00	\$FIFTY\$
\$ 500.00	FIVHUND
\$ 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 10800001-000 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 108 constitute the "pack number" which starts at 10800001; 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 108, 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 (\$2 AND \$2; \$1, \$1, \$1 AND \$1)
SVN	\$ 7.00 (\$4, \$1, \$1, AND \$1; \$7)
ELV	\$ 11.00 (\$7 AND \$4; \$11)
TTN	\$ 21.00 (\$21)

(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 108.

(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 108 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 108; and/or

(ii) Vary the number of tickets sold in Instant Game Number 108 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 108.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 108 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-109 Instant Game Number 109 ("Black Jacks"). (1) Definitions for Instant Game Number 109.

(a) Play symbols: The following are the "play symbols": "11"; "12"; "13"; "15"; "16"; "17"; "19"; "20"; and "21." One of these play symbols appears in each of the three play spots in the "your hand" column and in each of the three play spots in the "their hand" column in the playfield on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and corre-

spond 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. The number 1, 2 or 3 precedes each play symbol caption to indicate the location of the play symbol in Game 1, Game 2 or Game 3. For Instant Game Number 109, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
11	ELEVN
12	TWLVE
13	THRTN
15	FIFTN
16	SIXTN
17	SVNTN
19	NINTN
20	TWNTY
21	TTYON

(c) Prize symbols: The following are the "prize symbols": "\$1.00"; "\$3.00"; "\$6.00"; "\$8.00"; "\$16.00"; "\$40.00"; and "\$10,000." One of these prize symbols appears for each game (row) in the prize column on the front of the ticket.

(d) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under each prize symbol. The number 1, 2 or 3 precedes each prize symbol caption to indicate the location of the prize symbol in Game 1, Game 2 or Game 3. For Instant Game Number 109, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 3.00	THR DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 16.00	SIXTEEN
\$ 40.00	\$FORTY\$
\$ 10,000	TENTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered with latex.

(f) Pack-ticket number: The eleven-digit number of the form 10900001-000 printed on the front of the ticket. The first eight digits of the pack-ticket number for Instant Game Number 109 constitute the "pack number" which starts at 10900001; 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 latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 and less. For Instant Game Number 109, the retailer verification codes are three-letter codes, 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
THR	\$ 3.00 (\$1, \$1 AND \$1; \$3)
EGT	\$ 8.00 (\$6, \$1 AND \$1; \$8)
SXT	\$ 16.00 (\$8 AND \$8; \$16)

(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 109.

(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 a play symbol in the "your hand" column that is a larger number than the play symbol in the "their hand" column in the same game (row) shall win the prize shown in the prize column for that game (row). The bearer of a ticket having winning play symbols in more than one game (row) shall win the sum of the prizes in each winning game (row). Play symbols in different games (rows) may not be combined to win a prize.

(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 109 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 109; and/or

(ii) Vary the number of tickets sold in Instant Game Number 109 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 109.

(a) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 109 shall comply with all of the following validation requirements.

(i) Exactly one play symbol must appear in each of the three play spots in the "your hand" column and in each of the three play spots in the "their hand" column under the latex covering on the front of the ticket.

(ii) Each of the six play symbols must have a caption below and each must agree with its caption.

(iii) Exactly one prize symbol for each of the three games (rows) must appear under the latex covering in the prize column on the front of the ticket.

(iv) Each of the three prize symbols must have a caption below it and each must agree with its caption.

(v) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(vi) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(vii) 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, 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.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-33A-030 Play for Quinto. (1) Type of play: Each play is a selection of five sets. A winning play is achieved only when 2, 3, 4, or 5 of the sets selected match, in any order, the five winning sets drawn by the lottery.

(2) Method of play: ~~((A*))~~ A player may use a play slip to make set selections. The on-line terminal will read the play slip and issue ticket(s) with corresponding sets. A player may also choose to have the on-line computer system ((with)) make all set selections with the use of a random number generator, a method commonly referred to as "quick play."

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-33A-050 Ticket purchases. (1) Quinto tickets may be purchased or redeemed no less than seventeen hours each day in accordance with a schedule to be determined by the director, provided that on-line retailers shall sell and redeem tickets only during their normal business hours.

(2) Quinto tickets may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.

(3) Quinto tickets shall, on the front of the ticket, contain the ~~((quick-play))~~ selection of sets, amount, drawing date, and validation and reference numbers. The back of the ticket shall contain player instructions, player information, and signature area, and the ticket serial number. The overall odds of winning shall appear on the ticket.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-33A-060 Drawings. (1) The Quinto drawing pursuant to this chapter shall be held once each Saturday evening beginning November 2, 1991, and once each Wednesday evening beginning November 3, 1993,

except that the director may change the drawing schedule if Saturday or Wednesday is a holiday.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, five winning sets with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn sets are not declared winners until the drawing is certified by the lottery. The winning sets shall be used in determining all Quinto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

AMENDATORY SECTION (Amending WSR 92-08-002, filed 3/18/92, effective 4/18/92)

WAC 315-33B-060 Drawings. (1) The "Beat the State" drawing held pursuant to this chapter shall be once each Saturday beginning May 16, 1992, and ending October 30, 1993, in conjunction with the Quinto drawing held pursuant to chapter 315-33A WAC, except that the director may change the drawing schedule if Saturday is a holiday.

(2) The drawing of the state's hand will be overseen by lottery officials.

(3) The state's hand shall be determined by a random drawing of one hand from 52 possibilities, which shall be as follows:

Number of possibilities for Royal Flush:	1
Number of possibilities for Straight Flush:	1
Number of possibilities for Four of a Kind:	2
Number of possibilities for Full House:	2
Number of possibilities for Flush:	3
Number of possibilities for Straight:	5
Number of possibilities for Three of a Kind:	7
Number of possibilities for Two Pair:	12
Number of possibilities for One Pair:	14
Number of possibilities for Fold:	5
Total possibilities	52

(4) The state's hand shall not be declared official until certified by the lottery. If the state's hand is not certified, another drawing will be conducted to determine the state's hand.

(5) The drawing shall not be invalidated based on the liability of the lottery.

AMENDATORY SECTION (Amending WSR 93-11-056, filed 5/12/93, effective 6/12/93)

WAC 315-11-990 Definitions for Instant Game Number 99 ("Megamoney"). (1) Play symbols: The following are the "play symbols": ~~((("\$2.00"; "\$3.00"; "\$6.00"; "\$10.00"; "\$20.00"; "\$40.00"; "\$500.00"; and "\$10,000.00"))~~ "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the ~~((nine))~~ six 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 six play spots shall be labeled "winning number."

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out,

in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 99, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
(\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 500.00	FIVHUND
\$ 10,000	TENTHOU))
<u>1</u>	<u>ONE</u>
<u>2</u>	<u>TWO</u>
<u>3</u>	<u>THR</u>
<u>4</u>	<u>FOR</u>
<u>5</u>	<u>FIV</u>
<u>6</u>	<u>SIX</u>
<u>9</u>	<u>NIN</u>

(3) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$5.00," "\$10.00," "\$20.00," "\$50.00," "\$100.00," "\$10,000." One of these play symbols appear below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(4) Prize symbol captions: The small printed characters which appear below the prize symbol and correspond with and verify that prize symbol. The prize symbol caption is a spelling out in full or abbreviated form of the prize symbol. For Instant Game Number 99, 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
\$ 3.00	THR DOL
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 50.00	\$FIFTY\$
\$ 100.00	ONEHUND
\$ 10,000	TENTHOU

(5) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex ((~~eovering~~)).

((~~4~~)) (6) Pack-ticket number: The eleven-digit number of the form 09900001-000 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 99 constitute the "pack number" which starts at 09900001; the last three digits constitute the "ticket number" which starts at 000 and continues through ((~~399~~)) 199 within each pack of tickets.

((~~5~~)) (7) 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 99, 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>
TWO	\$ 2.00 (\$2; \$1 AND \$1)
THR	\$ 3.00 (\$3; \$1, \$1 AND \$1)
SIX	\$ 6.00 (\$2, \$2 AND \$2; \$2, \$2, \$1 AND \$1)
TEN	\$ 10.00 (\$2, \$2, \$2, \$2 AND \$2; \$5 AND \$5)
TWY	\$ 20.00 (\$10, \$5 AND \$5; \$10, \$5, \$2, \$2 AND \$1)

((~~6~~)) (8) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

AMENDATORY SECTION (Amending WSR 93-11-056, filed 5/12/93, effective 6/12/93)

WAC 315-11-991 Criteria for Instant Game Number 99.

(1) The price of each instant game ticket shall be \$2.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:
 ((The bearer of a ticket having the following play symbols in any three of the nine spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 2.00	play symbols	Win \$ 2.00
Three \$ 3.00	play symbols	Win \$ 3.00
Three \$ 6.00	play symbols	Win \$ 6.00
Three \$ 10.00	play symbols	Win \$ 10.00
Three \$ 20.00	play symbols	Win \$ 20.00
Three \$ 40.00	play symbols	Win \$ 40.00
Three \$ 500.00	play symbols	Win \$ 500.00
Three \$ 10,000	play symbols	Win \$ 10,000))

(a) When any of the five 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.

(b) 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.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 99 set forth in WAC 315-11-992, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 99; and/or
- (b) Vary the number of tickets sold in Instant Game Number 99 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

AMENDATORY SECTION (Amending WSR 93-11-056, filed 5/12/93, effective 6/12/93)

WAC 315-11-992 Ticket validation requirements for Instant Game Number 99. (1) A valid instant game ticket for Instant Game Number 99 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations.

(a) Exactly one play symbol must appear in each of the ~~((nine))~~ six play spots under the removable latex covering on the front of the ticket.

(b) Each of the ~~((nine))~~ six play symbols must have a caption below it, and each must agree with its caption. 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.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-990(1) and each of the captions must be exactly one of those described in WAC 315-11-990(2).

(f) Each of the prize symbols must be exactly one of those described in WAC 315-11-990(3) and each of the prize symbol captions must be exactly one of those described in WAC 315-11-990(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending WSR 93-11-056, filed 5/12/93, effective 6/12/93)

WAC 315-06-125 Debts owed the state. (1) The terms used in RCW 67.70.255 and these regulations are defined as follows:

(a) Creditor - Any state agency or political subdivision of this state that maintains records of debts owed to the state or political subdivision, or that the state is authorized to enforce or collect.

(b) Debt - A judgment rendered by a court of competent jurisdiction or final and conclusive obligations established pursuant to RCW 50.20.190, 51.32.240, 51.48.140, 74.04.300, 74.20A.040, ~~((and))~~ 74.20A.055 and Title 82 RCW or administrative orders as defined in RCW 50.24.110, 51.32.240, 51.48.150, and 74.20A.020(6).

(c) State - The state of Washington.

(d) Two working days - Two days not to include Saturdays, Sundays, and holidays as defined in RCW

1.16.050 commencing the day following the date the claim was validated by the lottery.

(e) Verification - A facsimile or photo copy of a judgment or final order received by the lottery during the requisite two working day period.

(f) Individual - A natural person.

(2) Any creditor may submit, to the lottery, in a format specified by the director, data processing tapes containing debt information specified by the director. Tapes which do not contain the required information or are not in the proper format will be returned to the creditor. The creditor submitting debt information tapes shall provide replacement tapes on a regular basis at intervals not to exceed one month or less than one week. The creditor shall be solely responsible for the accuracy of the information contained therein.

(3) Creditors submitting data processing tapes to the lottery shall also submit the name or names of designated contact persons.

(4) The lottery shall include the debt information submitted by the creditor in its validation and prize payment process. The lottery shall delay payment of a prize, exceeding six hundred dollars, for a period not to exceed two working days, to any individual prize winner or to any other prize winner which has an individual holding a direct or indirect interest in the prize winner, and who owes a debt to a creditor pursuant to the information submitted in subsection (2) of this section. The lottery shall make a reasonable attempt to contact the creditor's designated contact person(s) by phone, followed by written correspondence, to verify the debt. Three phone calls, excluding busy signals, shall constitute a reasonable attempt. The prize shall be paid to the prize winner if the debt is not verified by the submitting creditor within two working days. If the debt is verified, the prize shall be disbursed pursuant to subsection (9) of this section.

(5) It shall be the obligation of the prize winner to provide the lottery with the names, Social Security numbers, and percentage interests of the individuals who collectively hold one hundred percent of the interest in the prize.

(6) Where an individual holds an interest in a prize claimed by another individual, the lottery must be informed of that interest, its percentage and the Social Security number (SSN) of the nonclaimant individual who holds the interest, prior to the validation and prize payment process described herein; otherwise, the Social Security number of the claimant individual and the full net amount of the prize will be used in completing the processing required under this section.

(7) Where the right to payment to an individual who holds an interest in a prize winner is discretionary with a third party or is contingent, the tax ID number of the prize winner shall be used in completing the processing required under this section, rather than the Social Security number of said individual.

(8) A creditor shall verify the debt by submitting to the lottery at lottery headquarters in Olympia, Washington within the requisite two working day period, a facsimile or photo-copy of a judgment or final order which is the basis for the debt.

(9) Prior to disbursement, any verified debts owed to a creditor by the individual winner of any lottery prize exceeding six hundred dollars or by an individual holding

more than a six hundred dollar interest in a prize winner shall be set off against the prize owing to the individual or against the proportionate interest of the individual in the prize winner. In the event a prize winner or an individual holding more than a six hundred dollar interest in a prize winner owes debts to more than one creditor, and the total prize to that winner or individual is insufficient to pay all debts, the set off shall be paid to the creditors on a pro rata basis based on the amount of debt owed to each creditor unless priority is established by statute.

WSR 93-16-097
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 4, 1993, 10:26 a.m.]

Original Notice.

Title of Rule: Model procedural rules for boards.

Purpose: To establish rules for adjudicative proceedings authorized by boards having disciplinary authority.

Statutory Authority for Adoption: RCW 18.130.050.

Statute Being Implemented: RCW 18.130.050.

Summary: Establishes rules for adjudicative proceedings authorized by boards having disciplinary authority.

Reasons Supporting Proposal: Rule standardizes process for adjudicative processes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia O. Brown, 1300 SE Quince, Olympia, (206) 753-2686.

Name of Proponent: Washington State Board of Nursing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To establish rules for adjudicative proceedings authorized by boards having disciplinary authority.

Proposal does not change existing rules.

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

Hearing Location: WestCoast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on September 16, 1993, at 11 a.m.

Submit Written Comments to: Patricia O. Brown, P.O. Box 47864, Olympia, WA 98504-7864, by September 15, 1993.

Date of Intended Adoption: September 16, 1993.

June 29, 1993

Patricia O. Brown, RN, MSN
 Executive Secretary

NEW SECTION

WAC 246-839-745 Adjudicative proceedings. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

WSR 93-16-098
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 4, 1993, 10:30 a.m.]

Original Notice.

Title of Rule: Advanced registered nurse practitioners.

Purpose: To clarify language of rules relating to ARNP. To specify designation to be used by holder of interim permit (GRNP) and assign accountability of ARNP with prescriptive authority.

Statutory Authority for Adoption: RCW 18.88.080.

Statute Being Implemented: RCW 18.88.175.

Summary: To clarify and amplify rules for better understanding of the intent of the WACs.

Reasons Supporting Proposal: Drafting, Implementation and Enforcement: Patricia O. Brown, RN, MSN, 1300 S.E. Quince, Olympia, 98504, 753-2686.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia O. Brown, RN, MSN, 1300 S.E. Quince, Olympia, 98504, 753-2686.

Name of Proponent: Washington State Board of Nursing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To clarify and amplify rules for better understanding of the intent of the WACs.

Proposal does not change existing rules.

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

Hearing Location: SeaTac WestCoast Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on September 16, 1993, at 11:00 a.m.

Submit Written Comments to: Patricia Brown, P.O. Box 47864, Olympia, WA 98504-7864, by September 14, 1993.

Date of Intended Adoption: September 16, 1993.

Patricia O. Brown, RN, MSN
 Executive Secretary

AMENDATORY SECTION (Amending Order 214B, filed 11/19/91, effective 12/20/91)

WAC 246-839-350 Application requirements for ARNP interim permit. A registered nurse who has completed advanced formal education and registered for a board approved national certification examination may be issued an interim permit to practice specialized and advanced nursing pending notification of the results of the first certification examination. The holder of an ARNP permit shall use the title "GRNP."

(1) An applicant for ARNP interim permit shall:

(a) Submit a completed application on a form provided by the board accompanied by a nonrefundable fee as specified in WAC 246-839-990; and

(b) Submit documentation of completion of advanced formal education in the area of specialty; and

(c) Submit documentation of registration for the first certification examination administered by an approved certification program following completion of advanced formal education; and

(d) Hold a current license to practice as a registered nurse in Washington.

(2) The permit expires when advanced registered nurse practitioner status is granted. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(3) An applicant who does not write the examination on the date scheduled shall immediately return the permit to the department of health.

(4) The interim permit authorizes the holder to perform function of advanced and specialized nursing practice as described in this section.

AMENDATORY SECTION (Amending Order 214B, filed 11/19/91, effective 12/20/91)

WAC 246-839-360 Renewal of ARNP designation. ARNP designation shall be renewed every two years on the ARNP's birthday. The applicant shall:

(1) Maintain a current registered nurse license in Washington.

(2) Submit evidence of current certification by her/his certifying body.

(3) Provide documentation of thirty contact hours (a contact hour is fifty minutes) of continuing education during the renewal period in the area of certification derived from any combination of the following approved by the board:

- (a) Formal academic study;
- (b) Continuing education offerings.

(4) Attest, on forms provided by the board, to having a minimum of two hundred fifty hours of specialized and advanced nursing practice within the preceding biennium providing direct patient care services. The board may perform random audits of licensee's attestations.

(5) Submit a nonrefundable fee as specified. If the licensee fails to renew his or her ARNP designation prior to the expiration date, then the individual is subject to the late renewal fee specified in WAC 246-839-990.

AMENDATORY SECTION (Amending Order 116B, filed 3/18/91, effective 4/18/91)

WAC 246-839-400 ARNP with prescriptive authorization. ~~((A registered nurse))~~ An advanced registered nurse practitioner licensed under chapter 18.88 RCW when authorized by the board of nursing may prescribe drugs pursuant to applicable state and federal laws. The ARNP when exercising prescriptive authority is accountable for competency in:

- (1) Patient selection;
- (2) Problem identification through appropriate assessment;
- (3) Medication and/or device selection;
- (4) Patient education for use of therapeutics;
- (5) Knowledge of interactions of therapeutics, if any;
- (6) Evaluation of outcome; and
- (7) Recognition and management of complications and untoward reactions.

AMENDATORY SECTION (Amending Order 214B, filed 11/19/91, effective 12/20/91)

WAC 246-839-410 Application requirements for ARNP with prescriptive authority. ~~((A registered nurse))~~ An advanced registered nurse practitioner who applies for authorization to prescribe drugs shall:

(1) Be currently designated as an advanced registered nurse practitioner in Washington.

(2) Be designated by their national certifying body as a:

- (a) Family nurse practitioner; or
- (b) Women's health care nurse practitioner; or
- (c) Pediatric nurse practitioner/associate; or
- (d) Adult nurse practitioner; or
- (e) Geriatric nurse practitioner; or
- (f) Nurse midwife; or
- (g) Nurse anesthetist; or
- (h) School nurse practitioner; or
- (i) Clinical specialist in psychiatric and mental health nursing.

(3) Provide evidence of completion of thirty contact hours of education in pharmacotherapeutics related to the applicant's scope of specialized and advanced practice and:

(a) Include pharmacokinetic principles and their clinical application and the use of pharmacological agents in the prevention of illness, restoration, and maintenance of health.

(b) Are obtained within a two-year time period immediately prior to the date of application for prescriptive authority.

(c) Are obtained from the following:

(i) Study within the advanced formal educational program; and/or

(ii) Continuing education programs.

Exceptions shall be justified to and approved by the board of nursing.

(4) Submit a completed, notarized application on a form provided by the board accompanied by a nonrefundable fee as specified in WAC 246-839-990.

AMENDATORY SECTION (Amending Order 116B, filed 3/18/91, effective 4/18/91)

WAC 246-839-420 Authorized prescriptions by the ARNP with prescriptive authority. (1) Prescriptions for drugs shall comply with all applicable state and federal laws.

(2) Prescriptions shall be signed by the prescriber with the initials ARNP ~~((and the prescriber's identification number assigned by the board)).~~

(3) Prescriptions for controlled substances in Schedules I through IV are prohibited by RCW 18.88.280(16).

(4) Any ARNP with prescriptive authorization who prescribes Schedule V controlled substances shall register with the drug enforcement administration and the pharmacy board.

WSR 93-16-099
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 4, 1993, 10:32 a.m.]

Original Notice.

Title of Rule: Chapter 246-520 WAC.

Purpose: The repealing existing chapter 246-520 WAC was replaced by chapter 388-540 WAC.

Other Identifying Information: Moving to DSHS, Medical assistant administration.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: Repealing chapter 246-520 WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Department of Social and Health Services, Medical Assistance Administration, Office of Recipient Services, P.O. Box 45530, Olympia, WA 98504-5530, 753-0526.

Name of Proponent: Office of Chronic Conditions and Injury Prevention, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal chapter and replace with chapter 388-540 WAC.

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, WA 98504, on September 8, 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 September 7, 1993.

Date of Intended Adoption: September 8, 1993.

August 3, 1993
Bruce Miyahara
Secretary

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 246-520-001 Purpose.
- WAC 246-520-010 Definitions.
- WAC 246-520-020 Services.
- WAC 246-520-030 Reimbursement.
- WAC 246-520-040 Eligibility.
- WAC 246-520-050 Transfer of resources without adequate consideration.
- WAC 246-520-060 Fiscal information.
- WAC 246-520-070 Procedures for eligibility determination.

WSR 93-16-100
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Chiropractic Examiners)
 [Filed August 4, 1993, 10:34 a.m.]

Original Notice.

Title of Rule: WAC 246-806-075 Adjudicative proceedings—Procedural rules for the Board of Chiropractic Examiners, 246-806-091 Criteria for course content of educational symposia, and 246-806-092 Standards for distribution of annual continuing education credit requirements; and repealing WAC 246-806-090 Board approved continuing education.

Purpose: To add new sections for adjudicative proceedings, content of continuing education, distribution of hours for continuing education and repeal the WAC as it now relates to continuing education.

Statutory Authority for Adoption: RCW 18.25.017.

Statute Being Implemented: RCW 18.25.020.

Summary: WAC 246-806-075, the board wants to adopt the procedural rules for boards as they were prepared by the Office of Professional Standards; WAC 246-806-091, the board wants to adopt new criteria for course content of educational courses; WAC 246-806-092, the board wants to adopt new standards and hours for the distribution of annual continuing education credit requirements; and repealing WAC 246-806-090.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicki Brown, 1300 S.E. Quince Street, Olympia, 586-8437.

Name of Proponent: Board of Chiropractic Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To adopt the model adjudicative proceedings rules; adopt two new rules on continuing education credit and approved course content; adopt a new rule on the distribution of continuing education hours; and repeal the current rule on continuing education.

Proposal does not change existing rules.

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

Hearing Location: WestCoast SeaTac Hotel, Seattle Room, 18220 Pacific Highway South, Seattle, WA 98188, on September 23, 1993, at 1:00 p.m.

Submit Written Comments to: Vicki Brown, P.O. Box 47868, Olympia, WA 98504-7868, by September 20, 1993.

Date of Intended Adoption: September 23, 1993.

July 14, 1993
Vicki Brown
Program Manager

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 246-806-090 Board approved continuing education.

NEW SECTION

WAC 246-806-075 Adjudicative proceedings—Procedural rules for the board of chiropractic examiners. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

NEW SECTION

WAC 246-806-091 Criteria for course content of educational symposia. (1) The board approves the following subjects for course content in educational symposia for continuing education credit:

- (a) X-ray/diagnostic imaging;
 - (b) Adjusting techniques;
 - (c) Detection and analysis of Vertebral Subluxation Complex;
 - (d) Physical examination;
 - (e) Neurology;
 - (f) Spinal pathology/diagnosis;
 - (g) Patient case management;
 - (h) Impairment within the scope of practice;
 - (i) Nutritional guidance for general health maintenance;
 - (j) Jurisprudence and rules regulating chiropractic practice in this state;
 - (k) Published standards and guidelines of practice;
 - (l) Basic business principles and management;
 - (m) Chiropractic philosophy principles of practice;
 - (n) Interpersonal communications.
- (2) Subjects an course content not recognized or approved for continuing educational credit:

(a) Courses that promote conduct prohibited by Washington state statutes or rules governing chiropractic practice;

(b) Video educational programs without classroom setting or moderated by a panel or facilitator knowledgeable in the contents to comment and answer questions or conduct discussions.

(3) Instructors for any continuing educational program that will be recognized and approved for continuing educational credit must be in good standing on the faculty or extension faculty of a board approved chiropractic college and/or recognized and approved by the board as an expert in the subject of the course being taught.

NEW SECTION

WAC 246-806-092 Standards for distribution of annual continuing education credit requirements. (1) Licensed chiropractors are responsible for obtaining twenty-five hours of board recognized and approved continuing education over the preceding year to be submitted with annual license renewal.

(2) The board requires a minimum of two hours in each of the following subject for a total of eight hours of the twenty-five annual hours:

- (a) Jurisprudence and rules regulating chiropractic practice in this state;
- (b) Published standards and guidelines of practice;
- (c) Basic business principles and management;
- (d) Interpersonal communications.

(3) A maximum of twelve and one-half hours of continuing education credit shall be awarded for any one category as recognized in WAC 246-806-091.

(4) Licensed chiropractors serving as teachers in board approved continuing education programs receive credit on the same basis as the doctors attending the program.

WSR 93-16-101
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 4, 1993, 10:38 a.m.]

Original Notice.

Title of Rule: Amending WAC 246-838-050 Licensing examination and passing score, 246-838-090 Licensure of graduates of foreign schools of nursing, 246-838-110 Documents which indicate authorization to practice, 246-838-120 Renewal of licenses, 246-838-130 Return to active status from inactive or lapsed status and 246-838-270 Criteria for approved refresher course; new sections WAC 246-838-121 Responsibility for maintaining mailing address, 246-838-340 Executive secretary qualifications, 246-838-350 Appearance and practice before agency—Standards of ethical conduct and 246-838-360 Adjudicative proceedings procedural rules; and repealing WAC 246-838-320 Executive secretary qualifications.

Purpose: Housekeeping changes to update terminology, clarify language and add new sections pertaining to licensee address of record, conduct before the board and adjudicative proceedings procedural rules.

Statutory Authority for Adoption: RCW 18.78.050.

Statute Being Implemented: RCW 18.78.060.

Summary: Amendment to WAC 246-838-050 is in preparation for administration of the national computerized adaptive testing for licensure examinations. Housekeeping changes to clarify intent of WACs. New sections establish rules for adjudicative proceedings.

Reasons Supporting Proposal: Legislature has decreed standardization of processes for handling disciplinary matters.

Name of Agency Personnel Responsible for Drafting: Susan Boots, P.O. Box 47865, 1112 S.E. Quince, 753-2807; Implementation and Enforcement: Patricia Brown, P.O. Box 47865, 1112 S.E. Quince, 753-2807.

Name of Proponent: Washington State Board of Practical Nursing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update terminology, clarify language and add new sections defining conduct before the board and adoption of procedural rules for disciplinary hearings.

Proposal Changes the Following Existing Rules: Housekeeping changes.

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

Hearing Location: WestCoast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on September 16, 1993, at 9:00 a.m.

Submit Written Comments to: Board of Practical Nursing, 1112 S.E. Quince Street, P.O. Box 47854, Olympia, WA 98504-7865, by September 13, 1993.

Date of Intended Adoption: September 16, 1993.

July 19, 1993

Patricia O. Brown, RN, MSN
 Executive Director

AMENDATORY SECTION (Amending Order 296B, filed 8/10/92, effective 9/10/92)

WAC 246-838-050 Licensing examination ((and passing score)). (1) ~~((The current series of the National Council of State Board of Nursing Practical Nurse Examination (NCLEX) shall be the official examination for practical nurse licensure.~~

~~(2) The NCLEX will consist of two tests with the score for the total examination reported as either pass or fail.~~

~~(3) Examinations shall be conducted twice a year, in April and October.~~

~~(4)) In order to be licensed in this state, all practical nurse applicants shall take and pass the National Council Licensure Examination (NCLEX) for Practical Nurses.~~

(2) The executive secretary of the board shall negotiate with the National Council of State Boards of Nursing, Inc. (NCSBN) for the use of the NCLEX.

~~((5))~~ (3) The examination shall be administered in accord with the NCSBN security measures and contract. All appeals of examination ~~((scores))~~ results shall be managed in accord with policies in the NCSBN contract.

AMENDATORY SECTION (Amending Order 175B, filed 6/11/91, effective 7/12/91)

WAC 246-838-090 Licensure of graduates of foreign schools of nursing. Applicants who received their nursing education outside the United States or its territories shall meet the following requirements for licensing:

(1) Satisfactory completion of a basic nursing education program approved by the country of original licensure. The nursing education program shall be equivalent to the minimum standards prevailing for state board approved schools of practical nursing in Washington at the time of graduation.

(2) Satisfactory passage of the test of English as a foreign language (TOEFL). All applicants with nursing educations obtained in countries outside of the United States and never before licensed in another jurisdiction or territory of the United States, shall be required to take the TOEFL and attain a minimum score of fifty in each section. Once an applicant obtains a score of fifty in a section, the board will require reexamination and passage only in the section(s) failed. Passage of all sections of the TOEFL must be attained and the applicant must cause TOEFL services to forward directly to the board a copy of the official examinee's score record. These results must be timely received with the individual's application before the NCLEX can be taken. Exceptions may be made, in the board's discretion and for good cause, to this requirement.

(3) All other requirements of the statute and regulations shall be met.

(4) File with the board of practical nursing a completed license application with the required fee prior to February 15 for the April examination and prior to August 15 for the October examination. The fees are not refundable.

(5) Submit one recent United States passport identification photograph of the applicant unmounted and signed by the applicant across the front.

(6) Request the school of nursing to submit an official transcript directly to the board of practical nursing. The transcript shall contain the date of graduation and the credential conferred, and shall be in English or accompanied by an official English translation notarized as a true and correct copy.

(7) File an examination application, along with the required fee, directly with the testing service.

(8) Successfully pass the current state board licensing examination for practical nurses or show evidence of having already successfully passed the state board licensing exami-

nation for practical nurses in another jurisdiction or territory of the United States with the passing ~~((score))~~ standard required in Washington.

AMENDATORY SECTION (Amending Order 231B, filed 12/27/91, effective 1/27/92)

WAC 246-838-110 Documents which indicate authorization to practice. The following documents are the only documents that indicate legal authorization to practice as a practical nurse in Washington.

(1) License - Active status. A license is issued upon completion of all requirements for licensure and confers the right to use the title licensed practical nurse and its abbreviation, L.P.N., and to practice in the state of Washington.

(2) Interim permit. An interim permit may be issued to a graduate from an approved practical nursing program who has met all qualifications, has filed an application for examination, and is eligible for admission to the licensing examination.

(a) This permit expires when a license is issued or when the candidate receives first notice of failure, whichever is the earliest date. The permit is not renewable.

(b) An applicant who does not write the examination on the date scheduled shall return the permit within three days to the division of professional licensing.

(c) The interim permit authorizes the holder to perform functions of practical nursing as described in chapter 18.78 RCW. The holder of an interim permit must practice under the direct supervision of a health professional as defined in RCW 18.78.010, cannot work as a charge nurse, and cannot work for employment agencies or nursing pools.

(d) It is in violation of the law regulating the practice of practical nursing to use the title "licensed practical nurse." The title "graduate practical nurse," or its abbreviation G.P.N., may be used.

(3) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status (see WAC 246-838-130). This license is valid only while working under the direct supervision of a preceptor and is not valid for employment as a practical nurse.

(4) Inactive license. A license issued to a practical nurse who is temporarily or permanently retired from practice. The holder of an inactive license shall not practice practical nursing in this state.

AMENDATORY SECTION (Amending Order 331B, filed 2/1/93, effective 3/4/93)

WAC 246-838-120 Renewal of licenses. (1) Individuals making applications for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their birth anniversary date.

(2) Individuals making application for initial license with the state of Washington under the interstate endorsement regulations, provided they meet all such requirements, will be issued a license, to expire on their birth anniversary date.

(3) Issuance of license - Licensed practical nurses who complete the renewal application accurately, are practicing practical nursing in compliance with the law, and pay the

renewal fee and surcharge fee as stated in WAC 246-838-330 and 246-838-990, shall be issued a license to practice(~~Should the licensee fail to renew his or her license prior to the expiration date, the individual is subject to the~~) for one year. Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a late renewal penalty fee as stated in RCW 18.78.090. If the licensee fails to renew the license within one year from date of expiration, application for renewal of license shall be made under statutory conditions then in force.

(4) A license, active or inactive, that is not renewed is considered lapsed. If the licensee fails to renew the license within three years from the expiration date, the individual must also meet the requirements of WAC 246-838-130.

(5) Illegal practice - Any person practicing as a licensed practical nurse during the time that such individual's license is inactive or has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violators under the provisions of RCW 18.130.190.

(6) ~~((It is the licensee's responsibility to inform the board of changes of address.))~~ Licensees who fail to renew their license on or before its expiration date will remit to the department a late penalty fee in addition to the annual renewal fee.

NEW SECTION

WAC 246-838-121 Responsibility for maintaining mailing address. It is the responsibility of each licensee to maintain a current mailing address on file with the board which shall be used for mailing of all official matters from the board to the licensee. If charges against the licensee are mailed by certified mail to the address on file with the board and returned unclaimed or are unable to be delivered for any reason, then the board shall proceed against the licensee by default under RCW 34.05.440.

AMENDATORY SECTION (Amending Order 175B, filed 6/11/91, effective 7/12/91)

WAC 246-838-130 Return to active status from inactive or lapsed status. Persons on inactive and/or lapsed status for three years or more, who do not hold a current active license in any other United States jurisdiction and who wish to return to active status shall be issued a limited educational license to enroll in a board approved refresher course. The limited educational license is valid only while working under the direct supervision of a preceptor and is not valid for employment as a practical nurse. Upon successful completion of the course, the individual's license shall be returned to active status.

AMENDATORY SECTION (Amending Order 175B, filed 6/11/91, effective 7/12/91)

WAC 246-838-270 Criteria for approved refresher course. (1) Philosophy, purpose, and objectives.

(a) Philosophy, purpose, and objectives of the course shall be clearly stated and available in written form. They shall be consistent with the definition of practical nursing as outlined in chapter 18.78 RCW.

(b) Objectives reflecting the philosophy shall be stated in behavioral terms and describe the capabilities and competencies of the graduate.

(2) Faculty.

(a) All faculty shall be qualified academically and professionally for their respective areas of responsibility.

(b) All faculty shall be qualified to develop and implement the program of study.

(c) Faculty shall be sufficient in number to achieve the stated program objectives.

(3) Course content.

(a) The course content shall consist of a minimum of sixty hours of theory content and one hundred twenty hours of clinical practice.

(b) The course content, length, methods of instruction, and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.

(c) The theory course content shall include, but not be limited to, a minimum of sixty hours in current basic concepts of:

(i) Nursing process;

(ii) Pharmacology;

(iii) Review of the concepts in the areas of:

(A) Practical nursing today including legal expectations;

(B) Basic communications and observational practices needed for identification, reporting, and recording patient needs; and

(C) Basic physical, biological, and social sciences necessary for practice; and

(iv) Review and updating of practical nursing knowledge and skills to include, but not be limited to, concepts of fundamentals, medical/surgical, parent/child, geriatric, and mental health nursing.

(d) The clinical course content shall include a minimum of one hundred twenty hours of clinical practice in the area(s) listed in (c) of this subsection. Exceptions shall be justified to and approved by the board.

(4) Evaluation.

(a) Evaluation methods shall be used to measure the student's achievement of the stated theory and clinical objectives.

(b) The course shall be periodically evaluated by faculty and students.

(5) Admission requirements.

(a) Requirements for admission shall be available in writing.

(b) All students shall hold a current valid practical nurse license or apply and be eligible for a limited educational license approved by the board.

(c) Any person holding an inactive or lapsed practical nurse license in another state may apply for a limited educational license provided that the applicant meets the requirements of WAC 246-838-100.

(6) Records.

(a) Evidence that the student has successfully completed the course and met the stated objectives shall be kept on file.

(b) The refresher course provider shall submit a certification of successful completion of the course to the board.

(7) Refresher courses taken outside of the state of Washington shall be reviewed individually for approval by the board prior to starting the course.

(8) Approval of refresher courses shall be requested and approved in advance as directed by the board.

NEW SECTION

WAC 246-838-340 Executive secretary qualifications.

The executive secretary shall have the following qualifications:

- (1) License to practice as a registered nurse in this state;
- (2) Master's degree in nursing from an accredited college or university;
- (3) At least five years experience in the field of nursing to include at least two years prior to the time of appointment; and
- (4) At least two years experience in nursing education.

NEW SECTION

WAC 246-838-350 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the Washington state board of practical nursing in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the Washington state board of practical nursing may decline to permit such person to appear in a representative capacity in any proceeding before it.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-838-320 Executive secretary qualifications.

NEW SECTION

WAC 246-838-360 Adjudicative proceedings procedural rules. The Washington state board of practical nursing adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

WSR 93-16-103
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed August 4, 1993, 10:45 a.m.]

Subject of Possible Rule Making: New chapter WAC 458-19-005 through 458-19-080 Levy rules.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: James A. Winterstein, Counsel, Department of Revenue, Legislation and Policy, P.O. Box 47459, Olympia, WA 98504-7459. Public meeting scheduled in: Evergreen Plaza Building, 2nd Floor Compliance Conference Room, 711 Capitol Way South, Olympia, WA, on August 30, 1993, at 9:30 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: These rules implement the statutes relative to the operation of property tax levies. A copy of the proposed rules is available upon request, contact Pat Baxter, (206) 753-1382.

August 4, 1993
Les Jaster
Rules Coordinator

WSR 93-16-104
PREPROPOSAL COMMENTS
EMPLOYMENT SECURITY DEPARTMENT
 [Filed August 4, 1993, 10:52 a.m.]

Subject of Possible Rule Making: The Employment Security Department is intending to file rules pursuant to chapter 50.06 RCW, Temporary total disability, as amended by the 1993 Washington state legislature. This act was amended to extend protection of the unemployment compensation system to persons who have suffered a temporary total disability because of a nonwork-related injury or illness.

Persons may Comment on this Subject in the Following Ways: Comments should be sent to the Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, Attn: Bob Wagner, UI Tax Administration. Comments on this subject should be received by September 3, 1993.

Other Information or Comments by Agency at this Time, if any: The 1993 Washington state legislature amended chapter 50.06 RCW to include coverage for unemployment insurance purposes to those individuals who have suffered a nonwork-related injury or illness. The department is considering adopting rules to regulate and provide guidelines for administering this statute.

August 4, 1993
Marie Brillante
Assistant Commissioner, UI

WSR 93-16-105
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Filed August 4, 1993, 11:10 a.m.]

Original Notice.

Title of Rule: WAC 388-95-340 Computation of available income and resources.

Purpose: This proposed amendment clarifies that the portion of veteran's benefits designated for unusual medical expense allowance is exempt income when determining initial eligibility and post-eligibility participation. Resources of an institutionalized spouse and a community spouse are considered available to the institutionalized spouse until the month after the institutionalized spouse is determined eligible for benefits.

Statutory Authority for Adoption: RCW 74.08.090.
Statute Being Implemented: RCW 74.08.090.
Summary: See Purpose above.

Reasons Supporting Proposal: Required by Section 1924(c) of the Social Security Act - Treatment of Resources.

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

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

Rule is necessary because of federal law, Social Security Act Section 1924(c) (42 U.S.C. 1396r-5 Sec. 1924(c)).

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 21, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by September 7, 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 September 14, 1993.

Date of Intended Adoption: September 22, 1993.

August 4, 1993

Dewey G. Brock

for Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3517, filed 2/24/93, effective 3/27/93)

WAC 388-95-340 Computation of available income and resources. (1) The department shall limit financial responsibility of relatives to:

- (a) A spouse for a spouse; and
- (b) A parent for a child.

(2) Financial responsibility of spouses. The department shall:

(a) ~~((The department shall))~~ Consider, in the month the spouses stopped living together, the:

(i) ~~Resources ((available to each spouse)) held by the institutionalized spouse, the community spouse, or both to be available to the institutionalized spouse;~~

(ii) Income available to the ~~((applying))~~ institutionalized spouse:

(A) In the name of the ~~((applying))~~ institutionalized spouse; and

(B) Community income received in the name of the ~~((nonapplying))~~ community spouse that does not exceed the community income received in the name of the applying spouse.

(b) ~~((The department shall))~~ Consider, in the month after the ~~((month the spouses stopped living together))~~ institutionalized spouse is determined eligible for institutional care, the ~~((spouses'))~~ community spouse's income and resources only when ~~((a))~~ the community spouse actually contributes such income and resources; and

(c) ~~((The department shall))~~ Consider the income and resources of spouses living in the same household as available to each other.

(3) The department shall consider institutionalized spouses as not living together even if such spouses share a room.

(4) Financial responsibility of parent to child. The department shall consider available only the parent's income actually contributed to an institutionalized person twenty years of age or younger.

(5) The department shall consider a client's income exemptions as unavailable income when determining initial eligibility or post-eligibility. The department shall exempt sequentially from income:

(a) Any public agency's refund of taxes paid on real property or on food;

(b) Supplemental security income (SSI) and state public assistance based on financial need;

(c) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, or other necessary educational expenses at any educational institution;

(d) Child support received by a parent, from an absent parent, for a minor child who is not institutionalized;

(e) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(f) Tax rebates or special payments excluded by other statutes;

(g) Compensation provided to volunteers in ACTION programs established by P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(h) Veteran's benefits designated for the veteran's;

(i) Dependent; or

(ii) Unusual medical expense allowance.

(i) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible client ~~((t))~~, e.g., chore services~~((t))~~;

(j) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(k) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's law for compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt;

(l) Payments under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;

(m) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income;

(n) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(o) Restitution payment, and interest earned on such payment, to a civilian of Japanese or Aleut ancestry under P.L. 100-383;

(p) The amount of expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

~~((g))~~ (q) The amount of blindness-related work expenses of a blind client;

(r) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(s) Earned income tax credit (EITC);

(t) Victim's compensation.

(6) The department shall consider disregarded income as unavailable income when determining initial eligibility but shall consider the income available during post-eligibility. See WAC 388-95-360 for post-eligibility treatment of income. The department shall disregard sequentially from a client's income:

(a) Income that is not reasonably anticipated, or is received infrequently or irregularly, when such income does not exceed:

(i) Twenty dollars per month if unearned; or

(ii) Ten dollars per month if earned.

(b) The first twenty dollars per month of earned or unearned income. The department may not exclude income paid to a client on the basis of need and is totally or partially funded by the federal government or by a private agency;

(c) The veteran's aid and attendance/house bound allowance;

(d) For an SSI-related person, the first sixty-five dollars per month of earned income not excluded according to subsection (5) of this section, plus one-half of the remainder;

(e) For an AFDC-related person, the first ninety dollars of earned income;

(f) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration ((f))for the recovery of SSI overpayments((f)); and

(g) A fee charged by a guardian as reimbursement for provided services.

**WSR 93-16-106
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed August 4, 1993, 11:12 a.m.]

Original Notice.

Title of Rule: WAC 388-95-310 Fraternal, religious, or benevolent nursing facility.

Purpose: Proposed WAC 388-95-310 replaces WAC 388-34-095. The entirety of chapter 388-34 WAC is repealed.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Provides field staff policy concerning the determination of medical eligibility for a client living in a nursing facility operated by a fraternal, religious, or benevolent organization.

Reasons Supporting Proposal: Chapter 388-34 WAC is repealed as obsolete or redundant. WAC 388-95-310 replaces WAC 388-34-095.

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 September 21, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by September 7, 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 September 14, 1993.

Date of Intended Adoption: September 22, 1993.

August 4, 1993

Dewey Brock

for Rosemary Carr

Acting Director

Administrative Services

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-34-010	Institutional living arrangements.
WAC 388-34-015	Definitions.
WAC 388-34-020	Eligibility conditions.
WAC 388-34-025	Eligibility conditions—Eligibility for AFDC—Child or needy relative temporarily in institution.
WAC 388-34-035	Skilled nursing home care.
WAC 388-34-040	Skilled nursing home care—Application.
WAC 388-34-045	Skilled nursing home care—Cost standards for requirements.
WAC 388-34-055	Skilled nursing home care—Authorization and payment.
WAC 388-34-085	Public nursing home—Definition—Grant requirements.
WAC 388-34-095	Fraternal, religious, or benevolent home.
WAC 388-34-110	General hospital—Grants requirements.
WAC 388-34-120	Tuberculosis hospital—Grant requirements.
WAC 388-34-125	Psychiatric hospital (JCAH approved)—Standards for requirements.
WAC 388-34-140	Maternity services.
WAC 388-34-150	Other homes.
WAC 388-34-160	Grant change—Admittance to institution other than nursing home.

- WAC 388-34-165 Grant change—Discharge from institution other than licensed nursing home.
- WAC 388-34-180 Notification of grant authorization and change in grant.
- WAC 388-34-370 Intermediate care—Eligibility conditions.
- WAC 388-34-372 Intermediate care—Determination of need for intermediate care.
- WAC 388-34-374 Intermediate care—Placement of recipient.
- WAC 388-34-375 Intermediate care—Absence for social reasons.
- WAC 388-34-376 Intermediate care—Services to be provided by operator.
- WAC 388-34-378 Intermediate care—Grant requirements—Procedures.
- WAC 388-34-380 Intermediate care—Payment procedures—Operator's responsibility.
- WAC 388-34-384 Intermediate care—Application to provide intermediate care.

Title of Rule: WAC 388-99-030 Allocation of excess income—Spendedown.

Purpose: To clarify, for field staff, that the Medicare deductible is to be allowed toward spenddown when the client is hospitalized for the first time in a sixty-day calendar period.

Statutory Authority for Adoption: RCW 74.08.090.
 Statute Being Implemented: RCW 74.08.090.

Summary: Clarifies for field staff when it is appropriate to allow the Medicare deductible as an expense to meet spenddown.

Reasons Supporting Proposal: This proposed change is to meet the original intent of the department.

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 September 21, 1993, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by September 7, 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 September 14, 1993.

Date of Intended Adoption: September 22, 1993.

August 4, 1993
 Dewey G. Brock
 for Rosemary Carr
 Acting Director
 Administrative Services

NEW SECTION

WAC 388-95-310 Fraternal, religious, or benevolent nursing facility. (1) The department shall find an otherwise eligible client, residing in a nursing facility operated by a fraternal, religious, or benevolent organization:

- (a) Eligible for medical care when the:
 - (i) Facility is licensed as a nursing facility; and
 - (ii) Contract between the client and the nursing facility excludes free or prepaid institutional and/or medical care for life; or
 - (iii) Nursing facility is unable to fulfill the terms of the contract and has:
 - (A) Voided the contract; and
 - (B) Refunded to the client any existing assets of the client.

(b) Ineligible for institutional and/or medical care when a contract between the client and the facility includes free or prepaid institutional and/or medical care for life.

(2) The department shall consider available to the client all assets of a fraternal, religious, or benevolent organization when the client:

- (a) Signs a contract with the organization that includes free or prepaid institutional and/or medical care for the life of the client; and
- (b) Surrenders income and/or resources to the organization in exchange for such care.

**WSR 93-16-107
 PROPOSED RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Public Assistance)**

[Filed August 4, 1993, 11:14 a.m.]

Original Notice.

AMENDATORY SECTION (Amending Order 3335, filed 3/10/92, effective 4/10/92)

WAC 388-99-030 Allocation of excess income—Spendedown. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the ~~((applicant's))~~ client's excess countable income subject to the following restrictions:

- (a) The medical expense shall be a current liability:
 - (i) Of the ~~((applicant))~~ client or financially responsible relative in the same household; or
 - (ii) Subject to payment during or after the base period, by a public program as defined ~~((in))~~ under subsection (2) of this section.

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider ~~((toward spenddown))~~ the portion of the medical expense paid or covered by a third-party resource toward spenddown.

(i) The department shall disregard the possible payment by a third party as a resource and allow the entire expense for spenddown when a ~~((health insurer))~~ third party fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available ~~((and the applicant))~~ the department shall allow the Medicare deductible towards the spenddown when the client:

(A) Still owes the bill; and

~~((B) Is hospitalized for the first time in a ((calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown))~~ sixty-day period.

(d) The department shall consider toward spenddown a medical expense incurred and paid during the base period:

(i) By the ~~((applicant))~~ client; or

(ii) Subject to payment by a public program as defined ~~((in))~~ under subsection (2) of this section.

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) For the purposes of this section, a public program is one administered and funded, except for deductibles and co-insurance amounts, by a state, county, city, or territory. Funding for a public program shall be:

(a) From a source other than federally matched or funded; and

(b) Appropriated by a state, county, city, or territory; or

(c) Transferred from a state, county, city, or territory to the administering agency.

(3) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the ~~((applicant's))~~ client's eligibility.

(4) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the ~~((applicant))~~ client to spenddown the remaining excess countable income. The department shall certify the ~~((applicant))~~ client eligible only when excess countable income has been completely spent down. ~~((For base periods beginning on or after February 1, 1990,))~~ The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program and provided by a practitioner recognized under state law;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which a public program as defined ~~((by))~~ under subsection (2) of this section, has paid;

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the limited casualty program, but remaining ~~((an applicant's))~~ a client's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(5) The ~~((applicant))~~ client shall provide the department with ~~((complete))~~ documentation of incurred medical

expenses within thirty days of the end of the base period. Once the ~~((applicant's))~~ client's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The ~~((applicant))~~ client may use such expenses to reduce excess countable income on a subsequent application, provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(6) The ~~((applicant))~~ client is liable for any expenses incurred before the first day of eligibility.

WSR 93-16-108

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Order 93-06—Filed August 4, 1993, 11:24 a.m.]

Original Notice.

Title of Rule: Chapter 296-62 WAC, General occupational health standards; chapter 296-155 WAC, Safety standards for construction work; and chapter 296-67 WAC, Process safety management of highly hazardous chemicals.

Purpose: Chapter 296-62 WAC, General occupational health standards and chapter 296-155 WAC, Safety standards for construction work, federal-initiated proposed amendments are made to be at-least-as-effective-as the federal final rule, relating to cadmium, published in Federal Register Volume 58, Number 77, dated April 23, 1993. The proposed rules correct technical and typographical errors previously published in Federal Register Volume 57, Number 178, dated September 14, 1992. The saccharin solution aerosol qualitative fit test protocol, which was deleted from the federal final rule, is reinstated. These corrections are at-least-as-effective-as the federal final rule; and chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, federal-initiated proposed amendments are to make the existing state standards relating to process safety management of highly hazardous chemicals, at-least-as-effective-as the federal final rules by incorporating the Occupational Safety and Health Administration recommendations dated February 11, 1993. The recommendations are in response to state plan change supplements submitted on September 8, 1992, which incorporated additions published in Federal Registers, Volume 57, Number 35, dated February 24, 1992, and corrected by Volume 57, Number 43, dated March 4, 1992.

Statutory Authority for Adoption: Chapter 49.17 RCW. Statute Being Implemented: RCW 49.17.040, [49.17].050, and [49.17].060.

Summary: See Purpose above.

Reasons Supporting Proposal: To provide a safe and healthful workplace for all employees in Washington state.

Name of Agency Personnel Responsible for Drafting: Ray V. Wax, 7273 Linderson Way, Tumwater, WA, (206) 956-5526; Implementation and Enforcement: Suzanne L. Mager, 7273 Linderson Way, Tumwater, WA, (206) 956-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, Federal Register Volume 58, Number 77, dated April 23, 1993.

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

The department has considered whether these rules are subject to the Regulatory Fairness Act and has determined that they are not, for the following reasons: These proposed amendments are made solely to conform or comply with federal laws and regulations. The amendments do not exceed the federal requirements.

Hearing Location: 7273 Linderson Way, 1st Floor Auditorium, Tumwater, WA, on September 7, 1993, at 9:30 a.m.

Submit Written Comments to: Suzanne L. Mager, Interim Assistant Director, Division of Industrial Safety and Health, P.O. Box 4620, Olympia, WA 98504-4620, by September 17, 1993.

Date of Intended Adoption: October 20, 1993.

August 4, 1993
Mark O. Brown
Director

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07403 Definitions. (1) Action level (AL) is defined as an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air (2.5 µg/m³), calculated as an 8-hour time-weighted average (TWA).

(2) Authorized person means any person authorized by the employer and required by work duties to be present in regulated areas or any person authorized by the WISH Act or regulations issued under it to be in regulated areas.

(3) Director means the director of the department of labor and industries, or authorized representatives.

(4) Employee exposure and similar language referring to the air cadmium level to which an employee is exposed means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(5) Final medical determination is the written medical opinion of the employee's health status by the examining physician under WAC 296-62-07423(3) through (12) or, if multiple physician review under WAC 296-62-07423(13) or the alternative physician determination under WAC 296-62-07423(14) is invoked, it is the final, written medical finding, recommendation or determination that emerges from that process.

(6) High-efficiency particulate ((absolute (HEPA) air) air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometers in diameter.

(7) Regulated area means an area demarcated by the employer where an employee's exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed the permissible exposure limit (PEL).

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07411 Methods of compliance. (1) Compliance hierarchy.

(a) Except as specified in (b), (c), and (d) of this subsection, the employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, except to the extent that the employer can demonstrate that such controls are not feasible.

(b) Except as specified in (c) and (d) of this subsection, in industries where a separate engineering control air limit (SECAL) has been specified for particular processes (Table I of this subsection), the employer shall implement engineering and work practice controls to reduce and maintain employee exposure at or below the SECAL, except to the extent that the employer can demonstrate that such controls are not feasible.

Table I.—Separate Engineering Control Airborne Limits (SECALs) for Processes in Selected Industries

Industry	Process	SECAL (µg/m ³)
Nickel cadmium battery	Plate making, plate preparation	50
	All other processes	15
Zinc/Cadmium refining*	Cadmium refining, casting, melting, oxide production, sinter plant	50
Pigment manufacture	Calcine, crushing, milling, blending	50
	All other processes	15
Stabilizers*	Cadmium oxide charging, crushing, drying, blending	50
	blending	
Lead smelting*	Sinter plant, blast furnace, baghouse, yard area	50
	Mechanical plating	15

* Processes in these industries that are not specified in this table must achieve the PEL using engineering controls and work practices as required in (a) of this subsection.

(c) The requirement to implement engineering and work practice controls to achieve the PEL or, where applicable, the SECAL does not apply where the employer demonstrates the following:

- (i) The employee is only intermittently exposed; and
- (ii) The employee is not exposed above the PEL on thirty or more days per year (twelve consecutive months).

(d) Wherever engineering and work practice controls are required and are not sufficient to reduce employee exposure to or below the PEL or, where applicable, the SECAL, the employer nonetheless shall implement such controls to reduce exposures to the lowest levels achievable. The employer shall supplement such controls with respiratory protection that complies with the requirements of WAC 296-62-07413 and the PEL.

(e) The employer shall not use employee rotation as a method of compliance.

(2) Compliance program.

(a) Where the PEL is exceeded, the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL by means of engineering and work practice controls, as required by subsection (1) of this section. To the extent that engineering

and work practice controls cannot reduce exposures to or below the PEL, the employer shall include in the written compliance program the use of appropriate respiratory protection to achieve compliance with the PEL.

(b) Written compliance programs shall include at least the following:

(i) A description of each operation in which cadmium is emitted; e.g., machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures, and maintenance practices;

(ii) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to cadmium, as well as, where necessary, the use of appropriate respiratory protection to achieve the PEL;

(iii) A report of the technology considered in meeting the PEL;

(iv) Air monitoring data that document the sources of cadmium emissions;

(v) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(vi) A work practice program that includes items required under WAC 296-62-07415, 296-62-07417, and 296-62-07419;

(vii) A written plan for emergency situations, as specified in WAC 296-62-07415; and

(viii) Other relevant information.

(c) The written compliance programs shall be reviewed and updated at least annually, or more often if necessary, to reflect significant changes in the employer's compliance status.

(d) Written compliance programs shall be provided upon request for examination and copying to affected employees, designated employee representatives, and the director.

(3) Mechanical ventilation.

(a) When ventilation is used to control exposure, measurements that demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made as necessary to maintain its effectiveness.

(b) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within five working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(c) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the system shall have a high efficiency filter and be monitored to assure effectiveness.

(d) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance of ventilation systems and changing of filters is being conducted.

~~((4) Compliance program. Where employee exposure to cadmium exceeds the PEL and the employer is required under subsection (1) of this section to implement controls to comply with the PEL, prior to the commencement of the job, the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL.))~~

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07413 Respirator protection. (1) General. Where respirators are required by this section, the employer shall provide them at no cost to the employee and shall assure that they are used in compliance with the requirements of this section. Respirators shall be used in the following circumstances:

(a) Where exposure levels exceed the PEL, during the time period necessary to install or implement feasible engineering and work practice controls;

(b) In those maintenance and repair activities and during those brief or intermittent operations where exposures exceed the PEL and engineering and work practice controls are not feasible or are not required;

(c) In regulated areas, as prescribed in WAC 296-62-07409;

(d) Where the employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL;

(e) In emergencies;

(f) Wherever an employee who is exposed to cadmium at or above the action level requests a respirator;

(g) Wherever an employee is exposed above the PEL in an industry to which a SECAL is applicable; and

(h) Wherever an employee is exposed to cadmium above the PEL and engineering controls are not required under WAC 296-62-07411 (1)(c).

(2) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide the appropriate respirator as specified in Table 2. The employer shall select respirators from among those jointly approved as acceptable protection against cadmium dust, fume, and mist by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR part 11.

Table 2.—Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
10 x or less	A half mask, air-purifying respirator equipped with a HEPA ^c filter. ^d
25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half mask operated in the continuous flow mode.

250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.
1000 x or less	A supplied-air respirator with half mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with (unknown concentrations) a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

^a Concentrations expressed as multiple of the PEL.

^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$). A full facepiece respirator is required when eye irritation is experienced.

^c HEPA means High Efficiency Particulate (~~Absolute~~) Air.

^d Fit testing, qualitative or quantitative, is required.

SOURCE: Respiratory Decision Logic, NIOSH, 1987.

(b) The employer shall provide a powered, air-purifying respirator (PAPR) in lieu of a negative pressure respirator wherever:

(i) An employee entitled to a respirator chooses to use this type of respirator; and

(ii) This respirator will provide adequate protection to the employee.

(3) Respirator program.

(a) Where respiratory protection is required, the employer shall institute a respirator protection program in accordance with chapter 296-62 WAC, Part E.

(b) The employer shall permit each employee who is required to use an air purifying respirator to leave the regulated area to change the filter elements or replace the respirator whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) The employer shall also permit each employee who is required to wear a respirator to leave the regulated area to wash his or her face and the respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.

(d) If an employee exhibits difficulty in breathing while wearing a respirator during a fit test or during use, the employer shall make available to the employee a medical examination in accordance with WAC 296-62-07423 (6)(b) to determine if the employee can wear a respirator while performing the required duties.

(e) No employee shall be assigned a task requiring the use of a respirator if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to continue to function normally while wearing a respirator. If the physician determines the employee must be limited in, or removed from his or her current job because of the employee's inability to wear a respirator, the limitation or removal shall be in accordance with WAC 296-62-07423 (11) and (12).

(4) Respirator fit testing.

(a) The employer shall assure that the respirator issued to the employee is fitted properly and exhibits the least possible facepiece leakage.

(b) For each employee wearing a tight-fitting, air purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that do not exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform either quantitative or qualitative fit testing at the time of initial fitting and at least annually thereafter. If quantitative fit testing is used for a negative pressure respirator, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved at testing.

(c) For each employee wearing a tight-fitting air purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. For negative-pressure respirators, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved during quantitative fit testing.

(d) For each employee wearing a tight-fitting, supplied-air respirator or self-contained breathing apparatus, the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. This shall be accomplished by fit testing an air purifying respirator of identical type facepiece, make, model, and size as the supplied air respirator or self-contained breathing apparatus that is equipped with HEPA filters and tested as a surrogate (substitute) in the negative pressure mode. A fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved during quantitative fit testing. A supplied-air respirator or self-contained breathing apparatus with the same type facepiece, make, model, and size as the air purifying respirator with which the employee passed the quantitative fit test may then be used by that employee up to the protection factor listed in Table 2 for that class of respirators.

(e) Fit testing shall be conducted in accordance with WAC 296-62-07445, Appendix C.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07417 Protective work clothing and equipment. (1) Provision and use. If an employee is exposed to airborne cadmium above the PEL or where skin or eye irritation is associated with cadmium exposure at any level, the employer shall provide at no cost to the employee, and assure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee and the employee's garments. Protective work clothing and equipment includes, but is not limited to:

- (a) Coveralls or similar full-body work clothing;
 - (b) Gloves, head coverings, and boots or foot coverings;
- and
- (c) Face shields, vented goggles, or other appropriate protective equipment that complies with WAC 296-24-078.

(2) Removal and storage.

(a) The employer shall assure that employees remove all protective clothing and equipment contaminated with cadmium at the completion of the work shift and do so only in change rooms provided in accordance with WAC 296-62-07419(1).

(b) The employer shall assure that no employee takes cadmium-contaminated protective clothing or equipment from the workplace, except for employees authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(c) The employer shall assure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent dispersion of cadmium dust.

(d) The employer shall assure that bags or containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance, or disposal shall bear labels in accordance with WAC 296-62-07425((2)) (3).

(3) Cleaning, replacement, and disposal.

(a) The employer shall provide the protective clothing and equipment required by subsection (1) of this section in a clean and dry condition as often as necessary to maintain its effectiveness, but in any event at least weekly. The employer is responsible for cleaning and laundering the protective clothing and equipment required by this paragraph to maintain its effectiveness and is also responsible for disposing of such clothing and equipment.

(b) The employer also is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. When rips or tears are detected while an employee is working they shall be immediately mended, or the worksuit shall be immediately replaced.

(c) The employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(d) The employer shall assure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the

release of airborne cadmium in excess of the permissible exposure limit prescribed in WAC 296-62-07405.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07423 Medical surveillance. (1) General.

(a) Scope.

(i) Currently exposed. The employer shall institute a medical surveillance program for all employees who are or may be exposed to cadmium at or above the action level unless the employer demonstrates that the employee is not, and will not be, exposed at or above the action level on thirty or more days per year (twelve consecutive months); and

(ii) Previously exposed. The employer shall also institute a medical surveillance program for all employees who prior to the effective date of this section might previously have been exposed to cadmium at or above the action level by the employer, unless the employer demonstrates that the employee did not prior to the effective date of this section work for the employer in jobs with exposure to cadmium for an aggregated total of more than sixty months.

(b) To determine an employee's fitness for using a respirator, the employer shall provide the limited medical examination specified in subsection (6) of this section.

(c) The employer shall assure that all medical examinations and procedures required by this standard are performed by or under the supervision of a licensed physician, who has read and is familiar with the health effects WAC 296-62-07441, appendix A, the regulatory text of this section, the protocol for sample handling and laboratory selection in WAC 296-62-07451, appendix F and the questionnaire of WAC 296-62-07447, appendix D. These examinations and procedures shall be provided without cost to the employee and at a time and place that is reasonable and convenient to employees.

(d) The employer shall assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees under this section is done in a manner that assures their reliability and that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees under this section is performed in laboratories with demonstrated proficiency for that particular analyte. (See WAC 296-62-07451, appendix F.)

(2) Initial examination.

(a) The employer shall provide an initial (preplacement) examination to all employees covered by the medical surveillance program required in subsection (1)(a) of this section. The examination shall be provided to those employees within thirty days after initial assignment to a job with exposure to cadmium or no later than ninety days after the effective date of this section, whichever date is later.

(b) The initial (preplacement) medical examination shall include:

(i) A detailed medical and work history, with emphasis on: Past, present, and anticipated future exposure to cadmium; any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, and/or musculo-skeletal system dysfunction; current usage of medication with potential nephrotoxic side-effects; and smoking history and current status; and

(ii) Biological monitoring that includes the following tests:

(A) Cadmium in urine (CdU), standardized to grams of creatinine (g/Cr);

(B) Beta-2 microglobulin in urine (β_2 -M), standardized to grams of creatinine (g/Cr), with pH specified, as described in WAC 296-62-07451, appendix F; and

(C) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(c) Recent examination: An initial examination is not required to be provided if adequate records show that the employee has been examined in accordance with the requirements of (b) of this subsection within the past twelve months. In that case, such records shall be maintained as part of the employee's medical record and the prior exam shall be treated as if it were an initial examination for the purposes of subsections (3) and (4) of this section.

(3) Actions triggered by initial biological monitoring:

(a) If the results of the initial biological monitoring tests show the employee's CdU level to be at or below 3 μ g/g Cr, β_2 -M level to be at or below 300 μ g/g Cr and CdB level to be at or below 5 μ g/lwb, then:

(i) For currently exposed employees, who are subject to medical surveillance under subsection (1)(a)(i) of this section, the employer shall provide the minimum level of periodic medical surveillance in accordance with the requirements in subsection (4)(a) of this section; and

(ii) For previously exposed employees, who are subject to medical surveillance under subsection (1)(a)(ii) of this section, the employer shall provide biological monitoring for CdU, β_2 -M, and CdB (~~(withi~~) one year after the initial biological monitoring and then the employer shall comply with the requirements of subsection (4)(e) of this section.

(b) For all employees who are subject to medical surveillance under subsection (1)(a) of this section, if the results of the initial biological monitoring tests show the level of CdU to exceed 3 μ g/g Cr, the level of β_2 -M to exceed 300 μ g/g Cr, or the level of CdB to exceed 5 μ g/lwb, the employer shall:

(i) Within two weeks after receipt of biological monitoring results, reassess the employee's occupational exposure to cadmium as follows:

(A) Reassess the employee's work practices and personal hygiene;

(B) Reevaluate the employee's respirator use, if any, and the respirator program;

(C) Review the hygiene facilities;

(D) Reevaluate the maintenance and effectiveness of the relevant engineering controls;

(E) Assess the employee's smoking history and status;

(ii) Within thirty days after the exposure reassessment, specified in (b)(~~(iii)~~) (i) of this subsection, take reasonable steps to correct any deficiencies found in the reassessment

that may be responsible for the employee's excess exposure to cadmium; and,

(iii) Within ninety days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of WAC 296-62-07423 (4)(b). After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. If the physician determines that medical removal is not necessary, then until the employee's CdU level falls to or below 3 μ g/g Cr, β_2 -M level falls to or below 300 μ g/g Cr and CdB level falls to or below 5 μ g/lwb, the employer shall:

(A) Provide biological monitoring in accordance with subsection (2)(b)(ii) of this section on a semiannual basis; and

(B) Provide annual medical examinations in accordance with subsection (4)(b) of this section.

(c) For all employees who are subject to medical surveillance under subsection (1)(a) of this section, if the results of the initial biological monitoring tests show the level of CdU to be in excess of 15 μ g/g Cr, or the level of CdB to be in excess of 15 μ g/lwb, or the level of β_2 -M to be in excess of 1,500 μ g/g Cr, the employer shall comply with the requirements of (b)(i) and (ii) of this subsection. Within ninety days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of subsection (4)(b) of this section. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 15 μ g/g Cr; or CdB exceeds 15 μ g/lwb; or β_2 -M exceeds 1500 μ g/g Cr, and in addition CdU exceeds 3 μ g/g Cr or CdB exceeds 5 μ g/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 μ g/g Cr, β_2 -M level falls to or below 300 μ g/g Cr and CdB level falls to or below 5 μ g/lwb, the employer shall:

(i) Periodically reassess the employee's occupational exposure to cadmium;

(ii) Provide biological monitoring in accordance with subsection (2)(b)(ii) of this section on a quarterly basis; and

(iii) Provide semiannual medical examinations in accordance with subsection (4)(b) of this section.

(d) For all employees to whom medical surveillance is provided, beginning on January 1, 1999, and in lieu of (a) through (c) of this subsection:

(i) If the results of the initial biological monitoring tests show the employee's CdU level to be at or below 3 μ g/g Cr, β_2 -M level to be at or below 300 μ g/g Cr and CdB level to be at or below 5 μ g/lwb, then for currently exposed employees, the employer shall comply with the requirements of (a)(i) of this subsection and for previously exposed employ-

ees, the employer shall comply with the requirements of (a)(ii) of this subsection;

(ii) If the results of the initial biological monitoring tests show the level of CdU to exceed 3 µg/g Cr, the level of β₂-M to exceed 300 µg/g Cr, or the level of CdB to exceed 5 µg/lwb, the employer shall comply with the requirements of (b)(i) through (iii) of this subsection; and

(iii) If the results of the initial biological monitoring tests show the level of CdU to be in excess of 7 µg/g Cr, or the level of CdB to be in excess of 10 µg/lwb, or the level of β₂-M to be in excess of 750 µg/g Cr, the employer shall: Comply with the requirements of (b)(i) through (ii) of this subsection; and, within ninety days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of subsection (4)(b) of this section. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 7 µg/g Cr; or CdB exceeds 10 µg/lwb; or β₂-M exceeds 750 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, β₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall: periodically reassess the employee's occupational exposure to cadmium; provide biological monitoring in accordance with subsection (2)(b)(ii) of this section on a quarterly basis; and provide semiannual medical examinations in accordance with subsection (4)(b) of this section.

(4) Periodic medical surveillance.

(a) For each employee who is covered under subsection (1)(a)(i) of this section, the employer shall provide at least the minimum level of periodic medical surveillance, which consists of periodic medical examinations and periodic biological monitoring. A periodic medical examination shall be provided within one year after the initial examination required by subsection (2) of this section and thereafter at least biennially. Biological sampling shall be provided at least annually, either as part of a periodic medical examination or separately as periodic biological monitoring.

(b) The periodic medical examination shall include:

(i) A detailed medical and work history, or update thereof, with emphasis on: Past, present and anticipated future exposure to cadmium; smoking history and current status; reproductive history; current use of medications with potential nephrotoxic side-effects; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculoskeletal system dysfunction; and as part of the medical and work history, for employees who wear respirators, questions 3-11 and 25-32 in WAC 296-62-07447, Appendix D;

(ii) A complete physical examination with emphasis on: Blood pressure, the respiratory system, and the urinary system;

(iii) A 14 inch by 17 inch, or a reasonably standard sized posterior-anterior chest X-ray (after the initial X-ray, the frequency of chest X-rays is to be determined by the examining physician);

(iv) Pulmonary function tests, including forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV1);

(v) Biological monitoring, as required in subsection (2)(b)(ii) of this section;

(vi) Blood analysis, in addition to the analysis required under this section, including blood urea nitrogen, complete blood count, and serum creatinine;

(vii) Urinalysis, in addition to the analysis required under subsection (2)(b)(ii) of this section, including the determination of albumin, glucose, and total and low molecular weight proteins;

(viii) For males over forty years old, prostate palpation, or other at least as effective diagnostic test(s); and

(ix) Any additional tests deemed appropriate by the examining physician.

(c) Periodic biological monitoring shall be provided in accordance with subsection (2)(b)(ii) of this section.

(d) If the results of periodic biological monitoring or the results of biological monitoring performed as part of the periodic medical examination show the level of the employee's CdU, β₂-M, or CdB to be in excess of the levels specified in subsection (3)(b) (~~((through))~~) or (c) of this section; or, beginning on January 1, 1999, in excess of the levels specified in subsection (3)(b) or (d) of this section, the employer shall take the appropriate actions specified in subsection (3)(b) through ~~((e))~~ (d) of this section.

(e) For previously exposed employees under subsection (1)(a)(ii) of this section:

(i) If the employee's levels of CdU did not exceed 3 µg/g Cr, CdB did not exceed 5 µg/lwb, and β₂-M did not exceed 300 µg/g Cr in the initial biological monitoring tests, and if the results of the followup biological monitoring required by subsection (3)(a)(ii) of this section (~~((within))~~) one year after the initial examination confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(ii) If the initial biological monitoring results for CdU, CdB, or β₂-M were in excess of the levels specified in subsection (3)(a) of this section, but subsequent biological monitoring results required by subsection (3)(b) through (e) of this section show that the employee's CdU levels no longer exceed 3 µg/g Cr, CdB levels no longer exceed 5 µg/lwb, and β₂-M levels no longer exceed 300 µg/g Cr, the employer shall provide biological monitoring for CdU, CdB, and β₂-M (~~((within))~~) one year after these most recent biological monitoring results. If the results of the followup biological monitoring (~~((within one year))~~), specified in this section, confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(iii) However, if the results of the follow-up tests specified in (e)(i) or (ii) of this subsection indicate that the level of the employee's CdU, β₂-M, or CdB exceeds these same levels, the employer is required to provide annual

medical examinations in accordance with the provisions of (b) of this subsection until the results of biological monitoring are consistently below these levels or the examining physician determines in a written medical opinion that further medical surveillance is not required to protect the employee's health.

(f) A routine, biennial medical examination is not required to be provided in accordance with subsections (3)(a) and (4) of this section if adequate medical records show that the employee has been examined in accordance with the requirements of (b) of this subsection within the past twelve months. In that case, such records shall be maintained by the employer as part of the employee's medical record, and the next routine, periodic medical examination shall be made available to the employee within two years of the previous examination.

(5) Actions triggered by medical examinations.

If the results of a medical examination carried out in accordance with this section indicate any laboratory or clinical finding consistent with cadmium toxicity that does not require employer action under subsections (2), (3), or (4) of this section, the employer, within thirty days, shall reassess the employee's occupational exposure to cadmium and take the following corrective action until the physician determines they are no longer necessary:

(a) Periodically reassess: The employee's work practices and personal hygiene; the employee's respirator use, if any; the employee's smoking history and status; the respiratory protection program; the hygiene facilities; and the maintenance and effectiveness of the relevant engineering controls;

(b) Within thirty days after the reassessment, take all reasonable steps to correct the deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium;

(c) Provide semiannual medical reexaminations to evaluate the abnormal clinical sign(s) of cadmium toxicity until the results are normal or the employee is medically removed; and

(d) Where the results of tests for total proteins in urine are abnormal, provide a more detailed medical evaluation of the toxic effects of cadmium on the employee's renal system.

(6) Examination for respirator use.

(a) To determine an employee's fitness for respirator use, the employer shall provide a medical examination that includes the elements specified in (a)(i) through (iv) of this subsection. This examination shall be provided prior to the employee's being assigned to a job that requires the use of a respirator or no later than ninety days after this section goes into effect, whichever date is later, to any employee without a medical examination within the preceding twelve months that satisfies the requirements of this paragraph.

(i) A detailed medical and work history, or update thereof, with emphasis on: Past exposure to cadmium; smoking history and current status; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculoskeletal system dysfunction; a description of the job for which the respirator is required; and questions 3 through 11 and 25 through 32 in WAC 296-62-07447, appendix D;

(ii) A blood pressure test;

(iii) Biological monitoring of the employee's levels of CdU, CdB and β_2 -M in accordance with the requirements of subsection (2)(b)(ii) of this section, unless such results already have been obtained within the previous twelve months; and

(iv) Any other test or procedure that the examining physician deems appropriate.

(b) After reviewing all the information obtained from the medical examination required in (a) of this subsection, the physician shall determine whether the employee is fit to wear a respirator.

(c) Whenever an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, the employer, as soon as possible, shall provide the employee with a periodic medical examination in accordance with subsection (4)(b) of this section to determine the employee's fitness to wear a respirator.

(d) Where the results of the examination required under (a), ~~(b)~~, or ~~((b))~~ (c) of this subsection are abnormal, medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

(7) Emergency examinations.

(a) In addition to the medical surveillance required in subsections (2) through (6) of this section, the employer shall provide a medical examination as soon as possible to any employee who may have been acutely exposed to cadmium because of an emergency.

(b) The examination shall include the requirements of subsection (4)(b) of this section, with emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as identified in WAC 296-62-07441 (2)(b)(i) through (ii) and (4), appendix A.

(8) Termination of employment examination.

(a) At termination of employment, the employer shall provide a medical examination in accordance with subsection (4)(b) of this section, including a chest x-ray, to any employee to whom at any prior time the employer was required to provide medical surveillance under subsection (1)(a) or (7) of this section. However, if the last examination satisfied the requirements of subsection (4)(b) of this section and was less than six months prior to the date of termination, no further examination is required unless otherwise specified in subsection (3) or (5) of this section;

(b) However, for employees covered by subsection (1)(a)(ii) of this section, if the employer has discontinued all periodic medical surveillance under subsection (4)(e) of this section, no termination of employment medical examination is required.

(9) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and appendices;

(b) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium;

(c) The employee's former, current, and anticipated future levels of occupational exposure to cadmium;

(d) A description of any personal protective equipment, including respirators, used or to be used by the employee,

including when and for how long the employee has used that equipment; and

(e) Relevant results of previous biological monitoring and medical examinations.

(10) Physician's written medical opinion.

(a) The employer shall promptly obtain a written, signed medical opinion from the examining physician for each medical examination performed on each employee. This written opinion shall contain:

(i) The physician's diagnosis for the employee;

(ii) The physician's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity;

(iii) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium;

(iv) Any recommended removal from, or limitation on the activities or duties of the employee or on the employee's use of personal protective equipment, such as respirators;

(v) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.

(b) The employer promptly shall obtain a copy of the results of any biological monitoring provided by an employer to an employee independently of a medical examination under subsections (2) and (4) of this section, and, in lieu of a written medical opinion, an explanation sheet explaining those results.

(c) The employer shall instruct the physician not to reveal orally or in the written medical opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to cadmium.

(11) Medical removal protection (MRP).

(a) General.

(i) The employer shall temporarily remove an employee from work where there is excess exposure to cadmium on each occasion that medical removal is required under subsection (3), (4), or (6) of this section and on each occasion that a physician determines in a written medical opinion that the employee should be removed from such exposure. The physician's determination may be based on biological monitoring results, inability to wear a respirator, evidence of illness, other signs or symptoms of cadmium-related dysfunction or disease, or any other reason deemed medically sufficient by the physician.

(ii) The employer shall medically remove an employee in accordance with this subsection regardless of whether at the time of removal a job is available into which the removed employee may be transferred.

(iii) Whenever an employee is medically removed under this subsection, the employer shall transfer the removed employee to a job where the exposure to cadmium is within the permissible levels specified in that ~~(paragraph)~~ subsection as soon as one becomes available.

(iv) For any employee who is medically removed under the provisions of (a) of this subsection, the employer shall provide follow-up biological monitoring in accordance with

subsection (2)(b)(ii) of this section at least every three months and follow-up medical examinations semiannually at least every six months until in a written medical opinion the examining physician determines that either the employee may be returned to his/her former job status as specified under (d) through (e) of this subsection or the employee must be permanently removed from excess cadmium exposure.

(v) The employer may not return an employee who has been medically removed for any reason to his/her former job status until a physician determines in a written medical opinion that continued medical removal is no longer necessary to protect the employee's health.

(b) Where an employee is found unfit to wear a respirator under subsection (6)(b) of this section, the employer shall remove the employee from work where exposure to cadmium is above the PEL.

(c) Where removal is based on any reason other than the employee's inability to wear a respirator, the employer shall remove the employee from work where exposure to cadmium is at or above the action level.

(d) Except as specified in (e) of this subsection, no employee who was removed because his/her level of CdU, CdB and/or β_2 -M exceeded the ~~(mandatory)~~ medical removal trigger levels in subsection (3) or (4) of this section may be returned to work with exposure to cadmium at or above the action level until the employee's levels of CdU fall to or below 3 μ g/g Cr, CdB falls to or below 5 μ g/lwb, and β_2 -M falls to or below 300 μ g/g Cr.

(e) However, when in the examining physician's opinion continued exposure to cadmium will not pose an increased risk to the employee's health and there are special circumstances that make continued medical removal an inappropriate remedy, the physician shall fully discuss these matters with the employee, and then in a written determination may return a worker to his/her former job status despite what would otherwise be unacceptably high biological monitoring results. Thereafter, the returned employee shall continue to be provided with medical surveillance as if he/she were still on medical removal until the employee's levels of CdU fall to or below 3 μ g/g Cr, CdB falls to or below 5 μ g/lwb, and β_2 -M falls to or below 300 μ g/g Cr.

(f) Where an employer, although not required by (a) through (c) of this subsection to do so, removes an employee from exposure to cadmium or otherwise places limitations on an employee due to the effects of cadmium exposure on the employee's medical condition, the employer shall provide the same medical removal protection benefits to that employee under subsection (12) of this section as would have been provided had the removal been required under (a) through (c) of this subsection.

(12) Medical removal protection benefits (MRPB).

(a) The employer shall provide MRPB for up to a maximum of eighteen months to an employee each time and while the employee is temporarily medically removed under subsection (11) of this section.

(b) For purposes of this section, the requirement that the employer provide MRPB means that the employer shall maintain the total normal earnings, seniority, and all other employee rights and benefits of the removed employee, including the employee's right to his/her former job status,

as if the employee had not been removed from the employee's job or otherwise medically limited.

(c) Where, after eighteen months on medical removal because of elevated biological monitoring results, the employee's monitoring results have not declined to a low enough level to permit the employee to be returned to his/her former job status:

(i) The employer shall make available to the employee a medical examination pursuant in order to obtain a final medical determination as to whether the employee may be returned to his/her former job status or must be permanently removed from excess cadmium exposure; and

(ii) The employer shall assure that the final medical determination indicates whether the employee may be returned to his/her former job status and what steps, if any, should be taken to protect the employee's health.

(d) The employer may condition the provision of MRPB upon the employee's participation in medical surveillance provided in accordance with this section.

(13) Multiple physician review.

(a) If the employer selects the initial physician to conduct any medical examination or consultation provided to an employee under this section, the employee may designate a second physician to:

(i) Review any findings, determinations, or recommendations of the initial physician; and

(ii) Conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(b) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician provided by the employer conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, multiple physician review upon the employee doing the following within fifteen days after receipt of this notice, or receipt of the initial physician's written opinion, whichever is later:

(i) Informing the employer that he or she intends to seek a medical opinion; and

(ii) Initiating steps to make an appointment with a second physician.

(c) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(d) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee, through their respective physicians, shall designate a third physician to:

(i) Review any findings, determinations, or recommendations of the other two physicians; and

(ii) Conduct such examinations, consultations, laboratory tests, and discussions with the other two physicians as the third physician deems necessary to resolve the disagreement among them.

(e) The employer shall act consistently with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement that is consistent with the recommendations of at least one of the other two physicians.

(14) Alternate physician determination. The employer and an employee or designated employee representative may agree upon the use of any alternate form of physician determination in lieu of the multiple physician review provided by subsection (13) of this section, so long as the alternative is expeditious and at least as protective of the employee.

(15) Information the employer must provide the employee.

(a) The employer shall provide a copy of the physician's written medical opinion to the examined employee within two weeks after receipt thereof.

(b) The employer shall provide the employee with a copy of the employee's biological monitoring results and an explanation sheet explaining the results within two weeks after receipt thereof.

(c) Within thirty days after a request by an employee, the employer shall provide the employee with the information the employer is required to provide the examining physician under subsection (9) of this section.

(16) Reporting. In addition to other medical events that are required to be reported on the OSHA Form No. 200, the employer shall report any abnormal condition or disorder caused by ~~((exposure to))~~ occupational ~~((factors))~~ exposure to cadmium associated with employment as specified in WAC 296-27-060.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07425 Communication of cadmium hazards to employees. (1) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(2) Warning signs.

(a) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) Warning signs required by (a) of this subsection shall bear the following information:

DANGER CADMIUM CANCER HAZARD CAN CAUSE LUNG
AND KIDNEY DISEASE AUTHORIZED PERSONNEL ONLY
RESPIRATORS REQUIRED IN THIS AREA

(c) The employer shall assure that signs required by this ~~((paragraph))~~ subsection are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(3) Warning labels.

(a) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (b) of this subsection.

(b) The warning labels shall include at least the following information:

DANGER CONTAINS CADMIUM CANCER HAZARD AVOID
CREATING DUST CAN CAUSE LUNG AND KIDNEY DISEASE

(c) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(4) Employee information and training.

(a) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(b) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(c) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(i) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, appendix A;

(ii) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(iii) The engineering controls and work practices associated with the employee's job assignment;

(iv) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(v) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing;

(vi) The purpose and a description of the medical surveillance program required by WAC 296-62-07423;

(vii) The contents of this section and its appendices; and

(viii) The employee's rights of access to records under WAC 296-62-05213.

(d) Additional access to information and training program and materials.

(i) The employer shall make a copy of this section and its appendices readily available without cost to all affected employees and shall provide a copy if requested.

(ii) The employer shall provide to the director, upon request, all materials relating to the employee information and the training program.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07441 Appendix A, substance safety data sheet—Cadmium. (1) Substance identification.

(a) Substance: Cadmium.

(b) 8-Hour, time-weighted-average, permissible exposure limit (TWA PEL):

(c) TWA PEL: Five micrograms of cadmium per cubic meter of air $5 \mu\text{g}/\text{m}^3$, time-weighted average (TWA) for an 8-hour workday.

(d) Appearance: Cadmium metal—soft, blue-white, malleable, lustrous metal or grayish-white powder. Some

cadmium compounds may also appear as a brown, yellow, or red powdery substance.

(2) Health hazard data.

(a) Routes of exposure. Cadmium can cause local skin or eye irritation. Cadmium can affect your health if you inhale it or if you swallow it.

(b) Effects of overexposure.

(i) Short-term (acute) exposure: Cadmium is much more dangerous by inhalation than by ingestion. High exposures to cadmium that may be immediately dangerous to life or health occur in jobs where workers handle large quantities of cadmium dust or fume; heat cadmium-containing compounds or cadmium-coated surfaces; weld with cadmium solders or cut cadmium-containing materials such as bolts.

(ii) Severe exposure may occur before symptoms appear. Early symptoms may include mild irritation of the upper respiratory tract, a sensation of constriction of the throat, a metallic taste and/or a cough. A period of one to ten hours may precede the onset of rapidly progressing shortness of breath, chest pain, and flu-like symptoms with weakness, fever, headache, chills, sweating, and muscular pain. Acute pulmonary edema usually develops within twenty-four hours and reaches a maximum by three days. If death from asphyxia does not occur, symptoms may resolve within a week.

(iii) Long-term (chronic) exposure. Repeated or long-term exposure to cadmium, even at relatively low concentrations, may result in kidney damage and an increased risk of cancer of the lung and of the prostate.

(c) Emergency first aid procedures.

(i) Eye exposure: Direct contact may cause redness or pain. Wash eyes immediately with large amounts of water, lifting the upper and lower eyelids. Get medical attention immediately.

(ii) Skin exposure: Direct contact may result in irritation. Remove contaminated clothing and shoes immediately. Wash affected area with soap or mild detergent and large amounts of water. Get medical attention immediately.

(iii) Ingestion: Ingestion may result in vomiting, abdominal pain, nausea, diarrhea, headache, and sore throat. Treatment for symptoms must be administered by medical personnel. Under no circumstances should the employer allow any person whom he/she retains, employs, supervises, or controls to engage in therapeutic chelation. Such treatment is likely to translocate cadmium from pulmonary or other tissue to renal tissue. Get medical attention immediately.

(iv) Inhalation: If large amounts of cadmium are inhaled, the exposed person must be moved to fresh air at once. If breathing has stopped, perform cardiopulmonary resuscitation. Administer oxygen if available. Keep the affected person warm and at rest. Get medical attention immediately.

(v) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, attempt rescue only after notifying at least one other person of the emergency and putting into effect established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

(3) Employee information.

(a) Protective clothing and equipment.

(i) Respirators: You may be required to wear a respirator for nonroutine activities; in emergencies; while your employer is in the process of reducing cadmium exposures through engineering controls; and where engineering controls are not feasible. If respirators are worn in the future, they must have a joint Mine Safety and Health Administration (MSHA) and National Institute for Occupational Safety and Health (NIOSH) label of approval. Cadmium does not have a detectable odor except at levels well above the permissible exposure limits. If you can smell cadmium while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(ii) Protective clothing: You may be required to wear impermeable clothing, gloves, foot gear, a face shield, or other appropriate protective clothing to prevent skin contact with cadmium. Where protective clothing is required, your employer must provide clean garments to you as necessary to assure that the clothing protects you adequately. The employer must replace or repair protective clothing that has become torn or otherwise damaged.

(iii) Eye protection: You may be required to wear splash-proof or dust resistant goggles to prevent eye contact with cadmium.

(b) Employer requirements.

(i) Medical: If you are exposed to cadmium at or above the action level, your employer is required to provide a medical examination, laboratory tests and a medical history according to the medical surveillance provisions under WAC 296-62-07423. (See summary chart and tables in this section, appendix A.) These tests shall be provided without cost to you. In addition, if you are accidentally exposed to cadmium under conditions known or suspected to constitute toxic exposure to cadmium, your employer is required to make special tests available to you.

(ii) Access to records: All medical records are kept strictly confidential. You or your representative are entitled to see the records of measurements of your exposure to cadmium. Your medical examination records can be furnished to your personal physician or designated representative upon request by you to your employer.

(iii) Observation of monitoring: Your employer is required to perform measurements that are representative of your exposure to cadmium and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear the protective clothing and equipment.

(c) Employee requirements. You will not be able to smoke, eat, drink, chew gum or tobacco, or apply cosmetics while working with cadmium in regulated areas. You will also not be able to carry or store tobacco products, gum, food, drinks, or cosmetics in regulated areas because these products easily become contaminated with cadmium from the workplace and can therefore create another source of unnecessary (☞) cadmium exposure. Some workers will

have to change out of work clothes and shower at the end of the day, as part of their workday, in order to wash cadmium from skin and hair. Handwashing and cadmium-free eating facilities shall be provided by the employer and proper hygiene should always be performed before eating. It is also recommended that you do not smoke or use tobacco products, because among other things, they naturally contain cadmium. For further information, read the labeling on such products.

(4) Physician information.

(a) Introduction. The medical surveillance provisions of WAC 296-62-07423 generally are aimed at accomplishing three main interrelated purposes: First, identifying employees at higher risk of adverse health effects from excess, chronic exposure to cadmium; second, preventing cadmium-induced disease; and third, detecting and minimizing existing cadmium-induced disease. The core of medical surveillance in this standard is the early and periodic monitoring of the employee's biological indicators of:

(i) Recent exposure to cadmium;

(ii) Cadmium body burden; and

(iii) Potential and actual kidney damage associated with exposure to cadmium. The main adverse health effects associated with cadmium overexposure are lung cancer and kidney dysfunction. It is not yet known how to adequately biologically monitor human beings to specifically prevent cadmium-induced lung cancer. By contrast, the kidney can be monitored to provide prevention and early detection of cadmium-induced kidney damage. Since, for noncarcinogenic effects, the kidney is considered the primary target organ of chronic exposure to cadmium, the medical surveillance provisions of this standard effectively focus on cadmium-induced kidney disease. Within that focus, the aim, where possible, is to prevent the onset of such disease and, where necessary, to minimize such disease as may already exist. The by-products of successful prevention of kidney disease are anticipated to be the reduction and prevention of other cadmium-induced diseases.

(b) Health effects. The major health effects associated with cadmium overexposure are described below.

(i) Kidney: The most prevalent nonmalignant disease observed among workers chronically exposed to cadmium is kidney dysfunction. Initially, such dysfunction is manifested as proteinuria. The proteinuria associated with cadmium exposure is most commonly characterized by excretion of low-molecular weight proteins (15,000 to 40,000 MW) accompanied by loss of electrolytes, uric acid, calcium, amino acids, and phosphate. The compounds commonly excreted include: beta-2-microglobulin ($\beta_2\text{-M}$), retinol binding protein (RBP), immunoglobulin light chains, and lysozyme. Excretion of low molecular weight proteins are characteristic of damage to the proximal tubules of the kidney (Iwao et al., 1980). It has also been observed that exposure to cadmium may lead to urinary excretion of high-molecular weight proteins such as albumin, immunoglobulin G, and glycoproteins (Ex. 29). Excretion of high-molecular weight proteins is typically indicative of damage to the glomeruli of the kidney. Bernard et al., (1979) suggest that damage to the glomeruli and damage to the proximal tubules of the kidney may both be linked to cadmium exposure but they may occur independently of each other. Several studies indicate that the onset of low-molecular weight

proteinuria is a sign of irreversible kidney damage (Friberg et al., 1974; Roels et al., 1982; Piscator 1984; Elinder et al., 1985; Smith et al., 1986). Above specific levels of β_2 -M associated with cadmium exposure it is unlikely that β_2 -M levels return to normal even when cadmium exposure is eliminated by removal of the individual from the cadmium work environment (Friberg, Ex. 29, 1990). Some studies indicate that such proteinuria may be progressive; levels of β_2 -M observed in the urine increase with time even after cadmium exposure has ceased. See, for example, Elinder et al., 1985. Such observations, however, are not universal, and it has been suggested that studies in which proteinuria has not been observed to progress may not have tracked patients for a sufficiently long time interval (Jarup, Ex. 8-661). When cadmium exposure continues after the onset of proteinuria, chronic nephrotoxicity may occur (Friberg, Ex. 29). Uremia results from the inability of the glomerulus to adequately filter blood. This leads to severe disturbance of electrolyte concentrations and may lead to various clinical complications including kidney stones (L-140-50). After prolonged exposure to cadmium, glomerular proteinuria, glucosuria, aminoaciduria, phosphaturia, and hypercalciuria may develop (Exs. 8-86, 4-28, 14-18). Phosphate, calcium, glucose, and amino acids are essential to life, and under normal conditions, their excretion should be regulated by the kidney. Once low molecular weight proteinuria has developed, these elements dissipate from the human body. Loss of glomerular function may also occur, manifested by decreased glomerular filtration rate and increased serum creatinine. Severe cadmium-induced renal damage may eventually develop into chronic renal failure and uremia (Ex. 55). Studies in which animals are chronically exposed to cadmium confirm the renal effects observed in humans (Friberg et al., 1986). Animal studies also confirm problems with calcium metabolism and related skeletal effects which have been observed among humans exposed to cadmium in addition to the renal effects. Other effects commonly reported in chronic animal studies include anemia, changes in liver morphology, immunosuppression and hypertension. Some of these effects may be associated with co-factors. Hypertension, for example, appears to be associated with diet as well as cadmium exposure. Animals injected with cadmium have also shown testicular necrosis (Ex. 8-86B).

(ii) Biological markers. It is universally recognized that the best measures of cadmium exposures and its effects are measurements of cadmium in biological fluids, especially urine and blood. Of the two, CdU is conventionally used to determine body burden of cadmium in workers without kidney disease. CdB is conventionally used to monitor for recent exposure to cadmium. In addition, levels of CdU and CdB historically have been used to predict the percent of the population likely to develop kidney disease (Thun et al., Ex. L-140-50; WHO, Ex. 8-674; ACGIH, Exs. 8-667, 140-50).

The third biological parameter upon which WISHA relies for medical surveillance is beta-2-microglobulin in urine (β_2 -M), a low molecular weight protein. Excess β_2 -M has been widely accepted by physicians and scientists as a reliable indicator of functional damage to the proximal tubule of the kidney (Exs. 8-447, 144-3-C, 4-47, L-140-45, 19-43-A). Excess β_2 -M is found when the proximal tubules can no longer reabsorb this protein in a normal manner. This failure of the proximal tubules is an early stage of a

kind of kidney disease that commonly occurs among workers with excessive cadmium exposure. Used in conjunction with biological test results indicating abnormal levels of CdU and CdB, the finding of excess β_2 -M can establish for an examining physician that any existing kidney disease is probably cadmium-related (Trs. 6/6/90, pp. 82-86, 122, 134). The upper limits of normal levels for cadmium in urine and cadmium in blood are 3 $\mu\text{g Cd/gram creatinine}$ in urine and 5 $\mu\text{gCd/liter whole blood}$, respectively. These levels were derived from broad-based population studies. Three issues confront the physicians in the use of β_2 -M as a marker of kidney dysfunction and material impairment. First, there are a few other causes of elevated levels of β_2 -M not related to cadmium exposures, some of which may be rather common diseases and some of which are serious diseases (e.g., myeloma or transient flu, Exs. 29 and 8-086). These can be medically evaluated as alternative causes (Friberg, Ex. 29). Also, there are other factors that can cause β_2 -M to degrade so that low levels would result in workers with tubular dysfunction. For example, regarding the degradation of β_2 -M, workers with acidic urine (pH<6) might have β_2 -M levels that are within the "normal" range when in fact kidney dysfunction has occurred (Ex. L-140-1) and the low molecular weight proteins are degraded in acid urine. Thus, it is very important that the pH of urine be measured, that urine samples be buffered as necessary (See WAC 296-62-07451, appendix F.), and that urine samples be handled correctly, i.e., measure the pH of freshly voided urine samples, then if necessary, buffer to Ph>6 (or above for shipping purposes), measure Ph again and then, perhaps, freeze the sample for storage and shipping. (See also WAC 296-62-07451, appendix F.) Second, there is debate over the pathological significance of proteinuria, however, most world experts believe that β_2 -M levels greater than 300 $\mu\text{g/g Cr}$ are abnormal (Elinder, Ex. 55, Friberg, Ex. 29). Such levels signify kidney dysfunction that constitutes material impairment of health. Finally, detection of β_2 -M at low levels has often been considered difficult, however, many laboratories have the capability of detecting excess β_2 -M using simple kits, such as the Phadebas Delphia test, that are accurate to levels of 100 $\mu\text{g } \beta_2\text{-M/g Cr U}$ (Ex. L-140-1). Specific recommendations for ways to measure β_2 -M and proper handling of urine samples to prevent degradation of β_2 -M have been addressed by WISHA in WAC 296-62-07451, appendix F, in the section on laboratory standardization. All biological samples must be analyzed in a laboratory that is proficient in the analysis of that particular analyte, under WAC 296-62-07423 (1)(d). (See WAC 296-62-07451, appendix F). Specifically, under WAC 296-62-07423 (1)(d), the employer is to assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees is collected in a manner that assures reliability. The employer must also assure that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees is performed in laboratories with demonstrated proficiency for that particular analyte. (See WAC 296-62-07451, appendix F).

(iii) Lung and prostate cancer. The primary sites for cadmium-associated cancer appear to be the lung and the prostate (L-140-50). Evidence for an association between

cancer and cadmium exposure derives from both epidemiological studies and animal experiments. Mortality from prostate cancer associated with cadmium is slightly elevated in several industrial cohorts, but the number of cases is small and there is not clear dose-response relationship. More substantive evidence exists for lung cancer. The major epidemiological study of lung cancer was conducted by Thun et al., (Ex. 4-68). Adequate data on cadmium exposures were available to allow evaluation of dose-response relationships between cadmium exposure and lung cancer. A statistically significant excess of lung cancer attributed to cadmium exposure was observed in this study even when confounding variables such as co-exposure to arsenic and smoking habits were taken into consideration (Ex. L-140-50).

The primary evidence for quantifying a link between lung cancer and cadmium exposure from animal studies derives from two rat bioassay studies; one by Takenaka et al., (1983), which is a study of cadmium chloride and a second study by Oldiges and Glaser (1990) of four cadmium compounds. Based on the above cited studies, the U.S. Environmental Protection Agency (EPA) classified cadmium as "B1", a probable human carcinogen, in 1985 (Ex. 4-4). The International Agency for Research on Cancer (IARC) in 1987 also recommended that cadmium be listed as "2A", a probable human carcinogen (Ex. 4-15). The American Conference of Governmental Industrial Hygienists (ACGIH) has recently recommended that cadmium be labeled as a carcinogen. Since 1984, NIOSH has concluded that cadmium is possibly a human carcinogen and has recommended that exposures be controlled to the lowest level feasible.

(iv) Noncarcinogenic effects. Acute pneumonitis occurs 10 to 24 hours after initial acute inhalation of high levels of cadmium fumes with symptoms such as fever and chest pain (Exs. 30, 8-86B). In extreme exposure cases pulmonary edema may develop and cause death several days after exposure. Little actual exposure measurement data is available on the level of airborne cadmium exposure that causes such immediate adverse lung effects, nonetheless, it is reasonable to believe a cadmium concentration of approximately 1 mg/m³ over an eight hour period is "immediately dangerous" (55 FR 4052, ANSI; Ex. 8-86B). In addition to acute lung effects and chronic renal effects, long term exposure to cadmium may cause other severe effects on the respiratory system. Reduced pulmonary function and chronic lung disease indicative of emphysema have been observed in workers who have had prolonged exposure to cadmium dust or fumes (Exs. 4-29, 4-22, 4-42, 4-50, 4-63). In a study of workers conducted by Kazantzis et al., a statistically significant excess of worker deaths due to chronic bronchitis was found, which in his opinion was directly related to high cadmium exposures of 1 mg/m³ or more (Tr. 6/8/90, pp. 156-157). Cadmium need not be respirable to constitute a hazard. Inspirable cadmium particles that are too large to be respirable but small enough to enter the tracheobronchial region of the lung can lead to bronchoconstriction, chronic pulmonary disease, and cancer of that portion of the lung. All of these diseases have been associated with occupational exposure to cadmium (Ex. 8-86B). Particles that are constrained by their size to the extra-thoracic regions of the respiratory system such as the nose and maxillary sinuses can be swallowed through mucociliary clearance and be absorbed into the body

(ACGIH, Ex. 8-692). The impact of these particles in the upper airways can lead to anosmia, or loss of sense of smell, which is an early indication of overexposure among workers exposed to heavy metals. This condition is commonly reported among cadmium-exposed workers (Ex. 8-86-B).

(c) Medical surveillance. In general, the main provisions of the medical surveillance section of the standard, under WAC 296-62-07423 (1) through (16), are as follows:

(i) Workers exposed above the action level are covered;
 (ii) Workers with intermittent exposures are not covered;
 (iii) Past workers who are covered receive biological monitoring for at least one year;

(iv) Initial examinations include a medical questionnaire and biological monitoring of cadmium in blood (CdB), cadmium in urine (CdU), and Beta-2-microglobulin in urine (β_2 -M);

(v) Biological monitoring of these three analytes is performed at least annually; full medical examinations are performed biennially;

(vi) Until five years from the effective date of the standard, medical removal is required when CdU is greater than 15 μ g/gram creatinine (g Cr), or CdB is greater than 15 μ g/liter whole blood (lwb), or β_2 -M is greater than 1500 μ g/g Cr, and CdB is greater than 5 μ g/lwb or CdU is greater than 3 μ g/g Cr;

(vii) Beginning five years after the standard is in effect, medical removal triggers will be reduced;

(viii) Medical removal protection benefits are to be provided for up to eighteen months;

(ix) Limited initial medical examinations are required for respirator usage;

(x) Major provisions are fully described under WAC 296-62-07423; they are outlined here as follows:

(A) Eligibility.

(B) Biological monitoring.

(C) Actions triggered by levels of CdU, CdB, and β_2 -M (See Summary Charts and Tables in WAC 296-62-07441(5).)

(D) Periodic medical surveillance.

(E) Actions triggered by periodic medical surveillance (See appendix A Summary Chart and Tables in WAC 296-62-07441(5).)

(F) Respirator usage.

(G) Emergency medical examinations.

(H) Termination examination.

(I) Information to physician.

(J) Physician's medical opinion.

(K) Medical removal protection.

(L) Medical removal protection benefits.

(M) Multiple physician review.

(N) Alternate physician review.

(O) Information employer gives to employee.

(P) Recordkeeping.

(Q) Reporting on OSHA form 200.

(xi) The above mentioned summary of the medical surveillance provisions, the summary chart, and tables for the actions triggered at different levels of CdU, CdB and β_2 -M (in subsection (5) of this section, Attachment 1) are included only for the purpose of facilitating understanding of the provisions of WAC 296-62-07423(3) of the final cadmium standard. The summary of the provisions, the summary chart, and the tables do not add to or reduce the requirements in WAC 296-62-07423(3).

(d) Recommendations to physicians.
 (i) It is strongly recommended that patients with tubular proteinuria are counseled on: The hazards of smoking; avoidance of nephrotoxins and certain prescriptions and over-the-counter medications that may exacerbate kidney symptoms; how to control diabetes and/or blood pressure; proper hydration, diet, and exercise (Ex. 19-2). A list of prominent or common nephrotoxins is attached. (See subsection (6) of this section, Attachment 2.)

(ii) DO NOT CHELATE; KNOW WHICH DRUGS ARE NEPHROTOXINS OR ARE ASSOCIATED WITH NEPHRITIS.

(iii) The gravity of cadmium-induced renal damage is compounded by the fact there is no medical treatment to prevent or reduce the accumulation of cadmium in the kidney (Ex. 8-619). Dr. Friberg, a leading world expert on cadmium toxicity, indicated in 1992, that there is no form of chelating agent that could be used without substantial risk. He stated that tubular proteinuria has to be treated in the same way as other kidney disorders (Ex. 29).

(iv) After the results of a workers' biological monitoring or medical examination are received the employer is required to provide an information sheet to the patient, briefly explaining the significance of the results. (See subsection (7) of this section.)

(v) For additional information the physician is referred to the following additional resources:

(A) The physician can always obtain a copy of the OSHA final rule preamble, with its full discussion of the health effects, from OSHA's Computerized Information System (OCIS).

(B) The OSHA Docket Officer maintains a record of the OSHA rulemaking. The Cadmium Docket (H-057A), is located at 200 Constitution Ave. NW., Room N-2625, Washington, DC 20210; telephone: ((202-523-7894)) (202) 219-7894.

(C) The following articles and exhibits in particular from that docket (H- 057A):

Exhibit number	Author and paper title
8-447	Lauwerys et. al., Guide for physicians, "Health Maintenance of Workers Exposed to Cadmium," published by the Cadmium Council.
4-67	Takenaka, S., H. Oldiges, H. Konig, D. Hochrainer, G. Oberdorster. "Carcinogenicity of Cadmium Chloride Aerosols in Wistar Rats". JNCI 70:367-373, 1983. (32)
4-68	Thun, M.J., T.M. Schnoor, A.B. Smith, W.E. Halperin, R.A. Lemen. "Mortality Among a Cohort of U.S. Cadmium Production Workers—An Update." JNCI 74(2):325-33, 1985. (8)
4-25	Elinder, C.G., Kjellstrom, T., Hogstedt, C., et al., "Cancer Mortality of Cadmium Workers." Brit. J. Ind. Med. 42:651-655, 1985. (14)

4-26	Ellis, K.J. et al., "Critical Concentrations of Cadmium in Human Renal Cortex: Dose Effect Studies to Cadmium Smelter Workers." J. Toxicol. Environ. Health 7:691-703, 1981. (76)
4-27	Ellis, K.J., S.H. Cohn and T.J. Smith. "Cadmium Inhalation Exposure Estimates: Their Significance with Respect to Kidney and Liver Cadmium Burden." J. Toxicol. Environ. Health 15:173-187, 1985.
4-28	Falck, F.Y., Jr., Fine, L.J., Smith, R.G., McClatchey, K.D., Annesley, T., England, B., and Schork, A.M. "Occupational Cadmium Exposure and Renal Status." Am. J. Ind. Med. 4:541, 1983. (64)
8-86A	Friberg, L., C.G. Elinder, et al., "Cadmium and Health a Toxicological and Epidemiological Appraisal, Volume I, Exposure, Dose, and Metabolism." CRC Press, Inc., Boca Raton, FL, 1986. (Available from the OSHA Technical Data Center)
8-86B	Friberg, L., C.G. Elinder, et al., "Cadmium and Health: A Toxicological and Epidemiological Appraisal, Volume II, Effects and Response." CRC Press, Inc., Boca Raton, FL, 1986. (Available from the OSHA Technical Data Center)
L-140-45	Elinder, C.G., "Cancer Mortality of Cadmium Workers", Brit. J. Ind. Med., 42, 651-655, 1985.
L-140-50	Thun, M., Elinder, C.G., Friberg, L., "Scientific Basis for an Occupational Standard for Cadmium, Am. J. Ind. Med., 20; 629-642, 1991.

(5) Information sheet. The information sheet (subsection (8) of this section, Attachment 3) or an equally explanatory one should be provided to you after any biological monitoring results are reviewed by the physician, or where applicable, after any medical examination.

(6) Attachment 1—Appendix A, summary chart and Tables A and B of actions triggered by biological monitoring.

(a) Summary chart: WAC 296-62-07423(3) Medical surveillance—Categorizing biological monitoring results.

(i) Biological monitoring results categories are set forth in Table A for the periods ending December 31, 1998, and for the period beginning January 1, 1999.

(ii) The results of the biological monitoring for the initial medical exam and the subsequent exams shall determine an employee's biological monitoring result category.

(b) Actions triggered by biological monitoring.

(i) The actions triggered by biological monitoring for an employee are set forth in Table B.

(ii) The biological monitoring results for each employee under WAC 296-62-07423(3) shall determine the actions required for that employee. That is, for any employee in

biological monitoring category C, the employer will perform all of the actions for which there is an X in column C of Table B.

(iii) An employee is assigned the alphabetical category ("A" being the lowest) depending upon the test results of the three biological markers.

(iv) An employee is assigned category A if monitoring results for all three biological markers fall at or below the levels indicated in the table listed for category A.

(v) An employee is assigned category B if any monitoring result for any of the three biological markers fall within the range of levels indicated in the table listed for category B, providing no result exceeds the levels listed for category B.

(vi) An employee is assigned category C if any monitoring result for any of the three biological markers are above the levels listed for category C.

(c) The user of Tables A and B should know that these tables are provided only to facilitate understanding of the relevant provisions of WAC 296-62-07423. Tables A and B are not meant to add to or subtract from the requirements of those provisions.

Table A
Categorization of Biological Monitoring Results
Applicable Through 1998 Only

Biological marker	Monitoring result categories		
	A	B	C
Cadmium in urine (CdU) (µg/g creatinine)	≤3	>3 and ≤15	>15
β ₂ -microglobulin (β ₂ -M) (µg/g creatinine)	≤300	>300 and ≤1500	>1500*
Cadmium in blood (CdB) (µg/liter whole blood)	≤5	>5 and ≤15	>15

* If an employee's β₂-M levels are above 1,500 µg/g creatinine, in order for mandatory medical removal to be required (See WAC 296-62-07441, Appendix A Table B.), either the employee's CdU level must also be >3 µg/g creatinine or CdB level must also be >5 µg/liter whole blood.

Applicable Beginning January 1, 1999

Biological marker	Monitoring result categories		
	A	B	C
Cadmium in urine (CdU) (µg/g creatinine)	≤3	>3 and ≤7	>7
β ₂ -microglobulin (β ₂ -M) (µg/g creatinine)	≤300	>300 and ≤750	>750*
Cadmium in blood (CdB) (µg/liter whole blood)	≤5	>5 and ≤10	>10

* If an employee's β₂-M levels are above 750 µg/g creatinine, in order for mandatory medical removal to be required (See WAC 296-62-07441, Appendix A Table B.), either the employee's CdU level must also be >3 µg/g creatinine or CdB level must also be >5 µg/liter whole blood.

Table B—Actions determined by biological monitoring.

This table presents the actions required based on the monitoring result in Table A. Each item is a separate requirement in citing noncompliance. For example, a medical examination within ninety days for an employee in category B is separate from the requirement to administer a periodic medical examination for category B employees on an annual basis.

Table B
Monitoring result category

	A ¹	B ¹	C ¹
Required actions			
(1) Biological monitoring:			
(a) Annual.	X		
(b) Semiannual		X	
(c) Quarterly			X
(2) Medical examination:			
(a) Biennial	X		
(b) Annual.		X	
(c) Semiannual.			X
(d) Within 90 days		X	X
(3) Assess within two weeks:			
(a) Excess cadmium exposure		X	X
(b) Work practices		X	X
(c) Personal hygiene		X	X
(d) Respirator usage		X	X
(e) Smoking history		X	X
(f) Hygiene facilities		X	X
(g) Engineering controls		X	X
(h) Correct within 30 days		X	X
(i) Periodically assess exposures			X
(4) Discretionary medical removal		X	X
(5) Mandatory medical removal			X ²

¹ For all employees covered by medical surveillance exclusively because of exposures prior to the effective date of this standard, if they are in Category A, the employer shall follow the requirements of WAC 296-62-07423 (3)(a)(ii) and (4)(e)(i). If they are in Category B or C, the employer shall follow the requirements of WAC 296-62-07423 (4)(e)(ii) and (iii).

² See footnote in Table A.

(7) Attachment 2, list of medications.

(a) A list of the more common medications that a physician, and the employee, may wish to review is likely to include some of the following:

(i) Anticonvulsants: Paramethadione, phenytoin, trimethadone;

(ii) Antihypertensive drugs: Captopril, methyldopa;

(iii) Antimicrobials: Aminoglycosides, amphotericin B, cephalosporins, ethambutol;

(iv) Antineoplastic agents: Cisplatin, methotrexate, mitomycin-C, nitrosoureas, radiation;

(v) Sulfonamide diuretics: Acetazolamide, chlorthalidone, furosemide, thiazides;

(vi) Halogenated alkanes, hydrocarbons, and solvents that may occur in some settings: Carbon tetrachloride, ethylene glycol, toluene; iodinated radiographic contrast media; nonsteroidal anti-inflammatory drugs; and

(vii) Other miscellaneous compounds: Allopurinol, amphetamines, azathioprine, cimetidine, cyclosporine, lithium, methoxyflurane, methysergide, D-penicillamine, phenacetin, phenendione.

(b) A list of drugs associated with acute interstitial nephritis includes:

(i) Antimicrobial drugs: Cephalosporins, chloramphenicol, colistin, erythromycin, ethambutol, isoniazid, para-aminosalicylic acid, penicillins, polymyxin B, rifampin, sulfonamides, tetracyclines, and vancomycin;

(ii) Other miscellaneous drugs: Allopurinol, antipyrine, azathioprine, captopril, cimetidine, clofibrate, methyldopa,

phenindione, phenylpropanolamine, phenytoin, probenecid, sulfipyrazone, sulfonamide diuretics, triamterene; and

(iii) Metals: Bismuth, gold. This list (~~have~~) has been derived from commonly available medical textbooks (e.g., Ex. 14-18). The list has been included merely to facilitate the physician's, employer's, and employee's understanding. The list does not represent an official OSHA opinion or policy regarding the use of these medications for particular employees. The use of such medications should be under physician discretion.

(8) Attachment 3—Biological monitoring and medical examination results.

Employee _____
 Testing _____
 Date _____

Cadmium in Urine ___ µg/g Cr—Normal Levels:
 ≤3 µg/g Cr.

Cadmium in Blood ___ µg/lwb—Normal Levels:
 ≤5 µg/lwb.

Beta-2-microglobulin in Urine ___ µg/g Cr—Normal Levels: ≤300 µg/g Cr.

Physical Examination Results: N/A ___ Satisfactory

___ Unsatisfactory ___ (see physician again).

Physician's Review of Pulmonary Function Test:

N/A ___ Normal ___

Abnormal ___.

Next biological monitoring or medical examination scheduled for _____

(a) The biological monitoring program has been designed for three main purposes:

(i) To identify employees at risk of adverse health effects from excess, chronic exposure to cadmium;

(ii) To prevent cadmium-induced disease(s); and

(iii) To detect and minimize existing cadmium-induced disease(s).

(b) The levels of cadmium in the urine and blood provide an estimate of the total amount of cadmium in the body. The amount of a specific protein in the urine (beta-2-microglobulin) indicates changes in kidney function. All three tests must be evaluated together. A single mildly elevated result may not be important if testing at a later time indicates that the results are normal and the workplace has been evaluated to decrease possible sources of cadmium exposure. The levels of cadmium or beta-2-microglobulin may change over a period of days to months and the time needed for those changes to occur is different for each worker.

(c) If the results for biological monitoring are above specific "high levels" (cadmium urine greater than 10 micrograms per gram of creatinine µg Cr), cadmium blood greater than 10 micrograms per liter of whole blood (µg/lwb), or beta-2-microglobulin greater than 1000 micrograms per gram of creatinine (µg Cr)), the worker has a much greater chance of developing other kidney diseases.

(d) One way to measure for kidney function is by measuring beta-2-microglobulin in the urine. Beta-2-microglobulin is a protein which is normally found in the blood as it is being filtered in the kidney, and the kidney reabsorbs or returns almost all of the beta-2-microglobulin to

the blood. A very small amount (less than 300 µg/g Cr in the urine) of beta-2-microglobulin is not reabsorbed into the blood, but is released in the urine. If cadmium damages the kidney, the amount of beta-2-microglobulin in the urine increases because the kidney cells are unable to reabsorb the beta-2-microglobulin normally. An increase in the amount of beta-2-microglobulin in the urine is a very early sign of kidney dysfunction. A small increase in beta-2-microglobulin in the urine will serve as an early warning sign that the worker may be absorbing cadmium from the air, cigarettes contaminated in the workplace, or eating in areas that are cadmium contaminated.

(e) Even if cadmium causes permanent changes in the kidney's ability to reabsorb beta-2-microglobulin, and the beta-2-microglobulin is above the "high levels," the loss of kidney function may not lead to any serious health problems. Also, renal function naturally declines as people age. The risk for changes in kidney function for workers who have biological monitoring results between the "normal values" and the "high levels" is not well known. Some people are more cadmium-tolerant, while others are more cadmium-susceptible.

(f) For anyone with even a slight increase of beta-2-microglobulin, cadmium in the urine, or cadmium in the blood, it is very important to protect the kidney from further damage. Kidney damage can come from other sources than excess cadmium-exposure so it is also recommended that if a worker's levels are "high" he/she should receive counseling about drinking more water; avoiding cadmium-tainted tobacco and certain medications (nephrotoxins, acetaminophen); controlling diet, vitamin intake, blood pressure and diabetes; etc.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07445 Appendix C—Qualitative and quantitative fit testing procedures—(Fit test protocols).

(1) General: The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT). All testing is to be conducted annually.

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece. Respirators of each size must be provided from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use; it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted, maintained and used properly, will provide substantial protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (i) Position of the mask on the nose;
- (ii) Room for eye protection;
- (iii) Room to talk; and
- (iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (i) Chin properly placed;
- (ii) Adequate strap tension, not overly tightened;
- (iii) Fit across nose bridge;
- (iv) Respirator of proper size to span distance from nose to chin;
- (v) Tendency of respirator to slip; and
- (vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or in ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s). Inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine, in accordance with WAC 296-62-07423 (2) and (3), whether

the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall maintain a record of the fit test administered to an employee. The record shall contain at least the following information:

- (i) Name of employee;
- (ii) Type of respirator;
- (iii) Brand, size of respirator;
- (iv) Date of test; and

(v) Where QNFT is used, the fit factor and strip chart recording or other recording of the results of the test. The record shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, without talking, the subject shall breathe slowly and deeply, taking care so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as exercise one. Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds. The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall assure that persons administering QLFTs are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(iii) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate within the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor free water (e.g., distilled or spring water) at approximately twenty-five degrees C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one-liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated and shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five-gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; and to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banana like odor of IAA, the respirator fit is inadequate. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the respirator fit was inadequate, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(d) Saccharin solution aerosol protocol.

The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(B) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in warm water. It can be prepared by putting 1 cc of the fit test solution (see (ii)(E) below) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after 30 squeezes (step (J)), the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(B) The fit test uses the same enclosure described in (i) above.

(C) The test subject shall don the enclosure while wearing the respirator selected in (1)(a) of this section. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in (1)(n) of this section.

(I) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) Quantitative fit test. The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter

in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(ii) Challenge agent means the aerosol, gas or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) Test subject means the person wearing the respirator for quantitative fit testing.

(iv) Normal standing position means standing erect and straight with arms down along the sides and looking straight ahead.

(v) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ration of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so

that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(C) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration;

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07447 Appendix D—Occupational health history interview with reference to cadmium exposure directions.

(To be read by employee and signed prior to the interview.)

Please answer the questions you will be asked as completely and carefully as you can. These questions are asked of everyone who works with cadmium. You will also be asked to give blood and urine samples. The doctor will give your employer a written opinion on whether you are physically capable of working with cadmium. Legally, the doctor cannot share personal information you may tell him/her with your employer. The following information is considered strictly confidential. The results of the tests will go to you, your doctor and your employer. You will also receive an information sheet explaining the results of any biological monitoring or physical examinations performed. If you are just being hired, the results of this interview and examination will be used to:

(1) Establish your health status and see if working with cadmium might be expected to cause unusual problems;

(2) Determine your health status today and see if there are changes over time;

(3) See if you can wear a respirator safely. If you are not a new hire: ((OSHA)) WISHA says that everyone who works with cadmium can have periodic medical examinations performed by a doctor. The reasons for this are:

(a) If there are changes in your health, either because of cadmium or some other reason, to find them early;

(b) To prevent kidney damage.

Please sign below.

I have read these directions and understand them:

Employee signature

Date

Thank you for answering these questions. (Suggested Format)

Name

Age

Social Security #

Company

Job

Type of Preplacement Exam: Periodic Termination Initial Other

Blood Pressure

Pulse Rate

1. How long have you worked at the job listed above?
 Not yet hired Number of months Number of years

2. Job Duties etc.
.....

3. Have you ever been told by a doctor that you had bronchitis? Yes No
If yes, how long ago? Number of months Number of years

4. Have you ever been told by a doctor that you had emphysema?
 Yes No
If yes, how long ago? Number of years Number of months

5. Have you ever been told by a doctor that you had other lung problems? Yes No
If yes, please describe type of lung problems and when you had these problems
.....

6. In the past year, have you had a cough? Yes No
If yes, did you cough up sputum? Yes No
If yes, how long did the cough with sputum production last?
 Less than 3 months 3 months or longer
If yes, for how many years have you had episodes of cough with sputum production lasting this long?
 Less than one 1 2 Longer than 2

7. Have you ever smoked cigarettes? Yes No

8. Do you now smoke cigarettes? Yes No

9. If you smoke or have smoked cigarettes, for how many years have you smoked, or did you smoke?
 Less than 1 year Number of years
What is or was the greatest number of packs per day that you have smoked?
 Number of packs
If you quit smoking cigarettes, how many years ago did you quit?
 Less than 1 year Number of years
How many packs a day do you now smoke? Number of packs per day

10. Have you ever been told by a doctor that you had a kidney or urinary tract disease or disorder? Yes No

11. Have you ever had any of these disorders?
Kidney stones Yes No
Protein in urine Yes No
Blood in urine Yes No
Difficulty urinating Yes No
Other kidney/Urinary disorders Yes No
Please describe problems, age, treatment, and follow up for any kidney or urinary problems you have had:
.....

12. Have you ever been told by a doctor or other health care provider who took your blood pressure that your blood pressure was high? Yes No

13. Have you ever been advised to take any blood pressure medication?
 Yes No

14. Are you presently taking any blood pressure medication? Yes No

15. Are you presently taking any other medication? Yes No

16. Please list any blood pressure or other medications and describe how long you have been taking each one:
Medicine:

How Long Taken

17. Have you ever been told by a doctor that you have diabetes? (sugar in your blood or urine) Yes No

If yes, do you presently see a doctor about your diabetes? Yes No

If yes, how do you control your blood sugar? Diet alone

Diet plus oral medicine Diet plus insulin (injection)

18. Have you ever been told by a doctor that you had:

Anemia Yes No A low blood count? Yes No

19. Do you presently feel that you tire or run out of energy sooner than normal or sooner than other people your age? Yes No

If yes, for how long have you felt that you tire easily? Less than 1 year

Number of years

20. Have you given blood within the last year? Yes No

If yes, how many times? Number of times

How long ago was the last time you gave blood? Less than 1 month

Number of months

21. Within the last year have you had any injuries with heavy bleeding?

Yes No

If yes, how long ago? Less than 1 month Number of months describe:

22. Have you recently had any surgery? Yes No If yes, please describe:

23. Have you seen any blood lately in your stool or after a bowel movement? Yes No

24. Have you ever had a test for blood in your stool? Yes No

If yes, did the test show any blood in the stool? Yes No

What further evaluation and treatment were done?

The following questions pertain to the ability to wear a respirator. Additional information for the physician can be found in The Respiratory Protective Devices Manual.

25. Have you ever been told by a doctor that you have asthma? Yes No

If yes, are you presently taking any medication for asthma?

Mark all that apply. Shots Pills Inhaler

26. Have you ever had a heart attack? Yes No

If yes, how long ago? Number of years Number of months

27. Have you ever had pains in your chest? Yes No

If yes, when did it usually happen? While resting While working

While exercising Activity didn't matter

28. Have you ever had a thyroid problem? Yes No

29. Have you ever had a seizure or fits? Yes No

30. Have you ever had a stroke (cerebrovascular accident)? Yes No

31. Have you ever had a ruptured eardrum or a serious hearing problem?

Yes No

32. Do you now have a claustrophobia, meaning fear of crowded or closed in spaces or any psychological problems that would make it hard for you to wear a respirator? Yes No

The following questions pertain to reproductive history.

33. Have you or your partner had a problem conceiving a child?

Yes No

If yes, specify: Self Present mate Previous mate

34. Have you or your partner consulted a physician for a fertility or other reproductive problem? Yes No

If yes, specify who consulted the physician: Self Spouse/partner

Self and partner

If yes, specify diagnosis made:

35. Have you or your partner ever conceived a child resulting in a miscarriage, still birth or deformed offspring?

Yes No

If yes, specify: Miscarriage Still birth Deformed offspring

If outcome was a deformed offspring, please specify type:

36. Was this outcome a result of a pregnancy of: Yours with present partner Yours with a previous partner

37. Did the timing of any abnormal pregnancy outcome coincide with present employment? Yes No

List dates of occurrences:

38. What is the occupation of your spouse or partner?

For Women Only

39. Do you have menstrual periods? Yes No

Have you had menstrual irregularities? Yes No

If yes, specify type:

If yes, what was the approximated date this problem began?

Approximate date problem stopped?

For Men Only

40. Have you ever been diagnosed by a physician as having prostate gland problem(s)? Yes No

If yes, please describe type of problem(s) and what was done to evaluate and treat the problem(s):

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07449 Appendix E—Cadmium in workplace atmospheres.

Method number: ID-189 (OSHA); ICP/MS 0009 (WISHA)

Matrix: Air

WISHA permissible exposure limits: 5 µg/m³ (TWA), 2.5 µg/m³ (action level TWA)

Collection procedure: A known volume of air is drawn through a 37-mm diameter filter cassette containing a 0.8 µm mixed cellulose ester membrane filter (MCEF).

Recommended air volume: 960 L

Recommended sampling rate: 2.0 L/min

Analytical procedure: Air filter samples are digested with nitric acid. After digestion, a small amount of hydrochloric acid is added. The samples are then diluted to volume with deionized water and analyzed by either flame atomic absorption spectroscopy (AAS) or flameless atomic absorption spectroscopy using a heated graphite furnace atomizer (AAS-HGA).

Detection limits:

Qualitative: 0.2 µg/m³ for a 200 L sample by Flame AAS, 0.007 µg/m³ for a 60 L sample by AAS-HGA

Quantitative: 0.70 µg/m³ for a 200 L sample by Flame AAS, 0.025 µg/m³ for a 60 L sample by AAS-HGA

Precision and accuracy: (Flame AAS Analysis and AAS-HGA Analysis):

Validation level: 2.5 to 10 µg/m³ for a 400 L air vol, 1.25 to 5.0 µg/m³ for a 60 L air vol CV1 (pooled): 0.010, 0.043

Analytical bias: +4.0%, -5.8%

Overall analytical error: ±6.0%, ±14.2%

Method classification: Validated Date: June, 1992

Inorganic Service Branch II, OSHA Salt Lake Technical Center, Salt Lake City, Utah Commercial manufacturers and products mentioned in this method are for descriptive use only and do not constitute endorsements by USDOL-OSHA. Similar products from other sources can be substituted.

(1) Introduction.

(a) Scope.

This method describes the collection of airborne elemental cadmium and cadmium compounds on 0.8 µm mixed cellulose ester membrane filters and their subsequent analysis by either flame atomic absorption spectroscopy (AAS) or flameless atomic absorption spectroscopy using a heated graphite furnace atomizer (AAS-HGA). It is applicable for both TWA and action level TWA permissible exposure level (PEL) measurements. The two atomic absorption analytical techniques included in the method do not differentiate between cadmium fume and cadmium dust samples. They also do not differentiate between elemental cadmium and its compounds.

(b) Principle.

Airborne elemental cadmium and cadmium compounds are collected on a 0.8 µm mixed cellulose ester membrane filter (MCEF). The air filter samples are digested with concentrated nitric acid to destroy the organic matrix and dissolve the cadmium analytes. After digestion, a small amount of concentrated hydrochloric acid is added to help dissolve other metals which may be present. The samples are diluted to volume with deionized water and then aspirated into the oxidizing air/acetylene flame of an atomic absorption spectrophotometer for analysis of elemental cadmium. If the concentration of cadmium in a sample solution is too low for quantitation by this flame AAS analytical technique, and the sample is to be averaged with other samples for TWA calculations, aliquots of the sample and a matrix modifier are later injected onto a L'vov platform in a pyrolytically-coated graphite tube of a Zeeman atomic absorption spectrophotometer/graphite furnace assembly for analysis of elemental cadmium. The matrix modifier is added to stabilize the cadmium metal and minimize sodium chloride as an interference during the high temperature charring step of the analysis subsection (5)(a) and (b) of this section.

(c) History.

Previously, two ((WISHA)) OSHA sampling and analytical methods for cadmium were used concurrently WAC 296-62-07449 (5)(c) and (d). Both of these methods also required 0.8 µm mixed cellulose ester membrane filters for the collection of air samples. These cadmium air filter samples were analyzed by either flame atomic absorption spectroscopy (subsection (5)(c) of this section) or inductively coupled plasma/atomic emission spectroscopy (ICP-AES) (subsection (5)(d) of this section). Neither of these two analytical methods have adequate sensitivity for measuring workplace exposure to airborne cadmium at the new lower TWA and action level TWA PEL levels when consecutive samples are taken on one employee and the sample results need to be averaged with other samples to determine a single TWA. The inclusion of two atomic absorption analytical techniques in the new sampling and analysis method for airborne cadmium permits quantitation of sample results over a broad range of exposure levels and sampling periods. The flame AAS analytical technique included in this method is similar to the previous procedure given in the General Metals Method ID-121 (subsection (5)(c) of this section) with some modifications. The sensitivity of the AAS-HGA analytical technique included in this method is adequate to measure exposure levels at 1/10 the action level TWA, or lower, when less than full-shift samples need to be averaged together.

(d) Properties (subsection (5)(e) of this section).

Elemental cadmium is a silver-white, blue-tinged, lustrous metal which is easily cut with a knife. It is slowly oxidized by moist air to form cadmium oxide. It is insoluble in water, but reacts readily with dilute nitric acid. Some of the physical properties and other descriptive information of elemental cadmium are given below:

CAS No	7440-43-9
Atomic Number	48
Atomic Symbol	Cd
Atomic Weight	112.41
Melting Point	321°C
Boiling Point	765°C
Density	8.65 g/mL (25°C)

The properties of specific cadmium compounds are described in reference subsection (5)(e) of this section.

(e) Method performance.

A synopsis of method performance is presented below. Further information can be found in subsection (4) of this section.

(i) The qualitative and quantitative detection limits for the flame AAS analytical technique are 0.04 µg (0.004 µg/mL) and 0.14 µg (0.014 µg/mL) cadmium, respectively, for a 10 mL solution volume. These correspond, respectively, to 0.2 µg/m³ and 0.70 µg/m³ for a 200 L air volume.

(ii) The qualitative and quantitative detection limits for the AAS-HGA analytical technique are 0.44 ng (0.044 ng/mL) and 1.5 ng (0.15 ng/mL) cadmium, respectively, for a 10 mL solution volume. These correspond, respectively, to 0.007 µg/m³ and 0.025 µg/m³ for a 60 L air volume.

(iii) The average recovery by the flame AAS analytical technique of 17 spiked MCEF samples containing cadmium in the range of 0.5 to 2.0 times the TWA target concentration of 5 µg/m³ (assuming a 400 L air volume) was 104.0% with a pooled coefficient of variation (CV¹) of 0.010. The flame analytical technique exhibited a positive bias of +4.0% for the validated concentration range. The overall analytical error (OAE) for the flame AAS analytical technique was ±6.0%.

(iv) The average recovery by the AAS-HGA analytical technique of 18 spiked MCEF samples containing cadmium in the range of 0.5 to 2.0 times the action level TWA target concentration of 2.5 µg/m³ (assuming a 60 L air volume) was 94.2% with a pooled coefficient of variation (CV¹) of 0.043. The AAS-HGA analytical technique exhibited a negative bias of -5.8% for the validated concentration range. The overall analytical error (OAE) for the AAS-HGA analytical technique was ±14.2%.

(v) Sensitivity in flame atomic absorption is defined as the characteristic concentration of an element required to produce a signal of 1% absorbance (0.0044 absorbance units). Sensitivity values are listed for each element by the atomic absorption spectrophotometer manufacturer and have proved to be a very valuable diagnostic tool to determine if instrumental parameters are optimized and if the instrument is performing up to specification. The sensitivity of the spectrophotometer used in the validation of the flame AAS analytical technique agreed with the manufacturer specifications (subsection (5)(f) of this section); the 2 µg/mL cadmium standard gave an absorbance reading of 0.350 abs. units.

(vi) Sensitivity in graphite furnace atomic absorption is defined in terms of the characteristic mass, the number of picograms required to give an integrated absorbance value of 0.0044 absorbance-second (subsection (5)(g) of this section). Data suggests that under stabilized temperature platform furnace (STPF) conditions (see (f)(ii) of this subsection), characteristic mass values are transferable between properly functioning instruments to an accuracy of about twenty percent (subsection (5)(b) of this section). The characteristic mass for STPF analysis of cadmium with Zeeman background correction listed by the manufacturer of the instrument used in the validation of the AAS-HGA analytical technique was 0.35 pg. The experimental characteristic mass value observed during the determination of the working range and detection limits of the AAS-HGA analytical technique was 0.41 pg.

(f) Interferences.

(i) High concentrations of silicate interfere in determining cadmium by flame AAS (subsection (5)(f) of this section). However, silicates are not significantly soluble in the acid matrix used to prepare the samples.

(ii) Interferences, such as background absorption, are reduced to a minimum in the AAS-HGA analytical technique by taking full advantage of the stabilized temperature platform furnace (STPF) concept. STPF includes all of the following parameters (subsection (5)(b) of this section):

- (A) Integrated absorbance;
 - (B) Fast instrument electronics and sampling frequency;
 - (C) Background correction;
 - (D) Maximum power heating;
 - (E) Atomization off the L'vov platform in a pyrolytically coated graphite tube;
 - (F) Gas stop during atomization;
 - (G) Use of matrix modifiers.
- (g) Toxicology (subsection (5)(n) of this section).

Information listed within this section is synopsis of current knowledge of the physiological effects of cadmium and is not intended to be used as the basis for WISHA policy. IARC classifies cadmium and certain of its compounds as Group 2A carcinogens (probably carcinogenic to humans). Cadmium fume is intensely irritating to the respiratory tract. Workplace exposure to cadmium can cause both chronic and acute effects. Acute effects include tracheobronchitis, pneumonitis, and pulmonary edema. Chronic effects include anemia, rhinitis/anosmia, pulmonary emphysema, proteinuria and lung cancer. The primary target organs for chronic disease are the kidneys (noncarcinogenic) and the lungs (carcinogenic).

(2) Sampling.

(a) Apparatus.

(i) Filter cassette unit for air sampling: A 37-mm diameter mixed cellulose ester membrane filter with a pore size of 0.8 μm contained in a 37-mm polystyrene two- or three-piece cassette filter holder (part no. MAWP 037 A0, Millipore Corp., Bedford, MA). The filter is supported with a cellulose backup pad. The cassette is sealed prior to use with a shrinkable gel band.

(ii) A calibrated personal sampling pump whose flow is determined to an accuracy of $\pm 5\%$ at the recommended flow rate with the filter cassette unit in line.

(b) Procedure

(i) Attach the prepared cassette to the calibrated sampling pump (the backup pad should face the pump) using flexible tubing. Place the sampling device on the employee such that air is sampled from the breathing zone.

(ii) Collect air samples at a flow rate of 2.0 L/min. If the filter does not become overloaded, a full-shift (at least seven hours) sample is strongly recommended for TWA and action level TWA measurements with a maximum air volume of 960 L. If overloading occurs, collect consecutive air samples for shorter sampling periods to cover the full workshift.

(iii) Replace the end plugs into the filter cassettes immediately after sampling. Record the sampling conditions.

(iv) Securely wrap each sample filter cassette end-to-end with a sample seal.

(v) Submit at least one blank sample. With each set of air samples. The blank sample should be handled the same as the other samples except that no air is drawn through it.

(vi) Ship the samples to the laboratory for analysis as soon as possible in a suitable container designed to prevent damage in transit.

(3) Analysis.

(a) Safety precautions.

(i) Wear safety glasses, protective clothing and gloves at all times.

(ii) Handle acid solutions with care. Handle all cadmium samples and solutions with extra care (see subsection (1)(g) of this section). Avoid their direct contact with work area surfaces, eyes, skin and clothes. Flush acid solutions which contact the skin or eyes with copious amounts of water.

(iii) Perform all acid digestions and acid dilutions in an exhaust hood while wearing a face shield. To avoid exposure to acid vapors, do not remove beakers containing concentrated acid solutions from the exhaust hood until they have returned to room temperature and have been diluted or emptied.

(iv) Exercise care when using laboratory glassware. Do not use chipped pipets, volumetric flasks, beakers or any glassware with sharp edges exposed in order to avoid the possibility of cuts or abrasions.

(v) Never pipet by mouth.

(vi) Refer to the instrument instruction manuals and SOPs (subsection (5)(h) and (i) of this section) for proper and safe operation of the atomic absorption spectrophotometer, graphite furnace atomizer and associated equipment.

(vii) Because metallic elements and other toxic substances are vaporized during AAS flame or graphite furnace atomizer operation, it is imperative that an exhaust vent be used. Always ensure that the exhaust system is operating properly during instrument use.

(b) Apparatus for sample and standard preparation.

(i) Hot plate, capable of reaching 150°C, installed in an exhaust hood.

(ii) Phillips beakers, 125 mL.

(iii) Bottles, narrow-mouth, polyethylene or glass with leakproof caps: used for storage of standards and matrix modifier.

(iv) Volumetric flasks, volumetric pipets, beakers and other associated general laboratory glassware.

(v) Forceps and other associated general laboratory equipment.

(c) Apparatus for flame AAS analysis.

(i) Atomic absorption spectrophotometer consisting of a(an):

Nebulizer and burner head; pressure regulating devices capable of maintaining constant oxidant and fuel pressures; optical system capable of isolating the desired wavelength of radiation (228.8 nm); adjustable slit; light measuring and amplifying device; display, strip chart, or computer interface for indicating the amount of absorbed radiation; cadmium hollow cathode lamp or electrodeless discharge lamp (EDL) and power supply.

(ii) Oxidant: Compressed air, filtered to remove water, oil and other foreign substances.

(iii) Fuel: Standard commercially available tanks of acetylene dissolved in acetone; tanks should be equipped with flash arresters.

Caution: Do not use grades of acetylene containing solvents other than acetone because they may damage the PVC tubing used in some instruments.

(iv) Pressure-reducing valves: Two gauge, two-stage pressure regulators to maintain fuel and oxidant pressures somewhat higher than the controlled operating pressures of the instrument.

(v) Exhaust vent installed directly above the spectrophotometer burner head.

(d) Apparatus for AAS-HGA analysis.

(i) Atomic absorption spectrophotometer consisting of a(an):

Heated graphite furnace atomizer (HGA) with argon purge system pressure-regulating devices capable of maintaining constant argon purge pressure; optical system capable of isolating the desired wavelength of radiation (228.8 nm); adjustable slit; light measuring and amplifying device; display, strip chart, or computer interface for indicating the amount of absorbed radiation (as integrated absorbance, peak area); background corrector: Zeeman or deuterium arc. The Zeeman background corrector is recommended; cadmium hollow cathode lamp or electrodeless discharge lamp (EDL) and power supply; autosampler capable of accurately injecting 5 to 20 μ L sample aliquots onto the L'vov Platform in a graphite tube.

(ii) Pyrolytically coated graphite tubes containing solid, pyrolytic L'vov platforms.

(iii) Polyethylene sample cups, 2.0 to 2.5 mL, for use with the autosampler.

(iv) Inert purge gas for graphite furnace atomizer: Compressed gas cylinder of purified argon.

(v) Two gauge, two-stage pressure regulator for the argon gas cylinder.

(vi) Cooling water supply for graphite furnace atomizer.

(vii) Exhaust vent installed directly above the graphite furnace atomizer.

(e) Reagents. All reagents should be ACS analytical reagent grade or better.

(i) Deionized water with a specific conductance of less than 10 μ S.

(ii) Concentrated nitric acid, HNO₃.

(iii) Concentrated hydrochloric acid, HCl.

(iv) Ammonium phosphate, monobasic, NH₄H₂PO₄.

(v) Magnesium nitrate, Mg(NO₃)₂ • 6H₂O.

(vi) Diluting solution (4% HNO₃, 0.4% HCl): Add 40 mL HNO₃ and 4 mL HCl carefully to approximately 500 mL deionized water and dilute to 1 L with deionized water.

(vii) Cadmium standard stock solution, 1,000 μ g/mL: Use a commercially available certified 1,000 μ g/mL cadmium standard or, alternatively, dissolve 1.0000 g of cadmium metal in a minimum volume of 1:1 HCl and dilute to 1 L with 4% HNO₃. Observe expiration dates of commercial standards. Properly dispose of commercial standards with no expiration dates or prepared standards one year after their receipt or preparation date.

(viii) Matrix modifier for AAS-HGA analysis: Dissolve 1.0 g NH₄H₂PO₄ and 0.15 g Mg(NO₃)₂ • 6H₂O in approximately 200 mL deionized water. Add 1 mL HNO₃ and dilute to 500 mL with deionized water.

(ix) Nitric Acid, 1:1 HNO₃/DI H₂O mixture: Carefully add a measured volume of concentrated HNO₃ to an equal volume of DI H₂O.

(x) Nitric acid, 10% v/v: Carefully add 100 mL of concentrated HNO₃ to 500 mL of DI H₂O and dilute to 1 L.

(f) Glassware preparation.

(i) Clean Phillips beakers by refluxing with 1:1 nitric acid on a hot plate in a fume hood. Thoroughly rinse with deionized water and invert the beakers to allow them to drain dry.

(ii) Rinse volumetric flasks and all other glassware with 10% nitric acid and deionized water prior to use.

(g) Standard preparation for flame AAS analysis.

(i) Dilute stock solutions: Prepare 1, 5, 10 and 100 μ g/mL cadmium standard stock solutions by making appropriate serial dilutions of 1,000 μ g/mL cadmium standard stock solution with the diluting solution described in (e)(vi) of this subsection.

(ii) Working standards: Prepare cadmium working standards in the range of 0.02 to 2.0 μ g/mL by making appropriate serial dilutions of the dilute stock solutions with the same diluting solution. A suggested method of preparation of the working standards is given below.

Working standard (μ g/mL)	Std solution (μ g/mL)	Aliquot (mL)	Final vol. (mL)
0.02	1	10	500
0.05	5	5	500
0.1	10	5	500
0.2	10	10	500
0.5	10	25	500
1	100	5	500
2	100	10	500

Store the working standards in 500-mL, narrow-mouth polyethylene or glass bottles with leak proof caps. Prepare every twelve months.

(h) Standard preparation for AAS-HGA analysis.

(i) Dilute stock solutions: Prepare 10, 100 and 1,000 ng/mL cadmium standard stock solutions by making appropriate ten-fold serial dilutions of the 1,000 μ g/mL cadmium standard stock solution with the diluting solution described in (e)(vi) of this subsection.

(ii) Working standards: Prepare cadmium working standards in the range of 0.2 to 20 ng/mL by making appropriate serial dilutions of the dilute stock solutions with

the same diluting solution. A suggested method of preparation of the working standards is given below.

Working standard (ng/mL)	Std solution (ng/mL)	Aliquot (mL)	Final vol. (mL)
0.2	10	2	100
0.5	10	5	100
1	10	10	100
2	100	2	100
5	100	5	100
10	100	10	100
20	1,000	2	100

Store the working standards in narrow-mouth polyethylene or glass bottles with leakproof caps. Prepare monthly.

(i) Sample preparation.

(i) Carefully transfer each sample filter with forceps from its filter cassette unit to a clean, separate 125-mL Phillips beaker along with any loose dust found in the cassette. Label each Phillips beaker with the appropriate sample number.

(ii) Digest the sample by adding 5 mL of concentrated nitric acid (HNO₃) to each Phillips beaker containing an air filter sample. Place the Phillips beakers on a hot plate in an exhaust hood and heat the samples until approximately 0.5 mL remains. The sample solution in each Phillips beaker should become clear. If it is not clear, digest the sample with another portion of concentrated nitric acid.

(iii) After completing the HNO₃ digestion and cooling the samples, add 40 µL (2 drops) of concentrated HCl to each air sample solution and then swirl the contents. Carefully add about 5 mL of deionized water by pouring it down the inside of each beaker.

(iv) Quantitatively transfer each cooled air sample solution from each Phillips beaker to a clean 10-mL volumetric flask. Dilute each flask to volume with deionized water and mix well.

(j) Flame AAS analysis.

Analyze all of the air samples for their cadmium content by flame atomic absorption spectroscopy (AAS) according to the instructions given below.

(i) Set up the atomic absorption spectrophotometer for the air/acetylene flame analysis of cadmium according to the SOP (subsection (5)(h) of this section) or the manufacturer's operational instructions. For the source lamp, use the cadmium hollow cathode or electrodeless discharge lamp operated at the manufacturer's recommended rating for continuous operation. Allow the lamp to warm up ten to twenty minutes or until the energy output stabilizes. Optimize conditions such as lamp position, burner head alignment, fuel and oxidant flow rates, etc. See the SOP or specific instrument manuals for details. Instrumental parameters for the Perkin-Elmer Model 603 used in the validation of this method are given in subsection (6) of this section.

(ii) Aspirate and measure the absorbance of a standard solution of cadmium. The standard concentration should be within the linear range. For the instrumentation used in the validation of this method a 2 µg/mL cadmium standard gives a net absorbance reading of about 0.350 abs. units (see subsection (1)(e)(v) of this section) when the instrument and

the source lamp are performing to manufacturer specifications.

(iii) To increase instrument response, scale expand the absorbance reading of the aspirated 2 µg/mL working standard approximately four times. Increase the integration time to at least three seconds to reduce signal noise.

(iv) Autozero the instrument while aspirating a deionized water blank. Monitor the variation in the baseline absorbance reading (baseline noise) for a few minutes to insure that the instrument, source lamp and associated equipment are in good operating condition.

(v) Aspirate the working standards and samples directly into the flame and record their absorbance readings. Aspirate the deionized water blank immediately after every standard or sample to correct for and monitor any baseline drift and noise. Record the baseline absorbance reading of each deionized water blank. Label each standard and sample reading and its accompanying baseline reading.

(vi) It is recommended that the entire series of working standards be analyzed at the beginning and end of the analysis of a set of samples to establish a concentration-response curve, ensure that the standard readings agree with each other and are reproducible. Also, analyze a working standard after every five or six samples to monitor the performance of the spectrophotometer. Standard readings should agree within ±10 to 15% of the readings obtained at the beginning of the analysis.

(vii) Bracket the sample readings with standards during the analysis. If the absorbance reading of a sample is above the absorbance reading of the highest working standard, dilute the sample with diluting solution and reanalyze. Use the appropriate dilution factor in the calculations.

(viii) Repeat the analysis of approximately ten percent of the samples for a check of precision.

(ix) If possible, analyze quality control samples from an independent source as a check on analytical recovery and precision.

(x) Record the final instrument settings at the end of the analysis. Date and label the output.

(k) AAS-HGA analysis.

Initially analyze all of the air samples for their cadmium content by flame atomic absorption spectroscopy (AAS) according to the instructions given in (j) of this subsection. If the concentration of cadmium in a sample solution is less than three times the quantitative detection limit (0.04 µg/mL (40 ng/mL) for the instrumentation used in the validation) and the sample results are to be averaged with other samples for TWA calculations, proceed with the AAS-HGA analysis of the sample as described below.

(i) Set up the atomic absorption spectrophotometer and HGA for flameless atomic absorption analysis of cadmium according to the SOP (subsection (5)(i) of this section) or the manufacturer's operational instructions and allow the instrument to stabilize. The graphite furnace atomizer is equipped with a pyrolytically coated graphite tube containing a pyrolytic platform. For the source lamp, use a cadmium hollow cathode or electrodeless discharge lamp operated at the manufacturer's recommended setting for graphite furnace operation. The Zeeman background corrector and EDL are recommended for use with the L'vov platform. Instrumental parameters for the Perkin-Elmer Model 5100 spectrophotometer and Zeeman HGA-600 graphite furnace used in the

validation of this method are given in (~~WAC 296-62-07443, Appendix B~~) subsection (7) of this section.

(ii) Optimize the energy reading of the spectrophotometer at 228.8 nm by adjusting the lamp position and the wavelength according to the manufacturer's instructions.

(iii) Set up the autosampler to inject a 5- μ L aliquot of the working standard, sample or reagent blank solution onto the L'vov platform along with a 10- μ L overlay of the matrix modifier.

(iv) Analyze the reagent blank (diluting solution, (e)(vi) of this subsection) and then autozero the instrument before starting the analysis of a set of samples. It is recommended that the reagent blank be analyzed several times during the analysis to assure the integrated absorbance (peak area) reading remains at or near zero.

(v) Analyze a working standard approximately midway in the linear portion of the working standard range two or three times to check for reproducibility and sensitivity (see subsection (1)(e)(v) and (vi) of this section) before starting the analysis of samples. Calculate the experimental characteristic mass value from the average integrated absorbance reading and injection volume of the analyzed working standard. Compare this value to the manufacturer's suggested value as a check of proper instrument operation.

(vi) Analyze the reagent blank, working standard, and sample solutions. Record and label the peak area (abs-sec) readings and the peak and background peak profiles on the printer/plotter.

(vii) It is recommended the entire series of working standards be analyzed at the beginning and end of the analysis of a set of samples. Establish a concentration-response curve and ensure standard readings agree with each other and are reproducible. Also, analyze a working standard after every five or six samples to monitor the performance of the system. Standard readings should agree within $\pm 15\%$ of the readings obtained at the beginning of the analysis.

(viii) Bracket the sample readings with standards during the analysis. If the peak area reading of a sample is above the peak area reading of the highest working standard, dilute the sample with the diluting solution and reanalyze. Use the appropriate dilution factor in the calculations.

(ix) Repeat the analysis of approximately ten percent of the samples for a check of precision.

(x) If possible, analyze quality control samples from an independent source as a check of analytical recovery and precision.

(xi) Record the final instrument settings at the end of the analysis. Date and label the output.

(l) Calculations.

Note: Standards used for HGA analysis are in ng/mL. Total amounts of cadmium from calculations will be in ng (not μ g) unless a prior conversion is made.

(i) Correct for baseline drift and noise in flame AAS analysis by subtracting each baseline absorbance reading from its corresponding working standard or sample absorbance reading to obtain the net absorbance reading for each standard and sample.

(ii) Use a least squares regression program to plot a concentration-response curve of net absorbance reading (or

peak area for HGA analysis) versus concentration (μ g/mL or ng/mL) of cadmium in each working standard.

(iii) Determine the concentration (μ g/mL or ng/mL) of cadmium in each sample from the resulting concentration-response curve. If the concentration of cadmium in a sample solution is less than three times the quantitative detection limit (0.04 μ g/mL (40 ng/mL) for the instrumentation used in the validation of the method) and if consecutive samples were taken on one employee and the sample results are to be averaged with other samples to determine a single TWA, reanalyze the sample by AAS-HGA as described in (k) of this subsection and report the AAS-HGA analytical results.

(iv) Calculate the total amount (μ g or ng) of cadmium in each sample from the sample solution volume (mL):

$$W=(C)(\text{sample vol, mL})(DF)$$

Where: W=Total cadmium in sample

C=Calculated concentration of cadmium

DF=Dilution Factor (if applicable)

(v) Make a blank correction for each air sample by subtracting the total amount of cadmium in the corresponding blank sample from the total amount of cadmium in the sample.

(vi) Calculate the concentration of cadmium in an air sample (mg/m^3 or $\mu\text{g}/\text{m}^3$) by using one of the following equations:

$$\text{mg}/\text{m}^3=W_{bc}/(\text{Air vol sampled, L})$$

or

$$\mu\text{g}/\text{m}^3=(W_{bc})(1,000 \text{ ng}/\mu\text{g})/(\text{Air vol sampled, L})$$

Where: W_{bc} =blank corrected total μ g cadmium in the sample.
(1 μ g=1,000 ng)

(4) Backup data.

(a) Introduction.

(i) The purpose of this evaluation is to determine the analytical method recovery, working standard range, and qualitative and quantitative detection limits of the two atomic absorption analytical techniques included in this method. The evaluation consisted of the following experiments:

(A) An analysis of twenty-four samples (six samples each at 0.1, 0.5, 1 and 2 times the TWA-PEL) for the analytical method recovery study of the flame AAS analytical technique.

(B) An analysis of eighteen samples (six samples each at 0.5, 1 and 2 times the action level TWA-PEL) for the analytical method recovery study of the AAS-HGA analytical technique.

(C) Multiple analyses of the reagent blank and a series of standard solutions to determine the working standard range and the qualitative and quantitative detection limits for both atomic absorption analytical techniques.

(ii) The analytical method recovery results at all test levels were calculated from concentration-response curves and statistically examined for outliers at the ninety-nine percent confidence level. Possible outliers were determined using the Treatment of Outliers test (subsection (5)(j) of this section). In addition, the sample results of the two analytical techniques, at 0.5, 1.0 and 2.0 times their target concentrations, were tested for homogeneity of variances also at the ninety-nine percent confidence level. Homogeneity of the coefficients of variation was determined using the Bartlett's test (subsection (5)(k) of this section). The overall analytical error (OAE) at the ninety-five percent confidence level was

calculated using the equation (subsection (5)(l) of this section):

$$\text{OAE} = \pm [|\text{Bias}| + (1.96)(\text{CV}_1(\text{pooled}))(100\%)]$$

(iii) A derivation of the International Union of Pure and Applied Chemistry (IUPAC) detection limit equation (subsection (5)(m) of this section) was used to determine the qualitative and quantitative detection limits for both atomic absorption analytical techniques:

$$C_{1d} = k(\text{sd})/m \quad (\text{Equation 1})$$

Where: C_{1d} = the smallest reliable detectable concentration an analytical instrument can determine at a given confidence level.

$k=3$ for the Qualitative Detection Limit at the 99.86% Confidence Level

$=10$ for the Quantitative Detection Limit at the 99.99% Confidence Level.

sd = standard deviation of the reagent blank (Rbl) readings.

m = analytical sensitivity or slope as calculated by linear regression.

(iv) Collection efficiencies of metallic fume and dust atmospheres on 0.8- μm mixed cellulose ester membrane filters are well documented and have been shown to be excellent (subsection (5)(k) of this section). Since elemental cadmium and the cadmium component of cadmium compounds are nonvolatile, stability studies of cadmium spiked MCEF samples were not performed.

(b) Equipment.

(i) A Perkin-Elmer (PE) Model 603 spectrophotometer equipped with a manual gas control system, a stainless steel nebulizer, a burner mixing chamber, a flow spoiler and a 10 cm (one-slot) burner head was used in the experimental validation of the flame AAS analytical technique. A PE cadmium hollow cathode lamp, operated at the manufacturer's recommended current setting for continuous operation (4 mA), was used as the source lamp. Instrument parameters are listed in subsection (6) of this section.

(ii) A PE Model 5100 spectrophotometer, Zeeman HGA-600 graphite furnace atomizer and AS-60 HGA autosampler were used in the experimental validation of the AAS-HGA analytical technique. The spectrophotometer was equipped with a PE Series 7700 professional computer and Model PR-310 printer. A PE System 2 cadmium electrodeless discharge lamp, operated at the manufacturer's recommended current setting for modulated operation (170 mA), was used as the source lamp. Instrument parameters are listed in subsection (7) of this section.

(c) Reagents.

(i) J.T. Baker Chem. Co. (Analyzed grade) concentrated nitric acid, 69.0-71.0%, and concentrated hydrochloric acid, 36.5-38.0%, were used to prepare the samples and standards.

(ii) Ammonium phosphate, monobasic, $(\text{NH}_4\text{H}_2\text{PO}_4)$ $\text{NH}_4\text{H}_2\text{PO}_4$ and magnesium nitrate hexahydrate, $\text{Mg}(\text{NO}_3)_2 \cdot 6\text{H}_2\text{O}$ both manufactured by the Mallinckrodt Chem. Co., were used to prepare the matrix modifier for AAS-HGA analysis.

(d) Standard preparation for flame AAS analysis.

(i) Dilute stock solutions: Prepared 0.01, 0.1, 1, 10 and 100 $\mu\text{g}/\text{mL}$ cadmium standard stock solutions by making appropriate serial dilutions of a commercially available 1,000 $\mu\text{g}/\text{mL}$ cadmium standard stock solution (RICCA Chemical Co., Lot# A102) with the diluting solution (4% HNO_3 , 0.4% HCl).

(ii) Analyzed standards: Prepared cadmium standards in the range of 0.001 to 2.0 $\mu\text{g}/\text{mL}$ by pipetting 2 to 10 mL of the appropriate dilute cadmium stock solution into a 100-mL volumetric flask and diluting to volume with the diluting solution. (See subsection (3)(g)(ii) of this section).

(e) Standard preparation for AAS-HGA analysis.

(i) Dilute stock solutions: Prepared 1, 10, 100 and 1,000 ng/mL cadmium standard stock solutions by making appropriate serial dilutions of a commercially available 1,000 $\mu\text{g}/\text{mL}$ cadmium standard stock solution (J.T. Baker Chemical Co., Intra-analyzed, Lot# D22642) with the diluting solution (4% HNO_3 , 0.4% HCl).

(ii) Analyzed standards: Prepared cadmium standards in the range of 0.1 to 40 ng/mL by pipetting 2 to 10 mL of the appropriate dilute cadmium stock solution into a 100-mL volumetric flask and diluting to volume with the diluting solution. (See subsection (3)(h)(ii) of this section).

(f) Detection limits and standard working range for flame AAS analysis.

(i) Analyzed the reagent blank solution and the entire series of cadmium standards in the range of 0.001 to 2.0 $\mu\text{g}/\text{mL}$ three to six times according to the instructions given in subsection (3)(j) of this section. The diluting solution (4% HNO_3 , 0.4% HCl) was used as the reagent blank. The integration time on the PE 603 spectrophotometer was set to 3.0 seconds and a four-fold expansion of the absorbance reading of the 2.0 $\mu\text{g}/\text{mL}$ cadmium standard was made prior to analysis. The 2.0 $\mu\text{g}/\text{mL}$ standard gave a net absorbance reading of 0.350 abs. units prior to expansion in agreement with the manufacturer's specifications (subsection (5)(f) of this section).

(ii) The net absorbance readings of the reagent blank and the low concentration Cd standards from 0.001 to 0.1 $\mu\text{g}/\text{mL}$ and the statistical analysis of the results are shown in Table 1. The standard deviation, sd , of the six net absorbance readings of the reagent blank is 1.05 abs. units. The slope, m , as calculated by a linear regression plot of the net absorbance readings (shown in Table 2) of the 0.02 to 1.0 $\mu\text{g}/\text{mL}$ cadmium standards versus their concentration is 772.7 abs. units/ $(\mu\text{g}/\text{mL})$.

(iii) If these values for sd and the slope, m , are used in Eqn. 1 ((a)(ii) of this subsection), the qualitative and quantitative detection limits as determined by the IUPAC Method are:

$$C_{1d} = (3)(1.05 \text{ abs. units}) / (772.7 \text{ abs. units}/(\mu\text{g}/\text{mL})) = 0.0041 \mu\text{g}/\text{mL}$$

for the qualitative detection limit.

$$C_{1d} = (10)(1.05 \text{ abs. units}) / (772.7 \text{ abs. units}/(\mu\text{g}/\text{mL})) = 0.014 \mu\text{g}/\text{mL}$$

for the quantitative detection limit.

The qualitative and quantitative detection limits for the flame AAS analytical technique are 0.041 μg and 0.14 μg cadmium, respectively, for a 10 mL solution volume. These correspond, respectively, to 0.2 $\mu\text{g}/\text{m}^3$ and 0.70 $\mu\text{g}/\text{m}^3$ for a 200 L air volume.

(iv) The recommended Cd standard working range for flame AAS analysis is 0.02 to 2.0 $\mu\text{g}/\text{mL}$. The net absorbance readings of the reagent blank and the recommended working range standards and the statistical analysis of the results are shown in Table 2. The standard of lowest concentration in the working range, 0.02 $\mu\text{g}/\text{mL}$, is slightly greater than the calculated quantitative detection limit, 0.014 $\mu\text{g}/\text{mL}$. The standard of highest concentration in the

working range, 2.0 µg/mL, is at the upper end of the linear working range suggested by the manufacturer (subsection (5)(f) of this section). Although the standard net absorbance readings are not strictly linear at concentrations above 0.5 µg/mL, the deviation from linearity is only about ten percent at the upper end of the recommended standard working range. The deviation from linearity is probably caused by the four-fold expansion of the signal suggested in the method. As shown in Table 2, the precision of the standard net absorbance readings are excellent throughout the recommended working range; the relative standard deviations of the readings range from 0.009 to 0.064.

(g) Detection limits and standard working range for AAS-HGA analysis.

(i) Analyzed the reagent blank solution and the entire series of cadmium standards in the range of 0.1 to 40 ng/mL according to the instructions given in subsection (3)(k) of this section. The diluting solution (4% HNO₃, 0.4% HCl) was used as the reagent blank. A fresh aliquot of the reagent blank and of each standard was used for every analysis. The experimental characteristic mass value was 0.41 pg, calculated from the average peak area (abs-sec) reading of the 5 ng/mL standard which is approximately midway in the linear portion of the working standard range. This agreed within twenty percent with the characteristic mass value, 0.35 pg, listed by the manufacturer of the instrument (subsection (5)(b) of this section).

(ii) The peak area (abs-sec) readings of the reagent blank and the low concentration Cd standards from 0.1 to 2.0 ng/mL and statistical analysis of the results are shown in Table 3. Five of the reagent blank peak area readings were zero and the sixth reading was 1 and was an outlier. The near lack of a blank signal does not satisfy a strict interpretation of the IUPAC method for determining the detection limits. Therefore, the standard deviation of the six peak area readings of the 0.2 ng/mL cadmium standard, 0.75 abs-sec, was used to calculate the detection limits by the IUPAC method. The slope, *m*, as calculated by a linear regression plot of the peak area (abs-sec) readings (shown in Table 4) of the 0.2 to 10 ng/mL cadmium standards versus their concentration is 51.5 abs-sec/(ng/mL).

(iii) If 0.75 abs-sec (sd) and 51.5 abs-sec/(ng/mL) (*m*) are used in Eqn. 1 ((a)(iii) of this subsection), the qualitative and quantitative detection limits as determined by the IUPAC method are:

$$C_{ld} = (3)(0.75 \text{ abs-sec}) / (51.5 \text{ abs-sec}/(\text{ng/mL})) = 0.044 \text{ ng/mL for the qualitative detection limit.}$$

$$C_{ld} = (10)(0.75 \text{ abs-sec}) / (51.5 \text{ abs-sec}/(\text{ng/mL})) = 0.15 \text{ ng/mL for the quantitative detection limit. The qualitative and quantitative detection limits for the AAS-HGA analytical technique are 0.44 ng and 1.5 ng cadmium, respectively, for a 10 mL solution volume. These correspond, respectively, to 0.007 µg/m³ and 0.025 µg/m³ for a 60 L air volume.}$$

(iv) The peak area (abs-sec) readings of the Cd standards from 0.2 to 40 ng/mL and the statistical analysis of the results are given in Table 4. The recommended standard working range for AAS-HGA analysis is 0.2 to 20 ng/mL. The standard of lowest concentration in the recommended working range is slightly greater than the calculated quantitative detection limit, 0.15 ng/mL. The deviation from linearity of the peak area readings of the 20 ng/mL standard, the highest concentration standard in the recommended

working range, is approximately ten percent. The deviations from linearity of the peak area readings of the thirty and forty ng/mL standards are significantly greater than ten percent. As shown in Table 4, the precision of the peak area readings are satisfactory throughout the recommended working range; the relative standard deviations of the readings range from 0.025 to 0.083.

(h) Analytical method recovery for flame AAS analysis.

(i) Four sets of spiked MCEF samples were prepared by injecting 20 µL of 10, 50, 100 and 200 µg/mL dilute cadmium stock solutions on 37 mm diameter filters (part No. AAWP 037 00, Millipore Corp., Bedford, MA) with a calibrated micropipet. The dilute stock solutions were prepared by making appropriate serial dilutions of a commercially available 1,000 µg/mL cadmium standard stock solution (RICCA Chemical Co., Lot # A102) with the diluting solution (4% HNO₃, 0.4% HCl). Each set contained six samples and a sample blank. The amount of cadmium in the prepared sets were equivalent to 0.1, 0.5, 1.0 and 2.0 times the TWA PEL target concentration of 5 µg/m³ for a 400 L air volume.

(ii) The air-dried spiked filters were digested and analyzed for their cadmium content by flame atomic absorption spectroscopy (AAS) following the procedure described in subsection (3) of this section. The 0.02 to 2.0 µg/mL cadmium standards (the suggested working range) were used in the analysis of the spiked filters.

(iii) The results of the analysis are given in Table 5. One result at 0.5 times the TWA PEL target concentration was an outlier and was excluded from statistical analysis. Experimental justification for rejecting it is that the outlier value was probably due to a spiking error. The coefficients of variation for the three test levels at 0.5 to 2.0 times the TWA PEL target concentration passed the Bartlett's test and were pooled.

(iv) The average recovery of the six spiked filter samples at 0.1 times the TWA PEL target concentration was 118.2% with a coefficient of variation (CV1) of 0.128. The average recovery of the spiked filter samples in the range of 0.5 to 2.0 times the TWA target concentration was 104.0% with a pooled coefficient of variation (CV1) of 0.010. Consequently, the analytical bias found in these spiked sample results over the tested concentration range was +4.0% and the OAE was ±6.0%.

(i) Analytical method recovery for AAS-HGA analysis.

(i) Three sets of spiked MCEF samples were prepared by injecting 15 µL of 5, 10 and 20 µg/mL dilute cadmium stock solutions on 37 mm diameter filters (part no. AAWP 037 00, Millipore Corp., Bedford, MA) with a calibrated micropipet. The dilute stock solutions were prepared by making appropriate serial dilutions of a commercially available certified 1,000 µg/mL cadmium standard stock solution (Fisher Chemical Co., Lot# 913438-24) with the diluting solution (4% HNO₃, 0.4% HCl). Each set contained six samples and a sample blank. The amount of cadmium in the prepared sets were equivalent to 0.5, 1 and 2 times the action level TWA target concentration of 2.5 µg/m³ for a 60 L air volume.

(ii) The air-dried spiked filters were digested and analyzed for their cadmium content by flameless atomic absorption spectroscopy using a heated graphite furnace atomizer following the procedure described in subsection (3)

of this section. A five-fold dilution of the spiked filter samples at 2 times the action level TWA was made prior to their analysis. The 0.05 to 20 ng/mL cadmium standards were used in the analysis of the spiked filters.

(iii) The results of the analysis are given in Table 6. There were no outliers. The coefficients of variation for the three test levels at 0.5 to 2.0 times the action level TWA PEL passed the Bartlett's test and were pooled. The average recovery of the spiked filter samples was 94.2% with a pooled coefficient of variation (CV1) of 0.043. Consequently, the analytical bias was -5.8% and the OAE was ±14.2%.

(j) Conclusions.

The experiments performed in this evaluation show the two atomic absorption analytical techniques included in this method to be precise and accurate and have sufficient sensitivity to measure airborne cadmium over a broad range of exposure levels and sampling periods.

(5) References.

(a) *Slavin, W. Graphite Furnace AAS—A Source Book; Perkin-Elmer Corp., Spectroscopy Div.: Ridgefield, CT, 1984; p. 18 and pp. 83-90.*

(b) *Grosser, Z., Ed.; Techniques in Graphite Furnace Atomic Absorption Spectrophotometry; Perkin-Elmer Corp., Spectroscopy Div.: Ridgefield, CT, 1985.*

(c) *Occupational Safety and Health Administration Salt Lake Technical Center: Metal and Metalloid Particulate in Workplace Atmospheres (Atomic Absorption) (USDOL/OSHA Method No. ID-121). In OSHA Analytical Methods Manual 2nd ed. Cincinnati, OH: American Conference of Governmental Industrial Hygienists, 1991.*

(d) *Occupational Safety and Health Administration Salt Lake Technical Center: Metal and Metalloid Particulate in Workplace Atmospheres (ICP) (USDOL/OSHA Method No. ID-125G). In OSHA Analytical Methods Manual 2nd ed. Cincinnati, OH: American Conference of Governmental Industrial Hygienists, 1991.*

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(h) *Occupational Safety and Health Administration Salt Lake Technical Center: Standard Operating Procedure for Atomic Absorption. Salt Lake City, UT: USDOL/OSHA-SLTC, In progress.*

(i) *Occupational Safety and Health Administration Salt Lake Technical Center: AAS-HGA Standard Operating Procedure. Salt Lake City, UT: USDOL/OSHA-SLTC, In progress.*

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(l) *Occupational Safety and Health Administration Analytical Laboratory: Precision and Accuracy Data Protocol for Laboratory Validations. In OSHA Analytical Methods Manual 1st ed. Cincinnati, OH: American Conference of Governmental Industrial Hygienists (Pub. No. ISBN: 0-936712-66-X), 1985.*

(m) *Long, G.L. and J.D. Winefordner: Limit of Detection—A Closer Look at the IUPAC Definition. Anal. Chem. 55:712A-724A (1983).*

(n) *American Conference of Governmental Industrial Hygienists: Documentation of Threshold Limit Values and Biological Exposure Indices. 5th ed. Cincinnati, OH: American Conference of Governmental Industrial Hygienists, 1986.*

Table 1—Cd Detection Limit Study
[Flame AAS Analysis]

STD (µg/mL)	Absorbance reading at 228.8 nm		Statistical analysis
Reagent blank	5	2	n=6. mean=3.50. std dev=1.05. CV=0.30.
	4	3	
	4	3	
0.001	6	6	n=6. mean=5.00. std dev=1.67. CV=0.335.
	2	4	
	6	6	
0.002	5	7	n=6. mean=5.50. std dev=1.76. CV=0.320.
	7	3	
	7	4	
0.005	7	7	n=6. mean=7.33. std dev=0.817. CV=0.111.
	8	8	
	8	6	
0.010	10	9	n=6. mean=10.3. std dev=1.37. CV=0.133.
	10	13	
	10	10	
0.020	20	23	n=6. mean=20.8. std dev=1.33. CV=0.064.
	20	22	
	20	20	
0.050	42	42	n=6. mean=42.5. std dev=1.22. CV=0.029.
	42	42	
	42	45	
0.10		84	n=3. mean=82.3. std dev=2.08. CV=0.025.
		80	
		83	

Table 2—Cd Standard Working Range

STD (µg/mL)	Absorbance reading at 228.8 nm		Statistical analysis	0.5	28 33 26 28 28 30	n=6. mean=28.8. std dev=2.4. CV=0.083.
	Study					
[Flame AAS Analysis]						
				1.0	52 55 56 58 54 54	n=6. mean=54.8. std dev=2.0. CV=0.037.
Reagent blank	5 2 4 3 4 3		n=6. mean=3.50. std dev=1.05. CV=0.30.	2.0	101 112 110 110 110 110	n=6. mean=108.8. std dev=3.9. CV=0.036.
0.020	20 23 20 22 20 20		n=6. mean=20.8. std dev=1.33.			
0.050	42 42 42 42 42 45		n=6. mean=42.5. std dev=1.22. CV=0.029.			
0.10	84 80 83		n=3. mean=82.3. std dev=2.08. CV=0.025.			
0.20	161 161 158		n=3. mean=160.0. std dev=1.73. CV=0.011.			
0.50	391 389 393		n=3. mean=391.0. std dev=2.00. CV=0.005.			
1.00	760 748 752		n=3. mean=753.3. std dev=6.11. CV=0.008.			
2.00	1416 1426 1401		n=3. mean=1414.3. std dev=12.6. CV=0.009.			

Table 4—Cd Standard Working Range

STD (ng/mL)	Peak area readings x 10 ³ at 228.8 nm		Statistical analysis
	Study		
[AAS-HGA Analysis]			
0.2	11 13 11 12 12 12		n=6. mean=11.8. std dev=0.75. CV=0.064.
0.5	28 33 26 28 28 30		n=6. mean=28.8. std dev=2.4. CV=0.083.
1.0	52 55 56 58 54 54		n=6. mean=54.8. std dev=2.0. CV=0.037.
2.0	101 112 110 110 110 110		n=6. mean=108.8. std dev=3.9. CV=0.036.
5.0	247 265 268 275 259 279		n=6. mean=265.5. std dev=11.5. CV=0.044.
10.0	495 520 523 513 516 533		n=6. mean=516.7. std dev=12.7. CV=0.025.
20.0	950 953 951 958 949 890		n=6. mean=941.8. std dev=25.6. CV=0.027.
30.0	1269 1291 1303 1307 1295 1290		n=6. mean=1293. std dev=13.3. CV=0.010.
40.0	1505 1567 1535 1567 1566 1572		n=6. mean=1552. std dev=26.6. CV=0.017.

Table 3—Cd Detection Limit Study

STD (ng/mL)	Peak area readings x 10 ³ at 228.8 nm		Statistical analysis
	Study		
[AAS-HGA Analysis]			
Reagent blank	0 0 0 1 0 0		n=6. mean=0.167. std dev=0.41. CV=2.45.
0.1	8 6 5 7 13 7		n=6. mean=7.7. std dev=2.8. CV=0.366.
0.2	11 13 11 12 12 12		n=6. mean=11.8. std dev=0.75. CV=0.064.

Table 5—Analytical Method Recovery
[Flame AAS Analysis]

Test level	0.5x			1.0x			2.0x		
	µg taken	µg found	Percent rec.	µg taken	µg found	Percent rec.	µg taken	µg found	Percent rec.
1.00	1.0715	107.2		2.00	2.0688	103.4	4.00	4.1504	103.8
1.00	1.0842	108.4		2.00	2.0174	100.9	4.00	4.1108	102.8
1.00	1.0842	108.4		2.00	2.0431	102.2	4.00	4.0581	101.5
1.00	*1.0081	*100.8		2.00	2.0431	102.2	4.00	4.0844	102.1
1.00	1.0715	107.2		2.00	2.0174	100.9	4.00	4.1504	103.8
1.00	1.0842	108.4		2.00	2.0045	100.2	4.00	4.1899	104.7

n= 5 6 6
 mean= 107.9 101.6 103.1
 std dev= 0.657 1.174 1.199
 CV₁= 0.006 0.011 0.012
 CV₁
 (pooled)= 0.010

* Rejected as an outlier—this value did not pass the outlier T-test at the 99% confidence level.

Test level 0.1x

µg taken	µg found	Percent rec.
0.200	0.2509	125.5
0.200	0.2509	125.5
0.200	0.2761	138.1
0.200	0.2258	112.9
0.200	0.2258	112.9
0.200	0.1881	94.1

n= 6
 mean= 118.2
 std dev= 15.1
 CV₁= 0.128

Table 6—Analytical Method Recovery
[AAS-HGA analysis]

Test level	0.5x			1.0x			2.0x		
	ng taken	ng found	Percent rec.	ng taken	ng found	Percent rec.	ng taken	ng found	Percent rec.
75	71.23	95.0		150	138.00	92.0	300	258.43	86.1
75	71.47	95.3		150	138.29	92.2	300	258.46	86.2
75	70.02	93.4		150	136.30	90.9	300	280.55	93.5
75	77.34	103.1		150	146.62	97.7	300	288.34	96.1
75	78.32	104.4		150	145.17	96.8	300	261.74	87.2
75	71.96	95.9		150	144.88	96.6	300	277.22	92.4

n= 6 6 6
 mean= 97.9 94.4 90.3
 std dev= 4.66 2.98 4.30
 CV₁= 0.048 0.032 0.048
 CV₁
 (pooled)=0.043

- (6) Instrumental Parameters for Flame AAS Analysis
 Atomic Absorption Spectrophotometer
 (Perkin-Elmer Model 603)
 Flame: Air/Acetylene—lean, blue
 Oxidant Flow: 55
 Fuel Flow: 32
 Wavelength: 228.8 nm
 Slit: 4 (0.7 nm)
 Range: UV

Signal: Concentration (4 exp)
 Integration Time: 3 sec

- (7) Instrumental Parameters for HGA Analysis
 Atomic Absorption Spectrophotometer
 (Perkin-Elmer Model 5100)
 Signal Type: Zeeman AA
 Slitwidth: 0.7 nm
 Wavelength: 228.8 nm
 Measurement: Peak Area
 Integration Time: 6.0 sec
 BOC Time: 5 sec BOC=Background Offset
 Correction. Zeeman Graphite Furnace
 (Perkin-Elmer Model HGA-600)

Step	Ramp time (sec)	Hold time (sec)	Temp. (°C)	Argon flow (mL/min)	Read (sec)
1) Predry	5	10	90	300	
2) Dry	30	10	140	300	
3) Char	10	20	900	300	
4) Cool Down	1	8	30	300	
5) Atomize	0	5	1600	0	-1
6) Burnout	1	8	2500	300	

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 (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

WAC 296-67-005 Definitions. "Atmospheric tank" means a storage tank which has been designed to operate at pressures from atmospheric through 0.5 p.s.i.g. (pounds per square inch gauge, 3.45 Kpa).

"Boiling point" means the boiling point of a liquid at a pressure of 14.7 pounds per square inch absolute (p.s.i.a.) (760 mm.). For the purposes of this part, where an accurate boiling point is unavailable for the material in question, or for mixtures which do not have a constant boiling point, the 10 percent point of a distillation performed in accordance with the Standard Method of Test for Distillation of Petroleum Products, ASTM D-86-62, may be used as the boiling point of the liquid.

"Catastrophic release" means a major uncontrolled emission, fire, or explosion, involving one or more highly hazardous chemicals, that presents serious danger to employees in the workplace.

"Facility" means the buildings, containers, or equipment which contain a process.

"Highly hazardous chemical" means a substance possessing toxic, reactive, flammable, or explosive properties and specified by WAC 296-67-001 (2)(a).

"Hot work" means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

"Normally unoccupied remote facility" means a facility which is operated, maintained, or serviced by employees who visit the facility only periodically to check its operation and to perform necessary operating or maintenance tasks. No employees are permanently stationed at the facility.

Facilities meeting this definition are not contiguous with, and must be geographically remote from all other buildings, processes, or persons.

"Process" means any activity involving a highly hazardous chemical including any use, storage, manufacturing, handling, or the on-site movement of such chemicals, or combination of these activities. For purposes of this definition, any group of vessels which are interconnected and separate vessels which are located such that a highly hazardous chemical could be involved in a potential release shall be considered a single process.

"Replacement in kind" means a replacement which satisfies the design specification.

"Trade secret" means any confidential formula, pattern, process, device, information, or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. ((WAC 296-67-293, Appendix D)) Chapter 296-62 WAC, Part C, sets out the criteria to be used in evaluating trade secrets:

AMENDATORY SECTION (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

WAC 296-67-285 Appendix A—List of highly hazardous chemicals, toxics and reactives (mandatory). This appendix contains a listing of toxic and reactive highly hazardous chemicals which present a potential for a catastrophic event at or above the threshold quantity.

CHEMICAL NAME	CAS*	TQ**
Acetaldehyde	75-07-0	2500
Acrolein (2-Propenal)	107-02-8	150
Acrylyl Chloride	814-68-6	250
Allyl Chloride	107-05-1	1000
Allylamine	107-11-9	1000
Alkylaluminums	Varies	5000
Ammonia, Anhydrous	7664-41-7	10000
Ammonia solutions (((≠)) ≥44% ammonia by weight)	7664-41-7	15000
Ammonium Perchlorate	7790-98-9	7500
Ammonium Permanganate	7787-36-2	7500
Arsine (also called Arsenic Hydride)	7784-42-1	100
Bis(Chloromethyl) Ether	542-88-1	100
Boron Trichloride	10294-34-5	2500
Boron Trifluoride	7637-07-2	250
Bromine	7726-95-6	1500
Bromine Chloride	13863-41-7	1500
Bromine Pentafluoride	7789-30-2	2500
Bromine Trifluoride	7787-71-5	15000
3-Bromopropyne (also called Propargyl Bromide)	106-96-7	100
Butyl Hydroperoxide (Tertiary)	75-91-2	5000
Butyl Perbenzoate (Tertiary)	614-45-9	7500
Carbonyl Chloride (see Phosgene)	75-44-5	100
Carbonyl Fluoride	353-50-4	2500
Cellulose Nitrate (concentration ((≠)) ≥12.6% nitrogen)	9004-70-0	2500
Chlorine	7782-50-5	1500
Chlorine Dioxide	10049-04-4	1000
Chlorine Pentafluoride	13637-63-3	1000
Chlorine Trifluoride	7790-91-2	1000
Chlorodiethylaluminum (also called Diethylaluminum Chloride)	96-10-6	5000
1-Chloro-2,4-Dinitrobenzene	97-00-7	5000
Chloromethyl Methyl Ether	107-30-2	500
Chloropicrin	76-06-2	500
Chloropicrin and Methyl Bromide mixture	None	1500
Chloropicrin and Methyl Chloride mixture	None	1500
Cumene Hydroperoxide	80-15-9	5000

Cyanogen	460-19-5	2500
Cyanogen Chloride	506-77-4	500
Cyanuric Fluoride	675-14-9	100
Diacetyl Peroxide (Concentration ((≠)) ≥70%)	110-22-5	5000
Diazomethane	334-88-3	500
Dibenzoyl Peroxide	94-36-0	7500
Diborane	19287-45-7	100
Dibutyl Peroxide (Tertiary)	110-05-4	5000
Dichloro Acetylene	7572-29-4	250
Dichlorosilane	4109-96-0	2500
Diethylzinc	557-20-0	10000
Diisopropyl Peroxydicarbonate	105-64-6	7500
Dilaluroyl Peroxide	105-74-8	7500
Dimethyldichlorosilane	75-78-5	1000
Dimethylhydrazine, 1,1-	57-14-7	1000
Dimethylamine, Anhydrous	124-40-3	2500
2,4-Dinitroaniline	97-02-9	5000
Ethyl Methyl Ketone Peroxide (also Methyl Ethyl Ketone Peroxide; concentration ((≠)) ≥60%)	1338-23-4	5000
Ethyl Nitrite	109-95-5	5000
Ethylamine	75-04-7	7500
Ethylene Fluorohydrin	371-62-0	100
Ethylene Oxide	75-21-8	5000
Ethyleneimine	151-56-4	1000
Fluorine	7782-41-4	1000
Formaldehyde (Formalin)	50-00-0	1000
Furan	110-00-9	500
Hexafluoroacetone	684-16-2	5000
Hydrochloric Acid, Anhydrous	7647-01-0	5000
Hydrofluoric Acid, Anhydrous	7664-39-3	1000
Hydrogen Bromide	10035-10-6	5000
Hydrogen Chloride	7647-01-0	5000
Hydrogen Cyanide, Anhydrous	74-90-8	1000
Hydrogen Fluoride	7664-39-3	1000
Hydrogen Peroxide (52% by weight or greater)	7722-84-1	7500
Hydrogen Selenide	7783-07-5	150
Hydrogen Sulfide	7783-06-4	1500
Hydroxylamine	7803-49-8	2500
Iron, Pentacarbonyl	13463-40-6	250
Isopropylamine	75-31-0	5000
Ketene	463-51-4	100
Methacrylaldehyde	78-85-3	1000
Methacryloyl Chloride	920-46-7	150
Methacryloyloxyethyl Isocyanate	30674-80-7	100
Methyl Acrylonitrile	126-98-7	250
Methylamine, Anhydrous	74-89-5	1000
Methyl Bromide	74-83-9	2500
Methyl Chloride	74-87-3	15000
Methyl Chloroformate	79-22-1	500
Methyl Ethyl Ketone Peroxide (concentration ((≠)) ≥60%)	1338-23-4	5000
Methyl Fluoroacetate	453-18-9	100
Methyl Fluorosulfate	421-20-5	100
Methyl Hydrazine	60-34-4	100
Methyl Iodide	74-88-4	7500
Methyl Isocyanate	624-83-9	250
Methyl Mercaptan	74-93-1	5000
Methyl Vinyl Ketone	79-84-4	100
Methyltrichlorosilane	75-79-6	500
Nickel Carbonyl (Nickel Tetracarbonyl)	13463-39-3	150
Nitric Acid (94.5% by weight or greater)	7697-37-2	500
Nitric Oxide	10102-43-9	250
Nitroaniline (para Nitroaniline)	100-01-6	5000
Nitromethane	75-52-5	2500
Nitrogen Dioxide	10102-44-0	250
Nitrogen Oxides (NO; NO2; N2O4; N2O3)	10102-44-0	250
Nitrogen Tetroxide (also called Nitrogen Peroxide)	10544-72-6	250
Nitrogen Trifluoride	7783-54-2	5000
Nitrogen Trioxide	10544-73-7	250
Oleum (65% to 80% by weight; also called Fuming Sulfuric Acid)	8014-94-7	1000
Osmium Tetroxide	20816-12-0	100
Oxygen Difluoride (Fluorine Monoxide)	7783-41-7	100

Ozone	10028-15-6	100
Pentaborane	19624-22-7	100
Peracetic Acid (concentration ((≠)) ≥60% Acetic Acid; also called Peroxyacetic Acid)	79-21-0	1000
Perchloric Acid (concentration ((≠)) ≥60% by weight)	7601-90-3	5000
Perchloromethyl Mercaptan	594-42-3	150
Perchloryl Fluoride	7616-94-6	5000
Peroxyacetic Acid (concentration ((≠)) ≥60% Acetic Acid; also called Peracetic Acid)	79-21-0	1000
Phosgene (also called Carbonyl Chloride)	75-44-5	100
Phosphine (Hydrogen Phosphide)	7803-51-2	100
Phosphorus Oxychloride (also called Phosphoryl Chloride)	10025-87-3	1000
Phosphorus Trichloride	7719-12-2	1000
Phosphoryl Chloride (also called Phosphorus Oxychloride)	10025-87-3	1000
Propargyl Bromide	106-96-7	100
Propyl Nitrate	627-3-4	2500
Sarin	107-44-8	100
Selenium Hexafluoride	7783-79-1	1000
Stibine (Antimony Hydride)	7803-52-3	500
Sulfur Dioxide (liquid)	7446-09-5	1000
Sulfur Pentafluoride	5714-22-7	250
Sulfur Tetrafluoride	7783-60-0	250
Sulfur Trioxide (also called Sulfuric Anhydride)	7446-11-9	1000
Sulfuric Anhydride (also called Sulfur Trioxide)	7446-11-9	1000
Tellurium Hexafluoride	7783-80-4	250
Tetrafluoroethylene	116-14-3	5000
Tetrafluorohydrazine	10036-47-2	5000
Tetramethyl Lead	75-74-1	1000
Thionyl Chloride	7719-09-7	250
Trichloro (chloromethyl) Silane	1558-25-4	100
Trichloro (dichlorophenyl) Silane	27137-85-5	2500
Trichlorosilane	10025-78-2	5000
Trifluorochloroethylene	79-38-9	10000
Trimethoxysilane	2487-90-3	1500

* Chemical Abstract Service Number.

** Threshold Quantity in Pounds (Amount necessary to be covered by this standard).

AMENDATORY SECTION (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

WAC 296-67-291 Appendix C—Compliance guidelines and recommendations for process safety management (nonmandatory). This appendix serves as a nonmandatory guideline to assist employers and employees in complying with the requirements of this section, as well as provides other helpful recommendations and information. Examples presented in this appendix are not the only means of achieving the performance goals in the standard. This appendix neither adds nor detracts from the requirements of the standard.

(1) Introduction to process safety management. The major objective of process safety management of highly hazardous chemicals is to prevent unwanted releases of hazardous chemicals especially into locations which could expose employees and others to serious hazards. An effective process safety management program requires a systematic approach to evaluating the whole process. Using this approach the process design, process technology, operational and maintenance activities and procedures, nonroutine activities and procedures, emergency preparedness plans and procedures, training programs, and other elements which impact the process are all considered in the evaluation. The various lines of defense that have been incorporat-

ed into the design and operation of the process to prevent or mitigate the release of hazardous chemicals need to be evaluated and strengthened to assure their effectiveness at each level. Process safety management is the proactive identification, evaluation and mitigation or prevention of chemical releases that could occur as a result of failures in process, procedures, or equipment. The process safety management standard targets highly hazardous chemicals that have the potential to cause a catastrophic incident. This standard as a whole is to aid employers in their efforts to prevent or mitigate episodic chemical releases that could lead to a catastrophe in the workplace and possibly to the surrounding community. To control these types of hazards, employers need to develop the necessary expertise, experiences, judgment, and proactive initiative within their workforce to properly implement and maintain an effective process safety management program as envisioned in the WISHA standard. This WISHA standard is required by the Clean Air Act amendments as is the Environmental Protection Agency's Risk Management Plan. Employers, who merge the two sets of requirements into their process safety management program, will better assure full compliance with each as well as enhancing their relationship with the local community. While WISHA believes process safety management will have a positive effect on the safety of employees in workplaces and also offers other potential benefits to employers (increased productivity), smaller businesses which may have limited resources available to them at this time, might consider alternative avenues of decreasing the risks associated with highly hazardous chemicals at their workplaces. One method which might be considered is the reduction in the inventory of the highly hazardous chemical. This reduction in inventory will result in a reduction of the risk or potential for a catastrophic incident. Also, employers including small employers may be able to establish more efficient inventory control by reducing the quantities of highly hazardous chemicals on site below the established threshold quantities. This reduction can be accomplished by ordering smaller shipments and maintaining the minimum inventory necessary for efficient and safe operation. When reduced inventory is not feasible, then the employer might consider dispersing inventory to several locations on site. Dispersing storage into locations where a release in one location will not cause a release in another location is a practical method to also reduce the risk or potential for catastrophic incidents.

(2) Employee involvement in process safety management. Section 304 of the Clean Air Act amendments states that employers are to consult with their employees and their representatives regarding the employers efforts in the development and implementation of the process safety management program elements and hazard assessments. Section 304 also requires employers to train and educate their employees and to inform affected employees of the findings from incident investigations required by the process safety management program. Many employers, under their safety and health programs, have already established means and methods to keep employees and their representatives informed about relevant safety and health issues and employers may be able to adapt these practices and procedures to meet their obligations under this standard. Employers who have not implemented an occupational safety and health

program may wish to form a safety and health committee of employees and management representatives to help the employer meet the obligations specified by this standard. These committees can become a significant ally in helping the employer to implement and maintain an effective process safety management program for all employees.

(3) Process safety information. Complete and accurate written information concerning process chemicals, process technology, and process equipment is essential to an effective process safety management program and to a process hazards analysis. The compiled information will be a necessary resource to a variety of users including the team that will perform the process hazards analysis as required under WAC 296-67-017; those developing the training programs and the operating procedures; contractors whose employees will be working with the process; those conducting the prestartup reviews; local emergency preparedness planners; and incurrence and enforcement officials. The information to be compiled about the chemicals, including process intermediates, needs to be comprehensive enough for an accurate assessment of the fire and explosion characteristics, reactivity hazards, the safety and health hazards to workers, and the corrosion and erosion effects on the process equipment and monitoring tools. Current material safety data sheet (MSDS) information can be used to help meet this requirement which must be supplemented with process chemistry information including runaway reaction and over pressure hazards if applicable. Process technology information will be a part of the process safety information package and it is expected that it will include diagrams of the type shown in WAC 296-67-289, Appendix B of this part as well as employer established criteria for maximum inventory levels for process chemicals; limits beyond which would be considered upset conditions; and a qualitative estimate of the consequences or results of deviation that could occur if operating beyond the established process limits. Employers are encouraged to use diagrams which will help users understand the process. A block flow diagram is used to show the major process equipment and interconnecting process flow lines and show flow rates, stream composition, temperatures, and pressures when necessary for clarity. The block flow diagram is a simplified diagram. Process flow diagrams are more complex and will show all main flow streams including valves to enhance the understanding of the process, as well as pressures and temperatures on all feed and product lines within all major vessels, in and out of headers and heat exchangers, and points of pressure and temperature control. Also, materials of construction information, pump capacities and pressure heads, compressor horsepower and vessel design pressures and temperatures are shown when necessary for clarity. In addition, major components of control loops are usually shown along with key utilities on process flow diagrams. Piping and instrument diagrams (P&IDs) may be the more appropriate type of diagrams to show some of the above details and to display the information for the piping designer and engineering staff. The ((PeDs)) P&IDs are to be used to describe the relationships between equipment and instrumentation as well as other relevant information that will enhance clarity. Computer software programs which do ((PeDs)) P&IDs or other diagrams useful to the information package, may be used to help meet this requirement. The information

pertaining to process equipment design must be documented. In other words, what were the codes and standards relied on to establish good engineering practice. These codes and standards are published by such organizations as the American Society of Mechanical Engineers, American Petroleum Institute, American National Standards Institute, National Fire Protection Association, American Society for Testing and Materials, National Board of Boiler and Pressure Vessel Inspectors, National Association of Corrosion Engineers, American Society of Exchange Manufacturers Association, and model building code groups. In addition, various engineering societies issue technical reports which impact process design. For example, the American Institute of Chemical Engineers has published technical reports on topics such as two phase flow for venting devices. This type of technically recognized report would constitute good engineering practice. For existing equipment designed and constructed many years ago in accordance with the codes and standards available at that time and no longer in general use today, the employer must document which codes and standards were used and that the design and construction along with the testing, inspection and operation are still suitable for the intended use. Where the process technology requires a design which departs from the applicable codes and standards, the employer must document that the design and construction is suitable for the intended purpose.

(4) Process hazard analysis. A process hazard analysis (PHA), sometimes called a process hazard evaluation, is one of the most important elements of the process safety management program. A PHA is an organized and systematic effort to identify and analyze the significance of potential hazards associated with the processing or handling of highly hazardous chemicals. A PHA provides information which will assist employers and employees in making decisions for improving safety and reducing the consequences of unwanted or unplanned releases of hazardous chemicals. A PHA is directed toward analyzing potential causes and consequences of fires, explosions, releases of toxic or flammable chemicals and major spills of hazardous chemicals. The PHA focuses on equipment, instrumentation, utilities, human actions (routine and nonroutine), and external factors that might impact the process. These considerations assist in determining the hazards and potential failure points or failure modes in a process. The selection of a PHA methodology or technique will be influenced by many factors including the amount of existing knowledge about the process. Is it a process that has been operated for a long period of time with little or no innovation and extensive experience has been generated with its use? Or, is it a new process or one which has been changed frequently by the inclusion of innovative features? Also, the size and complexity of the process will influence the decision as to the appropriate PHA methodology to use. All PHA methodologies are subject to certain limitations. For example, the checklist methodology works well when the process is very stable and no changes are made, but it is not as effective when the process has undergone extensive change. The checklist may miss the most recent changes and consequently the changes would not be evaluated. Another limitation to be considered concerns the assumptions made by the team or analyst. The PHA is dependent on good judgment and the assumptions made during the study need to be documented and understood by

the team and reviewer and kept for a future PHA. The team conducting the PHA need to understand the methodology that is going to be used. A PHA team can vary in size from two people to a number of people with varied operational and technical backgrounds. Some team members may only be a part of the team for a limited time. The team leader needs to be fully knowledgeable in the proper implementation of the PHA methodology that is to be used and should be impartial in the evaluation. The other full or part time team members need to provide the team with expertise in areas such as process technology, process design, operating procedures and practices, including how the work is actually performed, alarms, emergency procedures, instrumentation, maintenance procedures, both routine and nonroutine tasks, including how the tasks are authorized, procurement of parts and supplies, safety and health, and any other relevant subject as the need dictates. At least one team member must be familiar with the process. The ideal team will have an intimate knowledge of the standards, codes, specifications and regulations applicable to the process being studied. The selected team members need to be compatible and the team leader needs to be able to manage the team, and the PHA study. The team needs to be able to work together while benefiting from the expertise of others on the team or outside the team, to resolve issues, and to forge a consensus on the findings of the study and recommendations. The application of a PHA to a process may involve the use of different methodologies for various parts of the process. For example, a process involving a series of unit operations of varying sizes, complexities, and ages may use different methodologies and team members for each operation. Then the conclusions can be integrated into one final study and evaluation. A more specific example is the use of a checklist PHA for a standard boiler or heat exchanger and the use of a hazard and operability PHA for the overall process. Also, for batch type processes like custom batch operations, a generic PHA of a representative batch may be used where there are only small changes of monomer or other ingredient ratios and the chemistry is documented for the full range and ratio of batch ingredients. Another process that might consider using a generic type of PHA is a gas plant. Often these plants are simply moved from site to site and therefore, a generic PHA may be used for these movable plants. Also, when an employer has several similar size gas plants and no sour gas is being processed at the site, then a generic PHA is feasible as long as the variations of the individual sites are accounted for in the PHA. Finally, when an employer has a large continuous process which has several control rooms for different portions of the process such as for a distillation tower and a blending operation, the employer may wish to do each segment separately and then integrate the final results. Additionally, small businesses which are covered by this rule, will often have processes that have less storage volume, less capacity, and less complicated than processes at a large facility. Therefore, WISHA would anticipate that the less complex methodologies would be used to meet the process hazard analysis criteria in the standard. These process hazard analyses can be done in less time and with a few people being involved. A less complex process generally means that less data, ((P&IDs)) P&IDs, and process information is needed to perform a process hazard analysis. Many small businesses have processes that are not unique, such as

cold storage lockers or water treatment facilities. Where employer associations have a number of members with such facilities, a generic PHA, evolved from a checklist or what-if questions, could be developed and used by each employer effectively to reflect his/her particular process; this would simplify compliance for them. When the employer has a number of processes which require a PHA, the employer must set up a priority system of which PHAs to conduct first. A preliminary or gross hazard analysis may be useful in prioritizing the processes that the employer has determined are subject to coverage by the process safety management standard. Consideration should first be given to those processes with the potential of adversely affecting the largest number of employees. This prioritizing should consider the potential severity of a chemical release, the number of potentially affected employees, the operating history of the process such as the frequency of chemical releases, the age of the process and any other relevant factors. These factors would suggest a ranking order and would suggest either using a weighing factor system or a systematic ranking method. The use of a preliminary hazard analysis would assist an employer in determining which process should be of the highest priority and thereby the employer would obtain the greatest improvement in safety at the facility. Detailed guidance on the content and application of process hazard analysis methodologies is available from the American Institute of Chemical Engineers' Center for Chemical Process Safety (see WAC 296-67-293, Appendix D).

(5) Operating procedures and practices. Operating procedures describe tasks to be performed, data to be recorded, operating conditions to be maintained, samples to be collected, and safety and health precautions to be taken. The procedures need to be technically accurate, understandable to employees, and revised periodically to ensure that they reflect current operations. The process safety information package is to be used as a resource to better assure that the operating procedures and practices are consistent with the known hazards of the chemicals in the process and that the operating parameters are accurate. Operating procedures should be reviewed by engineering staff and operating personnel to ensure that they are accurate and provide practical instructions on how to actually carry out job duties safely. Operating procedures will include specific instructions or details on what steps are to be taken or followed in carrying out the stated procedures. These operating instructions for each procedure should include the applicable safety precautions and should contain appropriate information on safety implications. For example, the operating procedures addressing operating parameters will contain operating instructions about pressure limits, temperature ranges, flow rates, what to do when an upset condition occurs, what alarms and instruments are pertinent if an upset condition occurs, and other subjects. Another example of using operating instructions to properly implement operating procedures is in starting up or shutting down the process. In these cases, different parameters will be required from those of normal operation. These operating instructions need to clearly indicate the distinctions between startup and normal operations such as the appropriate allowances for heating up a unit to reach the normal operating parameters. Also the operating instructions need to describe the proper method for increasing the temperature of the unit until the normal

operating temperature parameters are achieved. Computerized process control systems add complexity to operating instructions. These operating instructions need to describe the logic of the software as well as the relationship between the equipment and the control system; otherwise, it may not be apparent to the operator. Operating procedures and instructions are important for training operating personnel. The operating procedures are often viewed as the standard operating practices (SOPs) for operations. Control room personnel and operating staff, in general, need to have a full understanding of operating procedures. If workers are not fluent in English then procedures and instructions need to be prepared in a second language understood by the workers. In addition, operating procedures need to be changed when there is a change in the process as a result of the management of change procedures. The consequences of operating procedure changes need to be fully evaluated and the information conveyed to the personnel. For example, mechanical changes to the process made by the maintenance department (like changing a valve from steel to brass or other subtle changes) need to be evaluated to determine if operating procedures and practices also need to be changed. All management of change actions must be coordinated and integrated with current operating procedures and operating personnel must be oriented to the changes in procedures before the change is made. When the process is shut down in order to make a change, then the operating procedures must be updated before startup of the process. Training in how to handle upset conditions must be accomplished as well as what operating personnel are to do in emergencies such as when a pump seal fails or a pipeline ruptures. Communication between operating personnel and workers performing work within the process area, such as nonroutine tasks, also must be maintained. The hazards of the tasks are to be conveyed to operating personnel in accordance with established procedures and to those performing the actual tasks. When the work is completed, operating personnel should be informed to provide closure on the job.

(6) Employee training. All employees, including maintenance and contractor employees, involved with highly hazardous chemicals need to fully understand the safety and health hazards of the chemicals and processes they work with for the protection of themselves, their fellow employees and the citizens of nearby communities. Training conducted in compliance with WAC 296-62-054, the hazard communication standard, will help employees to be more knowledgeable about the chemicals they work with as well as familiarize them with reading and understanding MSDS. However, additional training in subjects such as operating procedures and safety work practices, emergency evacuation and response, safety procedures, routine and nonroutine work authorization activities, and other areas pertinent to process safety and health will need to be covered by an employer's training program. In establishing their training programs, employers must clearly define the employees to be trained and what subjects are to be covered in their training. Employers in setting up their training program will need to clearly establish the goals and objectives they wish to achieve with the training that they provide to their employees. The learning goals or objectives should be written in clear measurable terms before the training begins. These goals and objectives need to be tailored to each of the

specific training modules or segments. Employers should describe the important actions and conditions under which the employee will demonstrate competence or knowledge as well as what is acceptable performance. Hands-on-training where employees are able to use their senses beyond listening, will enhance learning. For example, operating personnel, who will work in a control room or at control panels, would benefit by being trained at a simulated control panel or panels. Upset conditions of various types could be displayed on the simulator, and then the employee could go through the proper operating procedures to bring the simulator panel back to the normal operating parameters. A training environment could be created to help the trainee feel the full reality of the situation but, of course, under controlled conditions. This realistic type of training can be very effective in teaching employees correct procedures while allowing them to also see the consequences of what might happen if they do not follow established operating procedures. Other training techniques using videos or on-the-job training can also be very effective for teaching other job tasks, duties, or other important information. An effective training program will allow the employee to fully participate in the training process and to practice their skill or knowledge. Employers need to periodically evaluate their training programs to see if the necessary skills, knowledge, and routines are being properly understood and implemented by their trained employees. The means or methods for evaluating the training should be developed along with the training program goals and objectives. Training program evaluation will help employers to determine the amount of training their employees understood, and whether the desired results were obtained. If, after the evaluation, it appears that the trained employees are not at the level of knowledge and skill that was expected, the employer will need to revise the training program, provide retraining, or provide more frequent refresher training sessions until the deficiency is resolved. Those who conducted the training and those who received the training should also be consulted as to how best to improve the training process. If there is a language barrier, the language known to the trainees should be used to reinforce the training messages and information. Careful consideration must be given to assure that employees including maintenance and contract employees receive current and updated training. For example, if changes are made to a process, impacted employees must be trained in the changes and understand the effects of the changes on their job tasks (e.g., any new operating procedures pertinent to their tasks). Additionally, as already discussed the evaluation of the employee's absorption of training will certainly influence the need for training.

(7) Contractors. Employers who use contractors to perform work in and around processes that involve highly hazardous chemicals, will need to establish a screening process so that they hire and use contractors who accomplish the desired job tasks without compromising the safety and health of employees at a facility. For contractors, whose safety performance on the job is not known to the hiring employer, the employer will need to obtain information on injury and illness rates and experience and should obtain contractor references. Additionally, the employer must assure that the contractor has the appropriate job skills, knowledge and certifications (such as for pressure vessel

welders). Contractor work methods and experiences should be evaluated. For example, does the contractor conducting demolition work swing loads over operating processes or does the contractor avoid such hazards? Maintaining a site injury and illness log for contractors is another method employers must use to track and maintain current knowledge of work activities involving contract employees working on or adjacent to covered processes. Injury and illness logs of both the employer's employees and contract employees allow an employer to have full knowledge of process injury and illness experience. This log will also contain information which will be of use to those auditing process safety management compliance and those involved in incident investigations. Contract employees must perform their work safely. Considering that contractors often perform very specialized and potentially hazardous tasks such as confined space entry activities and nonroutine repair activities it is quite important that their activities be controlled while they are working on or near a covered process. A permit system or work authorization system for these activities would also be helpful to all affected employers. The use of a work authorization system keeps an employer informed of contract employee activities, and as a benefit the employer will have better coordination and more management control over the work being performed in the process area. A well run and well maintained process where employee safety is fully recognized will benefit all of those who work in the facility whether they be contract employees or employees of the owner.

(8) **Prestartup safety.** For new processes, the employer will find a PHA helpful in improving the design and construction of the process from a reliability and quality point of view. The safe operation of the new process will be enhanced by making use of the PHA recommendations before final installations are completed. ((~~PeDs~~)) P&Ids are to be completed along with having the operating procedures in place and the operating staff trained to run the process before startup. The initial startup procedures and normal operating procedures need to be fully evaluated as part of the prestartup review to assure a safe transfer into the normal operating mode for meeting the process parameters. For existing processes that have been shutdown for turnaround, or modification, etc., the employer must assure that any changes other than "replacement in kind" made to the process during shutdown go through the management of change procedures. ((~~PeDs~~)) P&Ids will need to be updated as necessary, as well as operating procedures and instructions. If the changes made to the process during shutdown are significant and impact the training program, then operating personnel as well as employees engaged in routine and nonroutine work in the process area may need some refresher or additional training in light of the changes. Any incident investigation recommendations, compliance audits or PHA recommendations need to be reviewed as well to see what impacts they may have on the process before beginning the startup.

(9) **Mechanical integrity.** Employers will need to review their maintenance programs and schedules to see if there are areas where "breakdown" maintenance is used rather than an ongoing mechanical integrity program. Equipment used to process, store, or handle highly hazardous chemicals needs to be designed, constructed, installed, and maintained to

minimize the risk of releases of such chemicals. This requires that a mechanical integrity program be in place to assure the continued integrity of process equipment. Elements of a mechanical integrity program include the identification and categorization of equipment and instrumentation, inspections and tests, testing and inspection frequencies, development of maintenance procedures, training of maintenance personnel, the establishment of criteria for acceptable test results, documentation of test and inspection results, and documentation of manufacturer recommendations as to meantime to failure for equipment and instrumentation. The first line of defense an employer has available is to operate and maintain the process as designed, and to keep the chemicals contained. This line of defense is backed up by the next line of defense which is the controlled release of chemicals through venting to scrubbers or flares, or to surge or overflow tanks which are designed to receive such chemicals, etc. These lines of defense are the primary lines of defense or means to prevent unwanted releases. The secondary lines of defense would include fixed fire protection systems like sprinklers, water spray, or deluge systems, monitor guns, etc., dikes, designed drainage systems, and other systems which would control or mitigate hazardous chemicals once an unwanted release occurs. These primary and secondary lines of defense are what the mechanical integrity program needs to protect and strengthen these primary and secondary lines of defenses where appropriate. The first step of an effective mechanical integrity program is to compile and categorize a list of process equipment and instrumentation for inclusion in the program. This list would include pressure vessels, storage tanks, process piping, relief and vent systems, fire protection system components, emergency shutdown systems, and alarms and interlocks and pumps. For the categorization of instrumentation and the listed equipment the employer would prioritize which pieces of equipment require closer scrutiny than others. Meantime to failure of various instrumentation and equipment parts would be known from the manufacturer's data or the employer's experience with the parts, which would then influence the inspection and testing frequency and associated procedures. Also, applicable codes and standards such as the National Board Inspection Code, or those from the American Society for Testing and Material, American Petroleum Institute, National Fire Protection Association, American National Standards Institute, American Society of Mechanical Engineers, and other groups, provide information to help establish an effective testing and inspection frequency, as well as appropriate methodologies. The applicable codes and standards provide criteria for external inspections for such items as foundation and supports, anchor bolts, concrete or steel supports, guy wires, nozzles and sprinklers, pipe hangers, grounding connections, protective coatings and insulation, and external metal surfaces of piping and vessels, etc. These codes and standards also provide information on methodologies for internal inspection, and a frequency formula based on the corrosion rate of the materials of construction. Also, erosion both internal and external needs to be considered along with corrosion effects for piping and valves. Where the corrosion rate is not known, a maximum inspection frequency is recommended, and methods of developing the corrosion rate are available in the codes. Internal inspections need to cover items such as vessel shell,

bottom and head; metallic linings; nonmetallic linings; thickness measurements for vessels and piping; inspection for erosion, corrosion, cracking and bulges; internal equipment like trays, baffles, sensors, and screens for erosion, corrosion or cracking and other deficiencies. Some of these inspections may be performed by state or local government inspectors under state and local statutes. However, each employer needs to develop procedures to ensure that tests and inspections are conducted properly and that consistency is maintained even where different employees may be involved. Appropriate training is to be provided to maintenance personnel to ensure that they understand the preventive maintenance program procedures, safe practices, and the proper use and application of special equipment or unique tools that may be required. This training is part of the overall training program called for in the standard. A quality assurance system is needed to help ensure that the proper materials of construction are used, that fabrication and inspection procedures are proper, and that installation procedures recognize field installation concerns. The quality assurance program is an essential part of the mechanical integrity program and will help to maintain the primary and secondary lines of defense that have been designed into the process to prevent unwanted chemical releases or those which control or mitigate a release. "As built" drawings, together with certifications of coded vessels and other equipment, and materials of construction need to be verified and retained in the quality assurance documentation. Equipment installation jobs need to be properly inspected in the field for use of proper materials and procedures and to assure that qualified craftsmen are used to do the job. The use of appropriate gaskets, packing, bolts, valves, lubricants, and welding rods need to be verified in the field. Also procedures for installation of safety devices need to be verified, such as the torque on the bolts on ruptured disc installations, uniform torque on flange bolts, proper installation of pump seals, etc. If the quality of parts is a problem, it may be appropriate to conduct audits of the equipment supplier's facilities to better assure proper purchases of required equipment which is suitable for its intended service. Any changes in equipment that may become necessary will need to go through the management of change procedures.

(10) Nonroutine work authorizations. Nonroutine work which is conducted in process areas needs to be controlled by the employer in a consistent manner. The hazards identified involving the work that is to be accomplished must be communicated to those doing the work, but also to those operating personnel whose work could affect the safety of the process. A work authorization notice or permit must have a procedure that describes the steps the maintenance supervisor, contractor representative or other person needs to follow to obtain the necessary clearance to get the job started. The work authorization procedures need to reference and coordinate, as applicable, lockout/tagout procedures, line breaking procedures, confined space entry procedures and hot work authorizations. This procedure also needs to provide clear steps to follow once the job is completed in order to provide closure for those that need to know the job is now completed and equipment can be returned to normal.

(11) Managing change. To properly manage changes to process chemicals, technology, equipment and facilities, one must define what is meant by change. In this process safety

management standard, change includes all modifications to equipment, procedures, raw materials and processing conditions other than "replacement in kind." These changes need to be properly managed by identifying and reviewing them prior to implementation of the change. For example, the operating procedures contain the operating parameters (pressure limits, temperature ranges, flow rates, etc.) and the importance of operating within these limits. While the operator must have the flexibility to maintain safe operation within the established parameters, any operation outside of these parameters requires review and approval by a written management of change procedure. Management of change covers such as changes in process technology and changes to equipment and instrumentation. Changes in process technology can result from changes in production rates, raw materials, experimentation, equipment unavailability, new equipment, new product development, change in catalyst and changes in operating conditions to improve yield or quality. Equipment changes include among others change in materials of construction, equipment specifications, piping rearrangements, experimental equipment, computer program revisions and changes in alarms and interlocks. Employers need to establish means and methods to detect both technical changes and mechanical changes. Temporary changes have caused a number of catastrophes over the years, and employers need to establish ways to detect temporary changes as well as those that are permanent. It is important that a time limit for temporary changes be established and monitored since, without control, these changes may tend to become permanent. Temporary changes are subject to the management of change provisions. In addition, the management of change procedures are used to insure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change. Proper documentation and review of these changes is invaluable in assuring that the safety and health considerations are being incorporated into the operating procedures and the process. Employers may wish to develop a form or clearance sheet to facilitate the processing of changes through the management of change procedures. A typical change form may include a description and the purpose of the change, the technical basis for the change, safety and health considerations, documentation of changes for the operating procedures, maintenance procedures, inspection and testing, ((PeDs)) P&Ids, electrical classification, training and communications, prestartup inspection, duration if a temporary change, approvals and authorization. Where the impact of the change is minor and well understood, a check list reviewed by an authorized person with proper communication to others who are affected may be sufficient. However, for a more complex or significant design change, a hazard evaluation procedure with approvals by operations, maintenance, and safety departments may be appropriate. Changes in documents such as ((PeDs)) P&Ids, raw materials, operating procedures, mechanical integrity programs, electrical classifications, etc., need to be noted so that these revisions can be made permanent when the drawings and procedure manuals are updated. Copies of process changes need to be kept in an accessible location to ensure that design changes are available to operating personnel as well as to PHA team members when a PHA is being done or one is being updated.

(12) Investigation of incidents. Incident investigation is the process of identifying the underlying causes of incidents and implementing steps to prevent similar events from occurring. The intent of an incident investigation is for employers to learn from past experiences and thus avoid repeating past mistakes. The incidents for which WISHA expects employers to become aware and to investigate are the types of events which result in or could reasonably have resulted in a catastrophic release. Some of the events are sometimes referred to as "near misses," meaning that a serious consequence did not occur, but could have. Employers need to develop in-house capability to investigate incidents that occur in their facilities. A team needs to be assembled by the employer and trained in the techniques of investigation including how to conduct interviews of witnesses, needed documentation and report writing. A multidisciplinary team is better able to gather the facts of the event and to analyze them and develop plausible scenarios as to what happened, and why. Team members should be selected on the basis of their training, knowledge and ability to contribute to a team effort to fully investigate the incident. Employees in the process area where the incident occurred should be consulted, interviewed, or made a member of the team. Their knowledge of the events form a significant set of facts about the incident which occurred. The report, its findings and recommendations are to be shared with those who can benefit from the information. The cooperation of employees is essential to an effective incident investigation. The focus of the investigation should be to obtain facts, and not to place blame. The team and the investigation process should clearly deal with all involved individuals in a fair, open, and consistent manner.

(13) Emergency preparedness. Each employer must address what actions employees are to take when there is an unwanted release of highly hazardous chemicals. Emergency preparedness or the employer's tertiary (third) lines of defense are those that will be relied on along with the secondary lines of defense when the primary lines of defense which are used to prevent an unwanted release fail to stop the release. Employers will need to decide if they want employees to handle and stop small or minor incidental releases. Whether they wish to mobilize the available resources at the plant and have them brought to bear on a more significant release. Or whether employers want their employees to evacuate the danger area and promptly escape to a preplanned safe zone area, and allow the local community emergency response organizations to handle the release. Or whether the employer wants to use some combination of these actions. Employers will need to select how many different emergency preparedness or tertiary lines of defense they plan to have and then develop the necessary plans and procedures, and appropriately train employees in their emergency duties and responsibilities and then implement these lines of defense. Employers at a minimum must have an emergency action plan which will facilitate the prompt evacuation of employees due to an unwanted release of a highly hazardous chemical. This means that the employer will have a plan that will be activated by an alarm system to alert employees when to evacuate and, that employees who are physically impaired, will have the necessary support and assistance to get them to the safe zone as well. The intent of these requirements is to alert and move employees to a

safe zone quickly. Delaying alarms or confusing alarms are to be avoided. The use of process control centers or similar process buildings in the process area as safe areas is discouraged. Recent catastrophes have shown that a large life loss has occurred in these structures because of where they have been sited and because they are not necessarily designed to withstand over-pressures from shockwaves resulting from explosions in the process area. Unwanted incidental releases of highly hazardous chemicals in the process area must be addressed by the employer as to what actions employees are to take. If the employer wants employees to evacuate the area, then the emergency action plan will be activated. For outdoor processes where wind direction is important for selecting the safe route to a refuge area, the employer should place a wind direction indicator such as a wind sock or pennant at the highest point that can be seen throughout the process area. Employees can move in the direction of cross wind to upwind to gain safe access to the refuge area by knowing the wind direction. If the employer wants specific employees in the release area to control or stop the minor emergency or incidental release, these actions must be planned for in advance and procedures developed and implemented. Preplanning for handling incidental releases for minor emergencies in the process area needs to be done, appropriate equipment for the hazards must be provided, and training conducted for those employees who will perform the emergency work before they respond to handle an actual release. The employer's training program, including the hazard communication standard training is to address the training needs for employees who are expected to handle incidental or minor releases. Preplanning for releases that are more serious than incidental releases is another important line of defense to be used by the employer. When a serious release of a highly hazardous chemical occurs, the employer through preplanning will have determined in advance what actions employees are to take. The evacuation of the immediate release area and other areas as necessary would be accomplished under the emergency action plan. If the employer wishes to use plant personnel such as a fire brigade, spill control team, a hazardous materials team, or use employees to render aid to those in the immediate release area and control or mitigate the incident, these actions are covered by WAC 296-62-300, the hazardous waste operations and emergency response (HAZWOPER) standard. If outside assistance is necessary, such as through mutual aid agreements between employers or local government emergency response organizations, these emergency responders are also covered by HAZWOPER. The safety and health protections required for emergency responders are the responsibility of their employers and of the on-scene incident commander. Responders may be working under very hazardous conditions and therefore the objective is to have them competently led by an on-scene incident commander and the commander's staff, properly equipped to do their assigned work safely, and fully trained to carry out their duties safely before they respond to an emergency. Drills, training exercises, or simulations with the local community emergency response planners and responder organizations is one means to obtain better preparedness. This close cooperation and coordination between plant and local community emergency preparedness managers will also aid the employer in complying with the Environmental

Protection Agency's risk management plan criteria. One effective way for medium to large facilities to enhance coordination and communication during emergencies for on plant operations and with local community organizations is for employers to establish and equip an emergency control center. The emergency control center would be sited in a safe zone area so that it could be occupied throughout the duration of an emergency. The center would serve as the major communication link between the on-scene incident commander and plant or corporate management as well as with the local community officials. The communication equipment in the emergency control center should include a network to receive and transmit information by telephone, radio, or other means. It is important to have a backup communication network in case of power failure or one communication means fails. The center should also be equipped with the plant layout and community maps, utility drawings including fire water, emergency lighting, appropriate reference materials such as a government agency notification list, company personnel phone list, SARA Title III reports and material safety data sheets, emergency plans and procedures manual, a listing with the location of emergency response equipment, mutual aid information, and access to meteorological or weather condition data and any dispersion modeling data.

(14) Compliance audits. Employers need to select a trained individual or assemble a trained team of people to audit the process safety management system and program. A small process or plant may need only one knowledgeable person to conduct an audit. The audit is to include an evaluation of the design and effectiveness of the process safety management system and a field inspection of the safety and health conditions and practices to verify that the employer's systems are effectively implemented. The audit should be conducted or led by a person knowledgeable in audit techniques and who is impartial towards the facility or area being audited. The essential elements of an audit program include planning, staffing, conducting the audit, evaluation and corrective action, follow-up and documentation. Planning in advance is essential to the success of the auditing process. Each employer needs to establish the format, staffing, scheduling, and verification methods prior to conducting the audit. The format should be designed to provide the lead auditor with a procedure or checklist which details the requirements of each section of the standard. The names of the audit team members should be listed as part of the format as well. The checklist, if properly designed, could serve as the verification sheet which provides the auditor with the necessary information to expedite the review and assure that no requirements of the standard are omitted. This verification sheet format could also identify those elements that will require evaluation or a response to correct deficiencies. This sheet could also be used for developing the follow-up and documentation requirements. The selection of effective audit team members is critical to the success of the program. Team members should be chosen for their experience, knowledge, and training and should be familiar with the processes and with auditing techniques, practices, and procedures. The size of the team will vary depending on the size and complexity of the process under consideration. For a large, complex, highly instrumented plant, it may be desirable to have team members with expertise in

process engineering and design, process chemistry, instrumentation and computer controls, electrical hazards and classifications, safety and health disciplines, maintenance, emergency preparedness, warehousing or shipping, and process safety auditing. The team may use part-time members to provide for the depth of expertise required as well as for what is actually done or followed, compared to what is written. An effective audit includes a review of the relevant documentation and process safety information, inspection of the physical facilities, and interviews with all levels of plant personnel. Utilizing the audit procedure and checklist developed in the preplanning stage, the audit team can systematically analyze compliance with the provisions of the standard and any other corporate policies that are relevant. For example, the audit team will review all aspects of the training program as part of the overall audit. The team will review the written training program for adequacy of content, frequency of training, effectiveness of training in terms of its goals and objectives as well as to how it fits into meeting the standard's requirements, documentation, etc. Through interviews, the team can determine the employee's knowledge and awareness of the safety procedures, duties, rules, emergency response assignments, etc. During the inspection, the team can observe actual practices such as safety and health policies, procedures, and work authorization practices. This approach enables the team to identify deficiencies and determine where corrective actions or improvements are necessary. An audit is a technique used to gather sufficient facts and information, including statistical information, to verify compliance with standards. Auditors should select as part of their preplanning a sample size sufficient to give a degree of confidence that the audit reflects the level of compliance with the standard. The audit team, through this systematic analysis, should document areas which require corrective action as well as those areas where the process safety management system is effective and working in an effective manner. This provides a record of the audit procedures and findings, and serves as a baseline of operation data for future audits. It will assist future auditors in determining changes or trends from previous audits. Corrective action is one of the most important parts of the audit. It includes not only addressing the identified deficiencies, but also planning, followup, and documentation. The corrective action process normally begins with a management review of the audit findings. The purpose of this review is to determine what actions are appropriate, and to establish priorities, timetables, resource allocations, and requirements and responsibilities. In some cases, corrective action may involve a simple change in procedure or minor maintenance effort to remedy the concern. Management of change procedures need to be used, as appropriate, even for what may seem to be a minor change. Many of the deficiencies can be acted on promptly, while some may require engineering studies or indepth review of actual procedures and practices. There may be instances where no action is necessary and this is a valid response to an audit finding. All actions taken, including an explanation where no action is taken on a finding, needs to be documented as to what was done and why. It is important to assure that each deficiency identified is addressed, the corrective action to be taken noted, and the audit person or team responsible be properly documented by the employer. To control the

corrective action process, the employer should consider the use of a tracking system. This tracking system might include periodic status reports shared with affected levels of management, specific reports such as completion of an engineering study, and a final implementation report to provide closure for audit findings that have been through management of change, if appropriate, and then shared with affected employees and management. This type of tracking system provides the employer with the status of the corrective action. It also provides the documentation required to verify that appropriate corrective actions were taken on deficiencies identified in the audit.

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-155-174 Cadmium. (1) Scope. This standard applies to all occupational exposures to cadmium and cadmium compounds, in all forms, in all construction work where an employee may potentially be exposed to cadmium. Construction work is defined as work involving construction, alteration, and/or repair, including but not limited to the following:

- (a) Wrecking, demolition, or salvage of structures where cadmium or materials containing cadmium are present;
- (b) Use of cadmium containing-paints and cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints;
- (c) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain cadmium, or materials containing cadmium;
- (d) Cadmium welding; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys;
- (e) Installation of products containing cadmium;
- (f) Electrical grounding with cadmium-welding, or electrical work using cadmium-coated conduit;
- (g) Maintaining or retrofitting cadmium-coated equipment;
- (h) Cadmium contamination/emergency cleanup; and
- (i) Transportation, disposal, storage, or containment of cadmium or materials containing cadmium on the site or location at which construction activities are performed.

(2) Definitions.

(a) Action level (AL) is defined as an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air (2.5 $\mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average (TWA).

(b) Authorized person means any person authorized by the employer and required by work duties to be present in regulated areas or any person authorized by WISHA or regulations issued under it to be in regulated areas.

(c) Competent person, in accordance with WAC 296-155-012(4), means a person designated by the employer to act on the employer's behalf who is capable of identifying existing and potential cadmium hazards in the workplace and the proper methods to control them in order to protect workers, and has the authority necessary to take prompt corrective measures to eliminate or control such hazards. The duties of a competent person include at least the following: Determining prior to the performance of work whether cadmium is present in the workplace; establishing, where necessary, regulated areas and assuring that access to

and from those areas is limited to authorized employees; assuring the adequacy of any employee exposure monitoring required by this standard; assuring that all employees exposed to air cadmium levels above the PEL wear appropriate personal protective equipment and are trained in the use of appropriate methods of exposure control; assuring that proper hygiene facilities are provided and that workers are trained to use those facilities; and assuring that the engineering controls required by this standard are implemented, maintained in proper operating condition, and functioning properly.

(d) Director means the director of the department of labor and industries or authorized representative.

(e) Employee exposure and similar language referring to the air cadmium level to which an employee is exposed means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(f) Final medical determination is the written medical opinion of the employee's health status by the examining physician under subsection (12)(c) through (l) of this section or, if multiple physician review under subsection (12)(m) of this section or the alternative physician determination under subsection (12)(n) of this section is invoked, it is the final, written medical finding, recommendation or determination that emerges from that process.

(g) High-efficiency particulate (~~absolute (HEPA) air~~) air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometers in diameter.

(h) Regulated area means an area demarcated by the employer where an employee's exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed the permissible exposure limit (PEL).

(i) This section means this cadmium standard.

(3) Permissible exposure limit (PEL). The employer shall assure that no employee is exposed to an airborne concentration of cadmium in excess of five micrograms per cubic meter of air (5 $\mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average exposure (TWA).

(4) Exposure monitoring

(a) General.

(i) Prior to the performance of any construction work where employees may be potentially exposed to cadmium, the employer shall establish the applicability of this standard by determining whether cadmium is present in the workplace and whether there is the possibility that employee exposures will be at or above the action level. The employer shall designate a competent person who shall make this determination. Investigation and material testing techniques shall be used, as appropriate, in the determination. Investigation shall include a review of relevant plans, past reports, material safety data sheets, and other available records, and consultations with the property owner and discussions with appropriate individuals and agencies.

(ii) Where cadmium has been determined to be present in the workplace, and it has been determined that there is a possibility the employee's exposure will be at or above the action level, the competent person shall identify employees potentially exposed to cadmium at or above the action level.

(iii) Determinations of employee exposure shall be made from breathing-zone air samples that reflect the monitored

employee's regular, daily 8-hour TWA exposure to cadmium.

(iv) Eight-hour TWA exposures shall be determined for each employee on the basis of one or more personal breathing-zone air samples reflecting full shift exposure on each shift, for each job classification, in each work area. Where several employees perform the same job tasks, in the same job classification, on the same shift, in the same work area, and the length, duration, and level of cadmium exposures are similar, an employer may sample a representative fraction of the employees instead of all employees in order to meet this requirement. In representative sampling, the employer shall sample the employee(s) expected to have the highest cadmium exposures.

(b) Specific.

(i) Initial monitoring. Except as provided for in (b)(iii) of this subsection, where a determination conducted under (a)(i) of this subsection shows the possibility of employee exposure to cadmium at or above the action level, the employer shall conduct exposure monitoring as soon as practicable that is representative of the exposure for each employee in the workplace who is or may be exposed to cadmium at or above the action level.

(ii) In addition, if the employee periodically performs tasks that may expose the employee to a higher concentration of airborne cadmium, the employee shall be monitored while performing those tasks.

(iii) Where the employer has objective data, as defined in subsection (14)(b) of this section, demonstrating that employee exposure to cadmium will not exceed airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring.

(iv) Where a determination conducted under (a) or (b) of this subsection is made that a potentially exposed employee is not exposed to airborne concentrations of cadmium at or above the action level, the employer shall make a written record of such determination. The record shall include at least the monitoring data developed under (b)(i) through (iii) of this subsection, where applicable, and shall also include the date of determination, and the name and Social Security number of each employee.

(c) Monitoring frequency (periodic monitoring).

(i) If the initial monitoring or periodic monitoring reveals employee exposures to be at or above the action level, the employer shall monitor at a frequency and pattern needed to assure that the monitoring results reflect with reasonable accuracy the employee's typical exposure levels, given the variability in the tasks performed, work practices, and environmental conditions on the job site, and to assure the adequacy of respiratory selection and the effectiveness of engineering and work practice controls.

(ii) If the initial monitoring or the periodic monitoring indicates that employee exposures are below the action level and that result is confirmed by the results of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(d) Additional monitoring. The employer also shall institute the exposure monitoring required under (b)(i) and (c) of this subsection whenever there has been a change in

the raw materials, equipment, personnel, work practices, or finished products that may result in additional employees being exposed to cadmium at or above the action level or in employees already exposed to cadmium at or above the action level being exposed above the PEL, or whenever the employer or competent person has any reason to suspect that any other change might result in such further exposure.

(e) Employee notification of monitoring results.

(i) No later than five working days after the receipt of the results of any monitoring performed under this section, the employer shall notify each affected employee individually in writing of the results. In addition, within the same time period, the employer shall post the results of the exposure monitoring in an appropriate location that is accessible to all affected employees.

(ii) Wherever monitoring results indicate that employee exposure exceeds the PEL, the employer shall include in the written notice a statement that the PEL has been exceeded and a description of the corrective action being taken by the employer to reduce employee exposure to or below the PEL.

(f) Accuracy of measurement. The employer shall use a method of monitoring and analysis that has an accuracy of not less than plus or minus 25 percent ($\pm 25\%$), with a confidence level of 95 percent, for airborne concentrations of cadmium at or above the action level and the permissible exposure limit.

(5) Regulated areas.

(a) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of cadmium is, or can reasonably be expected to be in excess of the permissible exposure limit (PEL).

(b) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that adequately establishes and alerts employees of the boundaries of the regulated area, including employees who are or may be incidentally in the regulated areas, and that protects persons outside the area from exposure to airborne concentrations of cadmium in excess of the PEL.

(c) Access. Access to regulated areas shall be limited to authorized persons.

(d) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with subsection (7)(b) of this section.

(e) Prohibited activities. The employer shall assure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas, or carry the products associated with any of these activities into regulated areas or store such products in those areas.

(6) Methods of compliance.

(a) Compliance hierarchy.

(i) Except as specified in (a)(ii) of this subsection, the employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, except to the extent that the employer can demonstrate that such controls are not feasible.

(ii) The requirement to implement engineering controls to achieve the PEL does not apply where the employer demonstrates the following:

(A) The employee is only intermittently exposed; and

(B) The employee is not exposed above the PEL on 30 or more days per year (12 consecutive months).

(iii) Wherever engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer nonetheless shall implement such controls to reduce exposures to the lowest levels achievable. The employer shall supplement such controls with respiratory protection that complies with the requirements of subsection (7) of this section and the PEL.

(iv) The employer shall not use employee rotation as a method of compliance.

(b) Specific operations.

(i) Abrasive blasting. Abrasive blasting on cadmium or cadmium-containing materials shall be conducted in a manner that will provide adequate protection.

(ii) Heating cadmium and cadmium-containing materials. Welding, cutting, and other forms of heating of cadmium or cadmium-containing materials shall be conducted in accordance with the requirements of WAC 296-155-415 and 296-155-420, where applicable.

(c) Prohibitions.

(i) High speed abrasive disc saws and similar abrasive power equipment shall not be used for work on cadmium or cadmium-containing materials unless they are equipped with appropriate engineering controls to minimize emissions, if the exposure levels are above the PEL.

(ii) Materials containing cadmium shall not be applied by spray methods, if exposures are above the PEL, unless employees are protected with supplied-air respirators with full facepiece, hood, helmet, suit, operated in positive pressure mode and measures are instituted to limit overspray and prevent contamination of adjacent areas.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements that demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made as necessary to maintain its effectiveness.

(ii) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within five working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(iii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the system shall have a high efficiency filter and be monitored to assure effectiveness.

(iv) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance of ventilation systems and changing of filters is being conducted.

(e) Compliance program.

(i) ~~((Where the PEL is exceeded, the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL by means of engineering and work practice controls, as required by (a) of this subsection.))~~ Where employee exposure to cadmium exceeds the PEL and the employer is required under (a) of this subsection to implement controls to comply with the PEL, prior to the commencement of the job the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL. To the extent that engineering and work practice controls cannot reduce exposures to or below the PEL, the employer shall

include in the written compliance program the use of appropriate respiratory protection to achieve compliance with the PEL.

(ii) Written compliance programs shall be reviewed and updated as often and as promptly as necessary to reflect significant changes in the employer's compliance status or significant changes in the lowest air cadmium level that is technologically feasible.

(iii) A competent person shall review the comprehensive compliance program initially and after each change.

(iv) Written compliance programs shall be provided upon request for examination and copying to the director, or authorized representatives, affected employees, and designated employee representatives.

(7) Respirator protection.

(a) General. Where respirators are required by this section, the employer shall provide them at no cost to the employee and shall assure that they are used in compliance with the requirements of this section. Respirators shall be used in the following circumstances:

(i) Where exposure levels exceed the PEL, during the time period necessary to install or implement feasible engineering and work practice controls;

(ii) In those maintenance and repair activities and during those brief or intermittent operations where exposures exceed the PEL and engineering and work practice controls are not feasible, or are not required;

(iii) In regulated areas, as prescribed in subsection (5) of this section;

(iv) Where the employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL;

(v) In emergencies;

(vi) Wherever an employee who is exposed to cadmium at or above the action level requests a respirator; and

(vii) Wherever an employee is exposed to cadmium above the PEL and engineering controls are not required under (a)(ii) of this subsection.

(b) Respirator selection.

(i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator as specified in Table 1. The employer shall select respirators from among those jointly approved as acceptable protection against cadmium dust, fume, and mist by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

Table 1
Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
10 x or less	A half-mask, air-purifying respirator equipped with a HEPA ^c filter. ^d

25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half-mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half-mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.
1000 x or less	A supplied-air respirator with half-mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with (unknown concentrations) a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

- (c) Respirator program.
 - (i) Where respiratory protection is required, the employer shall institute a respirator protection program in accordance with chapter 296-62 WAC, Part E.
 - (ii) The employer shall permit each employee who is required to use an air purifying respirator to leave the regulated area to change the filter elements or replace the respirator whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.
 - (iii) The employer shall also permit each employee who is required to wear a respirator to leave the regulated area to wash his or her face and the respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.
 - (iv) If an employee exhibits difficulty in breathing while wearing a respirator during a fit test or during use, the employer shall make available to the employee a medical examination in accordance with subsection (12)(f)(ii) of this section to determine if the employee can wear a respirator while performing the required duties.
 - (v) No employee shall be assigned a task requiring the use of a respirator if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to continue to function normally while wearing a respirator. If the physician determines the employee must be limited in, or removed from his or her current job because of the employee's inability to wear a respirator, the limitation or removal shall be in accordance with subsection (12)(k) and (l) of this section.
- (d) Respirator fit testing.
 - (i) The employer shall assure that the respirator issued to the employee is fitted properly and exhibits the least possible facepiece leakage.
 - (ii) For each employee wearing a tight-fitting, air purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that do not exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform either quantitative or qualitative fit testing at the time of initial fitting and at least annually thereafter. If quantitative fit testing is used for a negative pressure respirator, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved at testing.
 - (iii) For each employee wearing a tight-fitting air purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. For negative-pressure respirators, a fit factor that is at least ten times the protection factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved during quantitative fit testing.
 - (iv) For each employee wearing a tight-fitting, supplied-air respirator or self-contained breathing apparatus, the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. This shall be accomplished by fit testing an air purifying respirator of identical type facepiece, make, model, and size as the supplied air respirator or self-contained breathing apparatus that is equipped with HEPA filters and tested as a surrogate

Note: ^a Concentrations expressed as multiple of the PEL.
^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$). A full facepiece respirator is required when eye irritation is experienced.
^c HEPA means High Efficiency Particulate (~~Absolute~~) Air.
^d Fit testing, qualitative or quantitative, is required.
 Source: Respiratory Decision Logic, NIOSH, 1987.

(ii) The employer shall provide a powered, air-purifying respirator (PAPR) in lieu of a negative pressure respirator wherever:

- (A) An employee entitled to a respirator chooses to use this type of respirator; and
- (B) This respirator will provide adequate protection to the employee.

(substitute) in the negative pressure mode. A fit factor that is at least 10 times the protection factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved during quantitative fit testing. A supplied-air respirator or self-contained breathing apparatus with the same type facepiece, make, model, and size as the air purifying respirator with which the employee passed the quantitative fit test may then be used by that employee up to the protection factor listed in Table 1 in (b)(i) of this subsection for that class of respirators.

(v) Fit testing shall be conducted in accordance with WAC 296-62-07445. Appendix C.

(8) Emergency situations. The employer shall develop and implement a written plan for dealing with emergency situations involving substantial releases of airborne cadmium. The plan shall include provisions for the use of appropriate respirators and personal protective equipment. In addition, employees not essential to correcting the emergency situation shall be restricted from the area and normal operations halted in that area until the emergency is abated.

(9) Protective work clothing and equipment

(a) Provision and use. If an employee is exposed to airborne cadmium above the PEL or where skin or eye irritation is associated with cadmium exposure at any level, the employer shall provide at no cost to the employee, and assure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee and the employee's garments. Protective work clothing and equipment includes, but is not limited to:

- (i) Coveralls or similar full-body work clothing;
- (ii) Gloves, head coverings, and boots or foot coverings; and
- (iii) Face shields, vented goggles, or other appropriate protective equipment that complies with WAC 296-155-215.

(b) Removal and storage.

(i) The employer shall assure that employees remove all protective clothing and equipment contaminated with cadmium at the completion of the work shift and do so only in change rooms provided in accordance with subsection (10)(a) of this section.

(ii) The employer shall assure that no employee takes cadmium-contaminated protective clothing or equipment from the workplace, except for employees authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium-contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(iii) The employer shall assure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent dispersion of cadmium dust.

(iv) The employer shall assure that containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal shall bear labels in accordance with subsection (13)((b)) (c) of this section.

(c) Cleaning, replacement, and disposal.

(i) The employer shall provide the protective clothing and equipment required by (a) of this subsection in a clean

and dry condition as often as necessary to maintain its effectiveness, but in any event at least weekly. The employer is responsible for cleaning and laundering the protective clothing and equipment required by this subsection to maintain its effectiveness and is also responsible for disposing of such clothing and equipment.

(ii) The employer also is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. When rips or tears are detected while an employee is working they shall be immediately mended, or the worksuit shall be immediately replaced.

(iii) The employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(iv) The employer shall assure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the release of airborne cadmium in excess of the permissible exposure limit prescribed in subsection (3) of this section.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium, and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

(10) Hygiene areas and practices.

(a) General. For employees whose airborne exposure to cadmium is above the PEL, the employer shall provide clean change rooms, handwashing facilities, showers, and lunchroom facilities that comply with WAC 296-155-140.

(b) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for street clothes and for protective clothing and equipment, which are designed to prevent dispersion of cadmium and contamination of the employee's street clothes.

(c) Showers and handwashing facilities.

(i) The employer shall assure that employees whose airborne exposure to cadmium is above the PEL shower during the end of the work shift.

(ii) The employer shall assure that employees who are exposed to cadmium above the PEL wash their hands and faces prior to eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics.

(d) Lunchroom facilities.

(i) The employer shall assure that the lunchroom facilities are readily accessible to employees, that tables for eating are maintained free of cadmium, and that no employee in a lunchroom facility is exposed at any time to cadmium at or above a concentration of 2.5 µg/m³.

(ii) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface cadmium has been removed from the clothing and equipment by HEPA vacuuming or some other method that removes cadmium dust without dispersing it.

(11) Housekeeping.

(a) All surfaces shall be maintained as free as practicable of accumulations of cadmium.

(b) All spills and sudden releases of material containing cadmium shall be cleaned up as soon as possible.

(c) Surfaces contaminated with cadmium shall, wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of cadmium becoming airborne.

(d) HEPA-filtered vacuuming equipment or equally effective filtration methods shall be used for vacuuming. The equipment shall be used and emptied in a manner that minimizes the reentry of cadmium into the workplace.

(e) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other methods that minimize the likelihood of cadmium becoming airborne have been tried and found not to be effective.

(f) Compressed air shall not be used to remove cadmium from any surface unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(g) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with subsection (13)(b) of this section.

(12) Medical surveillance.

(a) General.

(i) Scope.

(A) Currently exposed—The employer shall institute a medical surveillance program for all employees who are or may be exposed at or above the action level and all employees who perform the following tasks, operations, or jobs: Electrical grounding with cadmium-welding; cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints; electrical work using cadmium-coated conduit; use of cadmium containing paints; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys; fusing of ~~((reinforcing))~~ reinforced steel by cadmium welding; maintaining or retrofitting cadmium-coated equipment; and, wrecking and demolition where cadmium is present. A medical surveillance program will not be required if the employer demonstrates that the employee:

(I) Is not currently exposed by the employer to airborne concentrations of cadmium at or above the action level on 30 or more days per year (twelve consecutive months); and

(II) Is not currently exposed by the employer in those tasks on 30 or more days per year (twelve consecutive months).

(B) Previously exposed—The employer shall also institute a medical surveillance program for all employees who might previously have been exposed to cadmium by the employer prior to the effective date of this section in tasks specified under (a)(i)(A) of this subsection, unless the employer demonstrates that the employee did not in the years prior to the effective date of this section work in those tasks for the employer with exposure to cadmium for an aggregated total of more than 12 months.

(ii) To determine an employee's fitness for using a respirator, the employer shall provide the limited medical examination specified in (f) of this subsection.

(iii) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a licensed physician, who has read and is familiar with the health effects WAC 296-62-07441, Appendix A, the regulatory text of this section, the

protocol for sample handling and lab selection in WAC 296-62-07451, Appendix F, and the questionnaire of WAC 296-62-07447, Appendix D.

(iv) The employer shall provide the medical surveillance required by this section, including multiple physician review under (m) of this subsection without cost to employees, and at a time and place that is reasonable and convenient to employees.

(v) The employer shall assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is done in a manner that assures their reliability and that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is performed in laboratories with demonstrated proficiency to perform the particular analysis. (See WAC 296-62-07451, Appendix F.)

(b) Initial examination.

(i) For employees covered by medical surveillance under (a)(i) of this subsection, the employer shall provide an initial medical examination. The examination shall be provided to those employees within 30 days after initial assignment to a job with exposure to cadmium or no later than 90 days after the effective date of this section, whichever date is later.

(ii) The initial medical examination shall include:

(A) A detailed medical and work history, with emphasis on: Past, present, and anticipated future exposure to cadmium; any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, and/or musculo-skeletal system dysfunction; current usage of medication with potential nephrotoxic side-effects; and smoking history and current status; and

(B) Biological monitoring that includes the following tests:

(I) Cadmium in urine (CdU), standardized to grams of creatinine (g/Cr);

(II) Beta-2 microglobulin in urine (B₂-M), standardized to grams of creatinine (g/Cr), with pH specified, as described in WAC 296-62-07451, Appendix F; and

(III) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(iii) Recent examination: An initial examination is not required to be provided if adequate records show that the employee has been examined in accordance with the requirements of (b)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained as part of the employee's medical record and the prior exam shall be treated as if it were an initial examination for the purposes of (c) and (d) of this subsection.

(c) Actions triggered by initial biological monitoring.

(i) If the results of the biological monitoring tests in the initial examination show the employee's CdU level to be at or below 3 µg/g Cr, B₂-M level to be at or below 300 µg/g Cr and CdB level to be at or below 5 µg/lwb, then:

(A) For employees who are subject to medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide the minimum level of periodic medical surveillance in accordance with the requirements in (d)(i) of this subsection; and

(B) For employees who are subject to medical surveillance under (a)(i)(B) of this subsection because of prior but not current exposure, the employer shall provide biological monitoring for CdU, B₂-M, and CdB (~~within~~) one year after the initial biological monitoring and then the employer shall comply with the requirements of (d)(vi) of this subsection.

(ii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to exceed 3 µg/g Cr, the level of B₂-M to be in excess of 300 µg/g Cr, or the level of CdB to be in excess of 5 µg/lwb, the employer shall:

(A) Within two weeks after receipt of biological monitoring results, reassess the employee's occupational exposure to cadmium as follows:

(I) Reassess the employee's work practices and personal hygiene;

(II) Reevaluate the employee's respirator use, if any, and the respirator program;

(III) Review the hygiene facilities;

(IV) Reevaluate the maintenance and effectiveness of the relevant engineering controls;

(V) Assess the employee's smoking history and status;

(B) Within 30 days after the exposure reassessment, specified in (c)(ii)(A) of this subsection, take reasonable steps to correct any deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium; and

(C) Within 90 days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. If the physician determines that medical removal is not necessary, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(I) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a semiannual basis; and

(II) Provide annual medical examinations in accordance with (d)(ii) of this subsection.

(iii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to be in excess of 15 µg/g Cr, or the level of CdB to be in excess of 15 µg/lwb, or the level of B₂-M to be in excess of 1,500 µg/g Cr, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 15 µg/g Cr; or CdB exceeds 15 µg/lwb; or B₂-M exceeds 1500 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove

the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(iv) For all employees to whom medical surveillance is provided, beginning on January 1, 1999, and in lieu of (c)(iii) of this subsection, whenever the results of initial biological monitoring tests show the employee's CdU level to be in excess of 7 µg/g Cr, or B₂-M level to be in excess of 750 µg/g Cr, or CdB level to be in excess of 10 µg/lwb, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 7 µg/g Cr; or CdB exceeds 10 µg/lwb; or B₂-M exceeds 750 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(d) Periodic medical surveillance.

(i) For each employee who is covered by medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide at least the minimum level of periodic medical surveillance, which consists of periodic medical examinations and periodic biological monitoring. A periodic medical examination shall be provided within one year after the

initial examination required by (b) of this subsection and thereafter at least biennially. Biological sampling shall be provided at least annually either as part of a periodic medical examination or separately as periodic biological monitoring.

(ii) The periodic medical examination shall include:

(A) A detailed medical and work history, or update thereof, with emphasis on: Past, present, and anticipated future exposure to cadmium; smoking history and current status; reproductive history; current use of medications with potential nephrotoxic side-effects; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculo-skeletal system dysfunction; and as part of the medical and work history, for employees who wear respirators, questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A complete physical examination with emphasis on: Blood pressure, the respiratory system, and the urinary system;

(C) A 14 inch by 17 inch, or a reasonably standard sized posterior-anterior chest x-ray (after the initial x-ray, the frequency of chest x-rays is to be determined by the examining physician);

(D) Pulmonary function tests, including forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV1);

(E) Biological monitoring, as required in (b)(ii)(B) of this subsection;

(F) Blood analysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including blood urea nitrogen, complete blood count, and serum creatinine;

(G) Urinalysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including the determination of albumin, glucose, and total and low molecular weight proteins;

(H) For males over 40 years old, prostate palpation, or other at least as effective diagnostic test(s); and

(I) Any additional tests or procedures deemed appropriate by the examining physician.

(iii) Periodic biological monitoring shall be provided in accordance with (b)(ii)(B) of this subsection.

(iv) If the results of periodic biological monitoring or the results of biological monitoring performed as part of the periodic medical examination show the level of the employee's CdU, B₂-M, or CdB to be in excess of the levels specified in (c)(ii) and (iii) of this subsection; or, beginning on January 1, 1999, in excess of the levels specified in (c)(ii) or (iv) of this subsection, the employer shall take the appropriate actions specified in (c)(~~(iii) and~~) (ii) through (iv) of this subsection, respectively.

(v) For previously exposed employees under (a)(i)(B) of this subsection:

(A) If the employee's levels of CdU did not exceed 3 µg/g Cr, CdB did not exceed 5 µg/lwb, and B₂-M did not exceed 300 µg/g Cr in the initial biological monitoring tests, and if the results of the follow-up biological monitoring required by (c)(i)(B) of this subsection (~~(within)~~) one year after the initial examination confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(B) If the initial biological monitoring results for CdU, CdB, or B₂-M were in excess of the levels specified in (c)(i) of this subsection, but subsequent biological monitoring

results required by (c)(ii) through (iv) of this subsection show that the employee's CdU levels no longer exceed 3 µg/g Cr, CdB levels no longer exceed 5 µg/lwb, and B₂-M levels no longer exceed 300 µg/g Cr, the employer shall provide biological monitoring for CdU, CdB, and B₂-M (~~(within)~~) one year after these most recent biological monitoring results. If the results of the follow-up biological monitoring (~~(within one year,)~~) specified in this section, confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(C) However, if the results of the follow-up tests specified in (d)(v)(A) or (B) of this subsection indicate that the level of the employee's CdU, B₂-M, or CdB exceeds these same levels, the employer is required to provide annual medical examinations in accordance with the provisions of (d)(ii) of this subsection until the results of biological monitoring are consistently below these levels or the examining physician determines in a written medical opinion that further medical surveillance is not required to protect the employee's health.

(vi) A routine, biennial medical examination is not required to be provided in accordance with (c)(i) and (d) of this subsection if adequate medical records show that the employee has been examined in accordance with the requirements of (d)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained by the employer as part of the employee's medical record, and the next routine, periodic medical examination shall be made available to the employee within two years of the previous examination.

(e) Actions triggered by medical examinations. If the results of a medical examination carried out in accordance with this section indicate any laboratory or clinical finding consistent with cadmium toxicity that does not require employer action under (b), (c), or (d) of this subsection, the employer shall take the following steps and continue to take them until the physician determines that they are no longer necessary.

(i) Periodically reassess: The employee's work practices and personal hygiene; the employee's respirator use, if any; the employee's smoking history and status; the respiratory protection program; the hygiene facilities; the maintenance and effectiveness of the relevant engineering controls; and take all reasonable steps to correct the deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium.

(ii) Provide semiannual medical reexaminations to evaluate the abnormal clinical sign(s) of cadmium toxicity until the results are normal or the employee is medically removed; and

(iii) Where the results of tests for total proteins in urine are abnormal, provide a more detailed medical evaluation of the toxic effects of cadmium on the employee's renal system.

(f) Examination for respirator use.

(i) To determine an employee's fitness for respirator use, the employer shall provide a medical examination that includes the elements specified in (f)(i)(A) through (D) of this subsection. This examination shall be provided prior to the employee's being assigned to a job that requires the use of a respirator or no later than 90 days after this section goes into effect, whichever date is later, to any employee without

a medical examination within the preceding 12 months that satisfies the requirements of this section.

(A) A detailed medical and work history, or update thereof, with emphasis on: Past exposure to cadmium; smoking history and current status; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculo-skeletal system dysfunction; a description of the job for which the respirator is required; and questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A blood pressure test;

(C) Biological monitoring of the employee's levels of CdU, CdB and B₂-M in accordance with the requirements of (b)(ii)(B) of this subsection, unless such results already have been obtained within the twelve months; and

(D) Any other test or procedure that the examining physician deems appropriate.

(ii) After reviewing all the information obtained from the medical examination required in (f)(i) of this subsection, the physician shall determine whether the employee is fit to wear a respirator.

(iii) Whenever an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, the employer, as soon as possible, shall provide the employee with a periodic medical examination in accordance with (d)(ii) of this subsection to determine the employee's fitness to wear a respirator.

(iv) Where the results of the examination required under (f)(i) ~~((e))~~, (ii), or (iii) of this subsection are abnormal, medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

(g) Emergency examinations.

(i) In addition to the medical surveillance required in (b) through (f) of this subsection, the employer shall provide a medical examination as soon as possible to any employee who may have been acutely exposed to cadmium because of an emergency.

(ii) The examination shall include the requirements of (d)(ii), of this subsection, with emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as identified in Appendix A, WAC 296-62-07441 (2)(b)(i) and (ii) and (4).

(h) Termination of employment examination.

(i) At termination of employment, the employer shall provide a medical examination in accordance with (d)(ii) of this subsection, including a chest x-ray where necessary, to any employee to whom at any prior time the employer was required to provide medical surveillance under (a)(i) or (g) of this subsection. However, if the last examination satisfied the requirements of (d)(ii) of this subsection and was less than six months prior to the date of termination, no further examination is required unless otherwise specified in (c) or (e) of this subsection;

(ii) In addition, if the employer has discontinued all periodic medical surveillance under (d)~~((e))~~ (v) of this subsection, no termination of employment medical examination is required.

(i) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and appendices;

(ii) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium;

(iii) The employee's former, current, and anticipated future levels of occupational exposure to cadmium;

(iv) A description of any personal protective equipment, including respirators, used or to be used by the employee, including when and for how long the employee has used that equipment; and

(v) Relevant results of previous biological monitoring and medical examinations.

(j) Physician's written medical opinion.

(i) The employer shall promptly obtain a written, signed, medical opinion from the examining physician for each medical examination performed on each employee. This written opinion shall contain:

(A) The physician's diagnosis for the employee;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity;

(C) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium;

(D) Any recommended removal from, or limitation on the activities or duties of the employee or on the employee's use of personal protective equipment, such as respirators;

(E) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.

(ii) The employer shall promptly obtain a copy of the results of any biological monitoring provided by an employer to an employee independently of a medical examination under (b) and (d) of this subsection, and, in lieu of a written medical opinion, an explanation sheet explaining those results.

(iii) The employer shall instruct the physician not to reveal orally or in the written medical opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to cadmium.

(k) Medical removal protection (MRP).

(i) General.

(A) The employer shall temporarily remove an employee from work where there is excess exposure to cadmium on each occasion that medical removal is required under (c), (d), or (f) of this subsection and on each occasion that a physician determines in a written medical opinion that the employee should be removed from such exposure. The physician's determination may be based on biological monitoring results, inability to wear a respirator, evidence of illness, other signs or symptoms of cadmium-related dysfunction or disease, or any other reason deemed medically sufficient by the physician.

(B) The employer shall medically remove an employee in accordance with (k) of this subsection regardless of whether at the time of removal a job is available into which the removed employee may be transferred.

(C) Whenever an employee is medically removed under (k) of this subsection, the employer shall transfer the removed employee to a job where the exposure to cadmium is within the permissible levels specified in ~~(that paragraph)~~ subsection (12) of this section as soon as one becomes available.

(D) For any employee who is medically removed under the provisions of (k)(i) of this subsection, the employer shall provide follow-up medical examinations semiannually until, in a written medical opinion, the examining physician determines that either the employee may be returned to his/her former job status or the employee must be permanently removed from excess cadmium exposure.

(E) The employer may not return an employee who has been medically removed for any reason to his/her former job status until a physician determines in a written medical opinion that continued medical removal is no longer necessary to protect the employee's health.

(ii) Where an employee is found unfit to wear a respirator under (f)(ii) of this subsection, the employer shall remove the employee from work where exposure to cadmium is above the PEL.

(iii) Where removal is based upon any reason other than the employee's inability to wear a respirator, the employer shall remove the employee from work where exposure to cadmium is at or above the action level.

(iv) Except as specified in (k)(v) of this subsection, no employee who was removed because his/her level of CdU, CdB and/or B₂-M exceeded the trigger levels in (c) or (d) of this subsection may be returned to work with exposure to cadmium at or above the action level until the employee's levels of CdU fall to or below 3 µg/g Cr, CdB fall to or below 5 µg/lwb, and B₂-M fall to or below 300 µg/g Cr.

(v) However, when in the examining physician's opinion continued exposure to cadmium will not pose an increased risk to the employee's health and there are special circumstances that make continued medical removal an inappropriate remedy, the physician shall fully discuss these matters with the employee, and then in a written determination may return a worker to his/her former job status despite what would otherwise be unacceptably high biological monitoring results. Thereafter and until such time as the employee's biological monitoring results have decreased to levels where he/she could have been returned to his/her former job status, the returned employee shall continue medical surveillance as if he/she were still on medical removal. Until such time, the employee is no longer subject to mandatory medical removal. Subsequent questions regarding the employee's medical removal shall be decided solely by a final medical determination.

(vi) Where an employer, although not required by this section to do so, removes an employee from exposure to cadmium or otherwise places limitations on an employee due to the effects of cadmium exposure on the employee's medical condition, the employer shall provide the same medical removal protection benefits to that employee under (l) of this subsection as would have been provided had the removal been required under (k) of this subsection.

(l) Medical removal protection benefits.

(i) The employer shall provide medical removal protection benefits to an employee for up to a maximum of 18

months each time, and while the employee is temporarily medically removed under (k) of this subsection.

(ii) For purposes of this section, the requirement that the employer provide medical removal protection benefits means that the employer shall maintain the total normal earnings, seniority, and all other employee rights and benefits of the removed employee, including the employee's right to his/her former job status, as if the employee had not been removed from the employee's job or otherwise medically limited.

(iii) Where, after 18 months on medical removal because of elevated biological monitoring results, the employee's monitoring results have not declined to a low enough level to permit the employee to be returned to his/her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section in order to obtain a final medical determination as to whether the employee may be returned to his/her former job status or must be permanently removed from excess cadmium exposure; and

(B) The employer shall assure that the final medical determination indicates whether the employee may be returned to his/her former job status and what steps, if any, should be taken to protect the employee's health.

(iv) The employer may condition the provision of medical removal protection benefits upon the employee's participation in medical surveillance provided in accordance with this section.

(m) Multiple physician review.

(i) If the employer selects the initial physician to conduct any medical examination or consultation provided to an employee under this section, the employee may designate a second physician to:

(A) Review any findings, determinations, or recommendations of the initial physician; and

(B) Conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician provided by the employer conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, multiple physician review upon the employee doing the following within fifteen (15) days after receipt of this notice, or receipt of the initial physician's written opinion, whichever is later:

(A) Informing the employer that he or she intends to seek a medical opinion; and

(B) Initiating steps to make an appointment with a second physician.

(iii) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(iv) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee, through their respective physicians, shall designate a third physician to:

(A) Review any findings, determinations, or recommendations of the other two physicians; and

(B) Conduct such examinations, consultations, laboratory tests, and discussions with the other two physicians as the third physician deems necessary to resolve the disagreement among them.

(v) The employer shall act consistently with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement that is consistent with the recommendations of at least one of the other two physicians.

(n) Alternate physician determination. The employer and an employee or designated employee representative may agree upon the use of any alternate form of physician determination in lieu of the multiple physician review provided by (m) of this subsection, so long as the alternative is expeditious and at least as protective of the employee.

(o) Information the employer must provide the employee.

(i) The employer shall provide a copy of the physician's written medical opinion to the examined employee within five working days after receipt thereof.

(ii) The employer shall provide the employee with a copy of the employee's biological monitoring results and an explanation sheet explaining the results within five working days after receipt thereof.

(iii) Within 30 days after a request by an employee, the employer shall provide the employee with the information the employer is required to provide the examining physician under (i) of this subsection.

(p) Reporting. In addition to other medical events that are required to be reported on the OSHA Form No. 200, the employer shall report any abnormal condition or disorder caused by occupational exposure to cadmium associated with employment as specified in Chapter (V)(E) of the Bureau of Labor Statistics Recordkeeping Guidelines for Occupational Injuries and Illnesses.

(13) Communication of cadmium hazards to employees

(a) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) Warning signs.

(i) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(ii) Warning signs required by (b)(i) of this subsection shall bear the following information:

Danger, Cadmium, Cancer Hazard, Can Cause Lung and Kidney Disease, Authorized Personnel Only, Respirators Required in This Area

(iii) The employer shall assure that signs required by this paragraph are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(c) Warning labels.

(i) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing,

equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (c)(ii) of this subsection.

(ii) The warning labels shall include at least the following information:

Danger, Contains Cadmium, Cancer Hazard, Avoid Creating Dust, Can Cause Lung and Kidney Disease

(iii) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(d) Employee information and training.

(i) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(ii) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(iii) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(A) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, Appendix A;

(B) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(C) The engineering controls and work practices associated with the employee's job assignment;

(D) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(E) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing;

(F) The purpose and a description of the medical surveillance program required by subsection (12) of this section;

(G) The contents of this section and its appendices; and

(H) The employee's rights of access to records under chapter 296-62 WAC, Part B.

(iv) Additional access to information and training program and materials.

(A) The employer shall make a copy of this section and its appendices readily available to all affected employees and shall provide a copy without cost if requested.

(B) Upon request, the employer shall provide to the director or authorized representative, all materials relating to the employee information and the training program.

(e) Multi-employer workplace. In a multi-employer workplace, an employer who produces, uses, or stores cadmium in a manner that may expose employees of other employers to cadmium shall notify those employers of the potential hazard in accordance with WAC 296-62-05409 of the hazard communication standard.

(14) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and keep an accurate record of all air monitoring for cadmium in the workplace.

(ii) This record shall include at least the following information:

(A) The monitoring date, shift, duration, air volume, and results in terms of an 8-hour TWA of each sample taken, and if cadmium is not detected, the detection level;

(B) The name, Social Security number, and job classification of all employees monitored and of all other employees whose exposures the monitoring result is intended to represent, including, where applicable, a description of how it was determined that the employee's monitoring result could be taken to represent other employee's exposures;

(C) A description of the sampling and analytical methods used and evidence of their accuracy;

(D) The type of respiratory protective device, if any, worn by the monitored employee and by any other employee whose exposure the monitoring result is intended to represent;

(E) A notation of any other conditions that might have affected the monitoring results;

(F) Any exposure monitoring or objective data that were used and the levels.

(iii) The employer shall maintain this record for at least thirty (30) years, in accordance with WAC 296-62-05207.

(iv) The employer shall also provide a copy of the results of an employee's air monitoring prescribed in subsection (4) of this section to an industry trade association and to the employee's union, if any, or, if either of such associations or unions do not exist, to another comparable organization that is competent to maintain such records and is reasonably accessible to employers and employees in the industry.

(b) Objective data for exemption from requirement for initial monitoring.

(i) For purposes of this section, objective data are information demonstrating that a particular product or material containing cadmium or a specific process, operation, or activity involving cadmium cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product test results from manufacturers of cadmium-containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(ii) The employer shall maintain the record for at least 30 years of the objective data relied upon.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under (a)(i) of this subsection.

(ii) The record shall include at least the following information about the employee:

(A) Name, Social Security number, and description of duties;

(B) A copy of the physician's written opinions and of the explanation sheets for biological monitoring results;

(C) A copy of the medical history, and the results of any physical examination and all test results that are required

to be provided by this section, including biological tests, x-rays, pulmonary function tests, etc., or that have been obtained to further evaluate any condition that might be related to cadmium exposure;

(D) The employee's medical symptoms that might be related to exposure to cadmium; and

(E) A copy of the information provided to the physician as required by subsection (12)(i) of this section.

(iii) The employer shall assure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with WAC 296-62-05207.

(iv) At the employee's request, the employer shall promptly provide a copy of the employee's medical record, or update as appropriate, to a medical doctor or a union specified by the employee.

(d) Training. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification records shall be prepared at the completion of training and shall be maintained on file for one (1) year beyond the date of training of that employee.

(e) Availability.

(i) Except as otherwise provided for in this section, access to all records required to be maintained by (a) through (d) of this subsection shall be in accordance with the provisions of WAC 296-62-052.

(ii) Within 15 days after a request, the employer shall make an employee's medical records required to be kept by (c) of this subsection available for examination and copying to the subject employee, to designated representatives, to anyone having the specific written consent of the subject employee, and after the employee's death or incapacitation, to the employee's family members.

(f) Transfer of records. Whenever an employer ceases to do business and there is no successor employer or designated organization to receive and retain records for the prescribed period, the employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(15) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to cadmium.

(b) Observation procedures. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with that clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

(16) Dates.

(a) Effective date. This section shall become effective on June 14, 1993.

(b) Start-up dates. All obligations of this section commence on the effective date except as follows:

(i) Exposure monitoring. Except for small businesses (nineteen or fewer employees), initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible and in any event no later than 60 days after the

effective date of this section. For small businesses, initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible and in any event no later than 120 days after the effective date of this section.

(ii) The permissible exposure limit (PEL). Except for small businesses, as defined under (b)(i) of this subsection, the employer shall comply with the PEL established by subsection (3) of this section as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, the employer shall comply with the PEL established by subsection (3) of this section as soon as possible and in any event no later than 150 days after the effective date of this section.

(iii) Regulated areas. Except for small businesses, as defined under (b)(i) of this subsection, regulated areas required to be established by subsection (5) of this section shall be set up as soon as possible after the results of exposure monitoring are known and in any event no later than 90 days after the effective date of this section. For small businesses, regulated areas required to be established by subsection (5) of this section shall be set up as soon as possible after the results of exposure monitoring are known and in any event no later than 150 days after the effective date of this section.

(iv) Respiratory protection. Except for small businesses, as defined under (b)(i) of this subsection, respiratory protection required by subsection (7) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, respiratory protection required by subsection (7) of this section shall be provided as soon as possible and in any event no later than 150 days after the effective date of this section.

(v) Compliance program. Except for small businesses, as defined under (b)(i) of this subsection, written compliance programs required by subsection (6)(b) of this section shall be completed and available as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, written compliance programs required by subsection (6)(b) of this section shall be completed and available as soon as possible and in any event no later than 180 days after the effective date of this section.

(vi) Methods of compliance. Except for small businesses, as defined under (b)(i) of this subsection, the engineering controls required by subsection (6)(a) of this section shall be implemented as soon as possible and in any event no later than 120 days after the effective date of this section. For small businesses, the engineering controls required by subsection (6)(a) of this section shall be implemented as soon as possible and in any event no later than 240 days after the effective date of this section. Work practice controls shall be implemented as soon as possible. Work practice controls that are directly related to engineering controls to be implemented shall be implemented as soon as possible after such engineering controls are implemented.

(vii) Hygiene and lunchroom facilities. Except for small businesses, as defined under (b)(i) of this subsection, handwashing facilities, showers, change rooms and eating facilities required by subsection (10) of this section, whether permanent or temporary, shall be provided as soon as possible and in any event no later than 60 days after the effective date of this section. For small businesses,

handwashing facilities, showers, change rooms and eating facilities required by subsection (10) of this section, whether permanent or temporary, shall be provided as soon as possible and in any event no later than 120 days after the effective date of this section.

(viii) Employee information and training. Except for small businesses, as defined under (b)(i) of this subsection, employee information and training required by subsection (13)(d) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, employee information and training required by subsection (13)(d) of this section shall be provided as soon as possible and in any event no later than 180 days after the effective date of this section.

(ix) Medical surveillance. Except for small businesses, as defined under (b)(i) of this subsection, initial medical examinations required by subsection (12) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, initial medical examinations required by subsection (12) of this section shall be provided as soon as possible and in any event no later than 180 days after the effective date of this section.

(17) Appendices.

(a) WAC 296-62-07445, Appendix C, is a part of this standard, and compliance with its contents is mandatory.

(b) Except where portions of WAC 296-62-07441, 296-62-07443, 296-62-07447, 296-62-07449, and 296-62-07451, Appendices A, B, D, E, and F, respectively, to this section are expressly incorporated in requirements of this section, these appendices are purely informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

WSR 93-16-110
PROPOSED RULES
BUILDING CODE COUNCIL
[Filed August 4, 1993, 11:46 a.m.]

Original Notice.

Title of Rule: Policies and procedures for consideration of statewide and local amendments to the State Building Code.

Purpose: To consider amendments to the councils policies and procedures for statewide and local building code amendments and council policies for considering interpretation requests.

Statutory Authority for Adoption: Chapter 19.27 RCW.
Statute Being Implemented: RCW 19.27.035.

Summary: The proposal will effect the following: Require greater consideration and review of council code changes by national model code organizations; to allow others appropriate local officials to request code interpretations; to allow council standing committees to issue code related interpretations. In addition, options for comment as to whether the council should retain criteria for consideration of local residential amendments are also included.

Name of Agency Personnel Responsible for Drafting and Implementation: Willy O'Neil, 906 Columbia Street

S.W., P.O. Box 48300, Olympia, WA 98504-8300, (206) 586-0486.

Name of Proponent: Washington Association of Building Officials, private; and Washington State Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: In addition to the proposed changes to the council's policies and procedures for consideration of statewide and local amendments, the council is interested in seeking comments on the following.

Should the council adopt criteria to use as an "acid test" for determining which issues should be considered for code changes? If so, what criteria are appropriate?

Should the council adopt a procedure for correcting errors and omissions in statewide codes and code amendments that are adopted by the council? In particular, should the council: A. Adopt criteria for determining if an error or omission exists in a statewide code or code amendment? B. Should the council adopt a process for correcting errors and omissions in addition to the regular council code update cycle? C. Should the council see statutory authority to effect corrections to errors and omission without legislative review as is now required by RCW 19.27.074 and chapter 19.27A RCW?

Do the proposed changes to WAC 51-04-060 adequately allow for code interpretations to be requested by the appropriate local authority charged with code enforcement?

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

Explanation of Rule, its Purpose, and Anticipated Effects: As currently written, the rule establishes the system for council review, consideration, and adoption of the Washington State Building Code, including the development and adoption of statewide amendments to the code. In addition, the rule establishes the policies for council consideration of local residential amendments, and the council's system for answering code interpretation questions. The purpose of the proposal is to encourage more effective use of the International Conference of Building Official's code development process for review of proposed statewide amendments to the uniform codes; institute a more formalized system for consideration of proposed state-wide amendments to the building code; consider whether criteria for local residential amendments to the State Building Code are still necessary; and, revise the council's policies and procedures for considering code interpretation requests.

Proposal Changes the Following Existing Rules: The proposal sets up a yearly "submission period" when statewide code changes may be proposed to the council. Proposed code changes shall be considered by the council, and, when appropriate, accepted by the council for consideration during the next code update cycle. Accepted proposals shall be submitted as a code change to the appropriate national model code organization. Upon availability of the new editions of the uniform codes (every third year) an adoption period commences to adopt the new editions of the codes. Also included during the adoption period will be consideration of code changes previously accepted by the council during a "submission period," and review of existing state developed codes and statewide amendments to the uniform codes for appropriate amendments or repeal.

The proposal redefines the term "building official" in order to allow the local official responsible for enforcement of a particular code to request code interpretations.

The proposal allows council standing committees to approve code related interpretations.

The proposal includes an option in WAC 51-04-030 to delete, or make mandatory, consideration of local conditions when the council reviews, and approves or denies, local residential amendments to the State Building Code.

The following criteria for consideration of local residential amendments to the State Building Code are currently considered by the council when reviewing local residential amendments: Climatic conditions that are unique to the jurisdiction; geologic or seismic conditions that are unique to the jurisdiction; environmental impacts such as noise, dust, etc. that are unique to the jurisdiction; life, health or safety conditions that are unique to the local jurisdiction; and other special conditions that are unique to the jurisdiction.

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

This proposal amends council internal working rules only and therefore will have no effect on small business.

Hearing Location: Spokane City Council Chambers, Spokane City Hall, West 808 Spokane Falls Boulevard, Spokane, WA, on September 10, 1993, at 9:00 a.m.; and at the West Coast SeaTac, 18220 Pacific Highway South, SeaTac, WA 98188, on October 8, 1993, at 9:00 a.m.

Submit Written Comments to: Gene Colin, Chair, State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, by October 15, 1993.

Date of Intended Adoption: November 12, 1993.

July 9, 1993

Gene Colin
Chair

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the uniform codes and standards which include changes to the current edition of the uniform codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency state-wide amendment" means any proposed state-wide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants, preserve the structural integrity of buildings built to the state building code or to comply with enacted state or federal legislation. Emergency state-wide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in

their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "State building code" means the Uniform Building Code and Standards; the Uniform Mechanical Code including Appendix B, Chapter 22 Fuel Gas Piping; the Uniform Fire Code and Standards; the Uniform Plumbing Code and Standards, excluding Chapters 11 and 12; the state regulations for barrier-free facilities; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

(7) "State-wide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. State-wide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(8) "State building code update cycle" means that period during which the uniform code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW. ~~During the code update cycle, the entire building code is updated by the council. The code update cycle commences upon availability of the publication of the current edition of the Uniform Codes by the International Conference of Building Officials, and concludes with formal adoption of the revised building code by the council and final review by the state legislature.~~

~~Within sixty days of the receipt of the new current editions of the uniform codes as published by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively, the council shall enter rulemaking to update the building code.)~~ hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the uniform codes, hereinafter referred to as "submission periods."

(9) "Uniform codes" means the Uniform Building, Mechanical, Plumbing, and Fire Codes as published by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-018 ((Preproposal)) Petition for preliminary review. An agency, city or county, or other interested individual or organization wishing to submit state-wide or local government residential amendments to the building code for council consideration, may file with the council a ((preproposal)) petition for preliminary review of the state-wide or local government residential amendment, in order to solicit comments from council members and interested parties, prior to council action.

The council may refer a ((preproposal)) petition for preliminary review to one of the council standing committees for review and comment.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-020 Policies for the consideration of proposed state-wide amendments. The council will accept and consider petitions for emergency state-wide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for state-wide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

In every year excluding the year with the adoption period, the state building code council shall identify a submission period of at least thirty days when revisions to the uniform codes may be submitted. The state building code council shall review all submissions and accept for future rule making those revisions favorably reviewed. Revisions accepted shall be submitted to the International Conference of Building Officials, the International Association of Plumbing and Mechanical Officials and the International Fire Code Institute, respectively, as proposed revisions to the uniform codes (unless recently considered as amendments) and held for further review during the adoption period.

The adoption period commences upon availability of the publication of the new edition of the uniform codes by the International Conference of Building Officials, and concludes with formal adoption of the revised building code by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. At the beginning of the adoption period, the state building code council shall identify a limited submission period of at least thirty days. During this period, the council will receive revisions proposed to:

The uniform codes provided that the proposed revisions shall be limited to revisions which address changes in the uniform codes since the previous edition.

The state building code which addresses existing state-wide amendments to the uniform codes.

The state building code which addresses portions of the state building code other than the uniform codes.

In addition, the state building code council shall review for adoption those proposed revisions to the uniform code accepted after preliminary review in those submission periods since the last adoption period. The state building code council shall consider the action of the International Conference of Building Officials, the International Association of Plumbing and Mechanical Officials and the International Fire Code Institute, respectively, in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the uniform codes the council shall enter rule making to update the building code.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-025 Procedure for submittal or proposed state-wide amendments. All proposed state-wide amendments shall be submitted in writing to the council, on the form provided by the council.

Petitions for state-wide amendments to the building code ~~((should)) shall~~ be submitted to the council ~~((within thirty days of publication of the new current editions of the uniform codes as revised by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively))~~ during the submission period and the adoption period in accordance with WAC 51-04-020.

Petitions for emergency state-wide amendments to the building code may be submitted at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020.

The council may refer a proposed state-wide amendment to one of the council standing committees for review and comment prior to council action in accordance with chapter 34.05 RCW.

The council shall deal with all proposed state-wide amendments within the time frames required by chapter 19.27 RCW, RCW 34.05.330, and all other deadlines established by statute.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction.

OPTION 1

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval ~~((should be based on:~~

- ~~(1) Climatic conditions that are unique to the jurisdiction.~~
- ~~(2) Geologic or seismic conditions that are unique to the jurisdiction.~~
- ~~(3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.~~
- ~~(4) Life, health, or safety conditions that are unique to the local jurisdiction.~~
- ~~(5) Other special conditions that are unique to the jurisdiction)) shall comply with RCW 19.27.040.~~

OPTION 2

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval shall be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

Local government residential amendments to Chapters 1, 2, or 3 of the uniform building code need not be submitted to the council for review and approval provided that such amendments do not diminish the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-060 Opinions ~~((and interpretations))~~. RCW 19.27.031 grants the council authority to render opinions relating to the building code at the request of a local building official.

For the purposes of this section, the term "building official" means the local or state official, or their designee, responsible for implementation and enforcement of the specific code provision on which the opinion is requested.

Council building code related opinions ~~((and interpretations))~~ shall be limited to the state regulations for barrier-free facilities, the state energy code, the state ventilation and indoor air quality code, and council amendments to the uniform codes.

~~((The Washington state energy office shall provide opinions and interpretations related to the state energy code.))~~ Council related opinions may be developed and approved by a standing committee of the council.

Opinions approved by a standing committee may be reviewed and modified by the council.

Energy code related opinions shall be developed in consultation with the Washington state energy office.

**WSR 93-16-111
PROPOSED RULES
BUILDING CODE COUNCIL**
[Filed August 4, 1993, 11:55 a.m.]

Continuance of WSR 93-08-077.

Title of Rule: Washington State Energy Code.

Purpose: To consider additional substantial changes to the standards for energy efficiency for new or altered nonresidential buildings as previously proposed in WSR 93-08-077.

Statutory Authority for Adoption: Chapter 19.27A RCW and chapter 122, Laws of 1991.

Statute Being Implemented: Chapter 122, Laws of 1991.

Summary: The purpose of the rule is to adopt changes to the Washington State Energy Code in accordance with chapter 19.27A RCW and chapter 122, Laws of 1991.

Reasons Supporting Proposal: The council received petitions from several groups including the NW Power Planning Council, Washington State Energy Office, Puget Sound Chapter of ASHRAE, and the Natural Resources Defense Council to upgrade the Washington State Energy Code regulations for new nonresidential buildings.

Name of Agency Personnel Responsible for Drafting and Implementation: Judith Darst, P.O. Box 48300, Olympia, WA 98504-8300, (206) 586-2251; and Enforcement: Local governments.

Name of Proponent: Washington State Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council seeks comments on sections as refiled in this notice; and implementation of the code, including code enforcement, code enforcement training and industry compliance training, and funding for these programs. **Please Note:** The implementation plan is available from the Northwest Power Planning Council. Please contact Kim Shrader, (206) 956-2202.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See original notice, WSR 93-08-077.

Proposal Changes the Following Existing Rules:

ENVELOPE

1. **Section 1310 - 1310.2 Semi-Heated Spaces:** Clarification of new class of semi-heated buildings.
2. **Section 1311 - 1311.6 Radiant Floors:** New path has been provided so the entire under slab need not be insulated.
3. **Section 1323 - 1323 Glazing and Doors:** Should skylights that also serve as smoke vents be exempt from code compliance calculations?
4. **Equations 13-1 and 13-2:** New equations include doors and overhead glazing.
5. **Table 13-1 (option 1) Table 13-1 (option 2) and Table 13-2 - Building Envelope Requirements:** New format to include doors and overhead glazing. Solar heat gain coefficient replaces shading coefficient. Table 13-1 (option 2) has a less stringent U-factor for vertical glazing utilizing the electric resistance heat 0% to 15% prescriptive path.

MECHANICAL

6. **Section 1412 - 1412.6 Combustion Heating Equipment Controls:** Amended Btu/h capacity to 225,000 and added a second exception for radiant heaters.
7. **Section 1414 - 1414.1 Duct Sealing:** Changed requirement to be in accordance with SMACNA standard.
8. **Tables 14-5 Duct Insulation:** New category "Not within conditioned space: in concrete, in ground."

LIGHTING

9. **Section 1513 - 1513.6 Automatic Shut-off Controls, Interior:** New limit to require automatic controls for only office buildings greater than 25,000 sq. ft. and all school classrooms.
10. **Table 15-1 Unit Lighting Power Allowance:** Office, school and retail use categories adjusted.

Small Business Economic Impact Statement: See original notice, WSR 93-08-077.

Hearing Location: Spokane City Hall, West 808 Spokane Falls Boulevard, Spokane, WA, on September 10, 1993, at 9:00 a.m.

Submit Written Comments to: State Building Code Council, ATTN: Gene Colin, P.O. Box 48300, Olympia, WA 98504-8300, by September 8, 1993.

Date of Intended Adoption: September 10, 1993.

August 3, 1993

G. J. Colin

Chair

NEW SECTION

WAC 51-11-1310 General requirements. The building envelope shall comply with Sections 1311 through 1314.

1310.1 Conditioned Spaces: The building envelope for conditioned spaces shall also comply with one of the following paths:

- a. Prescriptive Building Envelope Option Sections 1320 through 1323
- b. Component Performance Building Envelope Option Sections 1330 through 1334.
- c. Systems Analysis. See Section 1141.4.

1310.2 Semi-Heated Spaces: All spaces shall be considered conditioned spaces, and shall comply with the requirements in Section 1310.1 unless they meet the following criteria for semi-heated spaces. The installed heating equipment output, in Climate Zone 1, shall be greater than 3 Btu/h•sq. ft. and not greater than 8 Btu/h•sq. ft. and in Climate Zone 2, shall be greater than 5 Btu/h•sq. ft. and not greater than 12 Btu/h•sq. ft. Heating shall be controlled by a thermostat mounted not lower than the heating unit and capable of preventing heating above 44 degrees space temperature. For semi-heated spaces, the only prescriptive, component performance, or systems analysis building envelope requirement shall be that:

Climate Zone 1

- a. U=0.10 maximum for the roof assembly, or
- b. continuous R-9 insulation installed entirely outside of the roof structure, or

- c. R-11 insulation installed inside or within a wood roof structure, or
- d. R-19 insulation installed inside or within a metal roof structure.

Climate Zone 2

- a. U=0.07 maximum for the roof assembly, or

- b. continuous R-14 insulation installed entirely outside of the roof structure, or
- c. R-19 insulation installed inside or within a wood roof structure, or
- d. R-25 insulation installed inside or within a metal roof structure.

**Figure 13A
Building Envelope Compliance Options**

Section Number	Subject	Prescriptive Option	Component Performance Option	Systems Analysis Option
1310	General Requirements	X	X	X
1311	Insulation	X	X	X
1312	Glazing and Doors	X	X	X
1313	Moisture Control	X	X	X
1314	Air Leakage	X	X	X
1320	Prescriptive Building Envelope Option	X		
1321	General	X		
1322	Opaque Envelope	X		
1323	Glazing and Doors	X		
1330	Component Performance Building Envelope Option		X	
1331	General		X	
1332	Component U-Factors		X	
1333	UA Calculations		X	
1334	Target Shading Coefficient		X	
RS-29	Systems Analysis			X

NEW SECTION

WAC 51-11-1311 Insulation.

1311.1 Installation Requirements: All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities, maintain clearances, and maintain uniform R-values. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

1311.2 Roof/Ceiling Insulation: Open-blown or poured loose-fill insulation may be used in attic spaces where the slope of the ceiling is not more than three feet in twelve and there is at least thirty inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation.

Where lighting fixtures are recessed into a suspended or exposed grid ceiling, the roof/ceiling assembly shall be insulated in a location other than directly on the suspended ceiling.

Exception: Type IC rated recessed lighting fixtures.

Where installed in wood framing, faced batt insulation shall be face stapled.

1311.3 Wall Insulation: Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. When installed in wood framing, faced batt insulation shall be face stapled.

Above grade exterior insulation shall be protected.

1311.4 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is not more than twenty-four inches on center.

Installed insulation shall not block the airflow through foundation vents.

1311.5 Slab-On-Grade Floor: Slab-on-grade insulation installed inside the foundation wall, shall extend downward from the top of the slab a minimum distance of twenty-four inches or downward to the top of the footing, whichever is less. Insulation installed outside the foundation shall extend downward to a minimum of twenty-four inches or to the frostline, whichever is greater. Above grade insulation shall be protected.

Exception: For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

1311.6 Radiant Floors (on or below grade): Slab-on-grade insulation shall extend downward from the top of the slab a minimum distance of thirty-six inches or downward to the top of the footing and horizontal for an aggregate of not less than thirty-six inches.

If required by the building official where soil conditions warrant such insulation the entire area of a radiant floor shall be thermally isolated from the soil. Where a soil gas control system is provided below the radiant floor, which results in increased convective flow below the radiant floor, the radiant floor shall be thermally isolated from the sub-floor gravel layer.

NEW SECTION

WAC 51-11-1334 Target shading coefficient. The shading coefficient shall not exceed that specified in Tables 13-1 or 13-2 for the appropriate glazing range as a percent of the gross exterior wall area.

EQUATION 13-1 – NONRESIDENTIAL BUILDINGS**Target UA_t**

$$UA_t = U_{ra}A_{ra} + U_{or}A_{or} + U_{og}A_{og} + U_wA_w + U_dA_d + U_{vg}A_{vg} + U_fA_f + F_sP_s + U_{bgw}A_{bgw}$$

Where:

- UA_t = The target combined specific heat transfer of the gross roof/ceiling assembly exterior wall, and floor area.
- U_{ra} = The thermal transmittance value of the roof over attic area found in Tables 13-1 or 13-2.
- A_{ra} = Gross roof over attic area minus corresponding overhead glazing area.
- U_{or} = The thermal transmittance value of the other roof area found in Tables 13-1 or 13-2.
- A_{or} = Gross other roof area minus remaining overhead glazing area (not subtracted from gross roof over attic area).
- U_{og} = The thermal transmittance for the overhead glazing found in Tables 13-1 or 13-2 which corresponds to the glazing area below.
- A_{og} = Overhead glazing area: the lesser of the proposed overhead glazing area or the maximum total glazing area allowed in Tables 13-1 or 13-2.
- U_w = The thermal transmittance value of the opaque above grade wall area found in Tables 13-1 or 13-2.
- A_w = Gross opaque above grade wall area minus the opaque door area and the vertical glazing area.
- U_d = The thermal transmittance value of the opaque door area found in Tables 13-1 or 13-2.
- A_d = Opaque door area (same as proposed design).
- U_{vg} = The thermal transmittance for the vertical glazing found in Tables 13-1 or 13-2 which corresponds to the glazing area below.
- A_{vg} = Vertical glazing area: the lesser of the proposed vertical glazing area or the maximum total glazing area allowed in Tables 13-1 or 13-2, minus the target overhead glazing area.
- U_f = The thermal transmittance value of the floor over unconditioned space area found in Tables 13-1 or 13-2.
- A_f = Gross floor area over unconditioned space.
- F_s = Slab-on-grade or radiant floor component F-factor found in Tables 13-1 or 13-2.
- P_s = Lineal feet of slab-on-grade or radiant floor perimeter (same as proposed design).
- U_{bgw} = The thermal transmittance value of the below grade wall area.
- A_{bgw} = Below grade wall area as defined in Tables 13-1 or 13-2 same as proposed design).

EQUATION 13-2 -- NONRESIDENTIAL BUILDINGS

Proposed UA_p

$$UA_p = U_{ra}A_{ra} + U_{or}A_{or} + U_{og}A_{og} + U_wA_w + U_dA_d + U_{vg}A_{vg} + U_fA_f + F_sP_s + U_{bgw}A_{bgw}$$

Where:

- UA_p = The combined proposed specific heat transfer of the gross exterior wall, floor, and roof/ceiling assembly area.
- U_{ra} = The thermal transmittance of the roof over attic area.
- A_{ra} = Opaque roof over attic area.
- U_{or} = The thermal transmittance of the other roof area.
- A_{or} = Opaque other roof area.
- U_{og} = The thermal transmittance for the overhead glazing
- A_{og} = Overhead glazing area.
- U_w = The thermal transmittance of the opaque wall area.
- A_w = Opaque above grade wall area (not including opaque doors).
- U_{vg} = The thermal transmittance of the vertical glazing area.
- A_{vg} = Vertical glazing area.
- U_d = Thermal transmittance value of opaque door area.
- A_d = Opaque door area.
- U_f = The thermal transmittance of the floor over unconditioned space area.
- A_f = Floor area over unconditioned space.
- F_s = Slab-on-grade or radiant floor component F-factor.
- P_s = Lineal feet of slab-on-grade or radiant floor perimeter.
- U_{bgw} = The thermal transmittance value of the below grade wall area.
- A_{bgw} = Below grade wall area as defined in Tables 13-1 or 13-2.

NOTE: Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:

$$U_{w1}A_{w1} + U_{w2}A_{w2} + U_{w3}A_{w3} + \dots \text{etc.}$$

TABLE 13-1

OPTION 1

**BUILDING ENVELOPE REQUIREMENTS
FOR CLIMATE ZONE 1**

MINIMUM INSULATION R-VALUES OR MAXIMUM COMPONENT U-FACTORS FOR ZONE 1

Building Components

Space Heat Type	Components					
	Roofs Over Attic	All Other Roofs	Opaque Walls ^{1,2}	Opaque Doors	Floor Over Uncond Space	Slab On Grade ⁵
1. Electric resistance heat	R-38 or U=0.031	R-30 or U=0.034	R-19 or U=0.062 ³	U=0.60	R-30 or U=0.029	R-10 or F=0.54
2. All others including Heat pumps and VAV	R-30 or U=0.036	R-21 or U=0.050	R-11 or U=0.14	U=0.60	R-19 or U=0.056	R-10 or F=0.54

**MAXIMUM GLAZING AREAS AND U-FACTORS AND
MAXIMUM GLAZING SOLAR HEAT GAIN COEFFICIENTS FOR ZONE 1**

Glazing

Maximum Glazing Area as % of Wall	0% to 15%		Max. SHGC ⁴	>15% to 20%		Max. SHGC ⁴	>20% to 30%		Max. SHGC ⁴	>30% to 40%		Max. SHGC ⁴
	Maximum U-Factor			Maximum U-Factor			Maximum U-Factor			Maximum U-Factor		
	VG	OG	VG	OG	VG	OG	VG	OG	VG	OG		
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	PRESCRIPTIVE PATH NOT ALLOWED					
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.60	1.30	0.65	0.50	1.25	0.45

Footnotes

- Below Grade Walls:** Below grade walls shall be insulated either on the interior or the exterior. Below grade walls insulated on the exterior shall use a minimum of R-10 insulation. Below grade walls insulated on the interior shall use opaque wall values. No insulation is required for those portions of below grade walls and footings that are more than ten feet below grade. Below grade walls, however, shall not be included in the gross exterior wall area unless insulated to the levels given above.
- Concrete Masonry Walls:** If the heat capacity of the above grade concrete/masonry wall is a minimum of 9.0 BTU/sq. ft.- deg. F, then the minimum interior insulation may be reduced to R-5 and the U-value increased to 0.19; or the minimum exterior insulation may be reduced to R-3 and the U-value increased to 0.25; or the integral insulation concrete blocks shall have a minimum thickness of eight inches, a maximum density of 110 pounds per cubic foot and all cores shall be filled with vermiculite insulation having an R-value of 2.2 per inch for integral and exterior insulation as defined under insulation position in Chapter 12; glazing shall comply with the following:

Maximum Glazing Area as % of Wall	0 to 15 %		Max. SHGC ⁴	>15% to 20 %		Max. SHGC ⁴	>20% to 25 %		Max. SHGC ⁴
	Maximum U-Factor			Maximum U-Factor			Maximum U-Factor		
	VG	OG	VG	OG	VG	OG	VG	OG	
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	NOT ALLOWED		
2. All others including Heat pumps and VAV	0.75	1.40	1.0	0.65	1.30	0.80	0.60	1.30	0.65

- Metal Stud Walls:** For metal stud construction U=0.11.
- SHGC (Solar Heat Gain Coefficient per Section 1312.2):** May substitute Maximum Shading Coefficient (SC) for SHGC. (See Section 1210 for definition of Shading Coefficient).
- Radiant Floors:** Where insulation is required under the entire slab, radiant slabs shall use a minimum of R-10 insulation or F-0.55 maximum.

TABLE 13-1

OPTION 2

**BUILDING ENVELOPE REQUIREMENTS
FOR CLIMATE ZONE 1**

MINIMUM INSULATION R-VALUES OR MAXIMUM COMPONENT U-FACTORS FOR ZONE 1

Building Components

Space Heat Type	Components					
	Roofs Over Attic	All Other Roofs	Opaque Walls ^{1,2}	Opaque Doors	Floor Over Uncond Space	Slab On Grade ⁵
1. Electric resistance heat	R-38 or U=0.031	R-30 or U=0.034	R-19 or U=0.062 ³	U=0.60	R-30 or U=0.029	R-10 or F=0.54
2. All others including Heat pumps and VAV	R-30 or U=0.036	R-21 or U=0.050	R-11 or U=0.14	U=0.60	R-19 or U=0.056	R-10 or F=0.54

**MAXIMUM GLAZING AREAS AND U-FACTORS AND
MAXIMUM GLAZING SOLAR HEAT GAIN COEFFICIENTS FOR ZONE 1**

Glazing

Maximum Glazing Area as % of Wall	0% to 15%		>15% to 20%		>20% to 30%		>30% to 40%					
	Maximum U-Factor		Max. SHGC ⁴	Maximum U-Factor		Max. SHGC ⁴	Maximum U-Factor		Max. SHGC ⁴			
	VG	OG		VG	OG		VG	OG				
1. Electric resistance heat	0.45	0.80	1.0	0.40	0.80	1.0	PRESCRIPTIVE PATH NOT ALLOWED					
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.60	1.30	0.65	0.50	1.25	0.45

Footnotes

- Below Grade Walls:** Below grade walls shall be insulated either on the interior or the exterior. Below grade walls insulated on the exterior shall use a minimum of R-10 insulation. Below grade walls insulated on the interior shall use opaque wall values. No insulation is required for those portions of below grade walls and footings that are more than ten feet below grade. Below grade walls, however, shall not be included in the gross exterior wall area unless insulated to the levels given above.
- Concrete Masonry Walls:** If the heat capacity of the above grade concrete/masonry wall is a minimum of 9.0 BTU/sq. ft.- deg. F, then the minimum interior insulation may be reduced to R-5 and the U-value increased to 0.19; or the minimum exterior insulation may be reduced to R-3 and the U-value increased to 0.25; or the integral insulation concrete blocks shall have a minimum thickness of eight inches, a maximum density of 110 pounds per cubic foot and all cores shall be filled with vermiculite insulation having an R-value of 2.2 per inch for integral and exterior insulation as defined under insulation position in Chapter 12; glazing shall comply with the following:

Maximum Glazing Area as % of Wall	0 to 15 %		Max. SHGC ⁴	>15% to 20 %		Max. SHGC ⁴	>20% to 25 %		
	Maximum U-Factor			Maximum U-Factor			Maximum U-Factor		Max. SHGC ⁴
	VG	OG	VG	OG	VG	OG			
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	NOT ALLOWED		
2. All others including Heat pumps and VAV	0.75	1.40	1.0	0.65	1.30	0.80	0.60	1.30	0.65

- Metal Stud Walls:** For metal stud construction U=0.11.
- SHGC (Solar Heat Gain Coefficient per Section 1312.2):** May substitute Maximum Shading Coefficient (SC) for SHGC. (See Section 1210 for definition of Shading Coefficient)..
- Radiant Floors:** Where insulation is required under the entire slab, radiant slabs shall use a minimum of R-10 insulation or F-0.55 maximum.

**TABLE 13-2
BUILDING ENVELOPE REQUIREMENTS
FOR CLIMATE ZONE 2**

MINIMUM INSULATION R-VALUES OR MAXIMUM COMPONENT U-FACTORS FOR ZONE 2

Building Components

Space Heat Type	Components					
	Roofs Over Attic	All Other Roofs	Opaque Walls ^{1,2}	Opaque Doors	Floor Over Uncond Space	Slab On Grade
1. Electric resistance heat	R-38 or U=0.031	R-30 or U=0.034	R-24 or U=0.044 ³	U=0.60	R-30 or U=0.029	R-10 or F=0.54
2. All others including Heat pumps and VAV	R-38 or U=0.031	R-25 or U=0.040	R-19 or U=0.11	U=0.60	R-21 or U=0.047	R-10 or F=0.54

**MAXIMUM GLAZING AREAS AND U-FACTORS AND
MAXIMUM GLAZING SOLAR HEAT GAIN COEFFICIENTS FOR ZONE 2**

Glazing

Maximum Glazing Area as % of Wall	0% to 15%		>15% to 20%		>20% to 25%		>25% to 30%					
	Maximum U-Factor		Maximum U-Factor		Maximum U-Factor		Maximum U-Factor		Max. SHGC ⁴			
	VG	OG	VG	OG	VG	OG	VG	OG				
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	PRESCRIPTIVE PATH NOT ALLOWED					
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.60	1.30	0.60	0.50	1.25	0.50

Footnotes

- Below Grade Walls:** Below grade walls shall be insulated either on the interior or the exterior. Below grade walls insulated on the exterior shall use a minimum of R-12 insulation. Below grade walls insulated on the interior shall use opaque wall values. No insulation is required for those portions of below grade walls and footings that are more than ten feet below grade. Below grade walls, however, shall not be included in the gross exterior wall area unless insulated to the levels given above.
- Concrete Masonry Walls:** If the heat capacity of the above grade concrete/masonry wall is a minimum of 9.0 BTU/sq. ft.- deg. F, then the minimum interior insulation may be reduced to R-5 and the U-value increased to 0.19; or the minimum exterior insulation may be reduced to R-3 and the U-value increased to 0.25; or the integral insulation concrete blocks shall have a minimum thickness of eight inches, a maximum density of 110 pounds per cubic foot and all cores shall be filled with vermiculite insulation having an R-value of 2.2 per inch for integral and exterior insulation as defined under insulation position in Chapter 12; glazing shall comply with the following:

Maximum Glazing Area as % of Wall	0 to 5 %		>5% to 7 %		>7% to 10 %				
	Maximum U-Factor		Maximum U-Factor		Maximum U-Factor		Max. SHGC ⁴		
	VG	OG	VG	OG	VG	OG			
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	0.40	0.80	1.0
2. All others including Heat pumps and VAV	0.75	1.40	0.85	0.60	1.30	0.70	0.50	1.25	0.45

- Metal Stud Walls:** For metal stud construction U=0.10.
- SHGC (Solar Heat Gain Coefficient per Section 1312.2):** May substitute Maximum Shading Coefficient (SC) for SHGC. (See Section 1210 for definition of Shading Coefficient).
- Radiant Floors:** Where insulation is required under the entire slab, radiant slabs shall use a minimum of R-10 insulation or F-0.55 maximum.

NEW SECTION

WAC 51-11-1412 Controls.

1412.1 Temperature Controls: Each system shall be provided with at least one temperature control device. Each zone shall be controlled by individual thermostatic controls responding to temperature within the zone. At a minimum, each floor of a building shall be considered as a separate zone.

1412.2 Deadband Controls: When used to control both comfort heating and cooling, zone thermostatic controls shall be capable of a dead band of at least 5 degrees F within which the supply of heating and cooling energy to the zone is shut-off or reduced to a minimum.

Exceptions:

1. Special occupancy, special usage, or code requirements where dead band controls are not appropriate.
2. Buildings complying with Section 1141.4, if in the proposed building energy analysis, heating and cooling thermostat setpoints are set to the same temperature between 70 degrees F and 75 degrees F inclusive, and assumed to be constant throughout the year.
3. Thermostats that require manual changeover between heating and cooling modes.

1412.3 Humidity Controls: If a system is equipped with a means for adding moisture, a humidistat shall be provided.

1412.4 Setback and Shut-Off: HVAC systems shall be equipped with automatic controls capable of accomplishing a reduction of energy use through control setback or equipment shutdown during periods of non-use or alternate use of the spaces served by the system. The automatic controls shall have a minimum seven-day clock and be capable of being set for seven different day types per week.

Exceptions:

1. Systems serving areas which require continuous operation at the same temperature setpoint.
2. Equipment with full load demands of 2 Kw (6,826 Btu/hr) or less may be controlled by readily accessible manual off-hour controls.

1412.4.1 Dampers: Outside air intakes, exhaust outlets and relief outlets serving conditioned spaces shall be equipped with dampers which close automatically when the system is off or upon power failure. Stair shaft and elevator shaft smoke relief openings shall be equipped with normally open dampers. These dampers shall remain closed in normal operation until activated by the fire alarm system or other approved smoke detection system.

Exceptions:

1. Systems serving areas which require continuous operation.
2. Combustion air intakes.

1412.5 Heat Pump Controls: Unitary air cooled heat pumps shall include microprocessor controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators).

1412.6 Combustion Heating Equipment Controls: Combustion heating equipment with a capacity over 225,000 Btu/h shall have modulating or staged combustion control.

Exceptions:

1. Boilers.
2. Radiant heaters.

1412.7 Balancing: Each air supply outlet or air or water terminal device shall have a means for balancing, including but not limited to, dampers, temperature and pressure test connections and balancing valves.

NEW SECTION

WAC 51-11-1414 Ducting systems.

1414.1 Sealing: Duct work which is designed to operate at pressures above 1/2 inch water column static pressure shall be sealed in accordance with RS-18. Extent of sealing required is as follows:

1. Static pressure: 1/2 inch to 2 inches; seal transverse joints.
2. Static pressure: 2 inches to 3 inches; seal all transverse joints and longitudinal seams.
3. Static pressure: Above 3 inches; seal all transverse joints, longitudinal seams and duct wall penetrations.

1414.2 Insulation: Ducts and plenums that are constructed as part of the building envelope shall meet the requirements of Chapter 13. Other ducts and plenums shall be thermally insulated per Table 14-5.

Exceptions:

1. Within the HVAC equipment.
2. Exhaust air ducts not subject to condensation.
3. Exposed ductwork within a space that serves that space only.

NEW SECTION

WAC 51-11-1415 Piping systems.

1415.1 Insulation: Piping shall be thermally insulated in accordance with Table 14-6.

Exceptions: Piping installed within unitary HVAC equipment.

Water pipes outside the conditioned space shall be insulated in accordance with Washington State Plumbing Code (chapter 51-26 WAC)

NEW SECTION

WAC 51-11-1454 Pool covers. Heated pools shall be equipped with a vapor retardant pool cover on or at the water surface. Pools heated to more than 90 degrees F shall have a pool cover with a minimum insulation value of R-12.

TABLE 14-1
Standard Rating Conditions and Minimum Performance for
Air Cooled Unitary Air Conditioners, Heat Pumps, Packaged Terminal Air Conditioners,
Warm Air Furnaces, Duct Furnaces and Unit Heaters

Equipment Type & Rating	Category	Sub-category & Rating Conditions	Minimum Rating		Standard
			Steady State	Seasonal or Part Load	
Air Conditioners and Heat Pumps Cooling Ratings	≤65,000 Btu/h Cooling Capacity	Split Systems Single Package	(N/A) (N/A)	10.0 SEER 9.7 SEER	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	All Unitary Standard Ratings:	8.9 EER 95°F db	8.3 IPLV 80°F db	
	>135,000 and ≤760,000 Btu/h ¹ Cooling Capacity	Air Conditioners Heat Pumps	8.5 EER 8.5 EER	7.5 IPLV 7.5 IPLV	ARI 360 -1986
	>760,000 Btu/h ¹ Cooling Capacity	Air Conditioners Heat Pumps	8.2 EER 8.7 EER	7.5 IPLV 7.5 IPLV	
Packaged Term. Air Conditioners & Heat Pumps Cooling Ratings	All Capacities	Air Conditioners and Heat Pumps Standard/Low Temp	10.0 - (0.16 x Cap/1000) ³ EER 95°F	12.2 - (0.20 x Cap/1000) ^{2,3} EER 82°F	ARI 310 -1990
Heat Pump Heating Ratings	≤65,000 Btu/h Cooling Capacity	Split Systems Single Package		6.8 HSPF 6.6 HSPF	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	All Unitary Standard Ratings:	3.0 COP 47°F db/43°F wb	2.0 COP 17°F db/15°F wb	
	>135,000 Btu/h Cooling Capacity	Standard Ratings	2.9 COP 47 °F	2.0 COP 17 °F	ARI 365 -1986
Packaged Term. Heat Pumps Heating Ratings	All Capacities	Heat Pumps Standard Ratings	2.9 - (0.026x Cap/1000) ³ EER 47°F db/	Cap/1000) ³ EER 43°F wb	ARI 380 -1990
Warm Air Furnaces & Combination Furnace/A.C.	<225,000 Btu/h	Gas and Oil Fired Seasonal Ratings	80% E _t ⁴	78% AFUE ⁵	DOE 10CFR Part430 AppN
	≥225,000 Btu/h	Gas, Max Rating ⁶ Gas, Min Rating ⁶	80% E _t ⁴ 78% E _t ⁴	(N/A) (N/A)	ANSI Z21.47 -1983
	≥225,000 Btu/h	Oil, Max Rating ⁶ Oil, Min Rating ⁶	81% E _t ⁴ 81% E _t ⁴	(N/A) (N/A)	UL 727 -1986
Warm-Air Duct Furnaces and Unit Heaters	All Size Gas Duct Furnaces	Max Rated Capacity ⁶ Min Rated Capacity ⁶	78% E _t ⁴ 75% E _t ⁴	(N/A) (N/A)	ANSI Z83.9 -1986
	All Size Gas Unit Heaters	Max Rated Capacity ⁶ Min Rated Capacity ⁶	78% E _t ⁴ 74% E _t ⁴	(N/A) (N/A)	ANSI Z83.8 -1985
	All Size Oil Unit Heaters	Max Rated Capacity ⁶ Min Rated Capacity ⁶	81% E _t ⁴ 81% E _t ⁴	(N/A) (N/A)	UL 731 -1988

1. For units that have a heating section, deduct 0.2 from all required EER's and IPLV's.
2. For multi-capacity equipment the minimum performance shall apply to each step provided Multi-capacity refers to manufacturer published rating for more than one capacity mode allowed by the product's controls.
3. Capacity (Cap) means the rated cooling capacity of the product in Btu/h in accordance with the cited ARI standard. If the unit's capacity is less than 7,000 Btu/h, use 7,000 Btu/h in the calculation. If the unit's capacity is greater than 15,000 Btu/h, use 15,000 Btu/h in the calculation.
4. These values apply to non-NAECA equipment. See referenced standard for definition of Thermal efficiency (E_t), (100% flue losses).
5. To be consistent with National Appliance Energy Conservation Act (NAECA) of 1987 (Public Law 100-12). These values apply to furnace and combination units covered by NAECA.
6. Minimum and maximum ratings as provided for and allowed by the unit's controls.

TABLE 14-2
Standard Rating Conditions and Minimum Performance for
Water and Evaporatively Cooled Unitary Air Conditioners, Heat Pumps, Water Source and Ground Source
Heat Pumps, Condensing Units, and Water Chilling Packages

Equipment Type & Rating	Category	Sub-category & Rating Conditions	Minimum Rating		Standard
			Steady State	Seasonal or Part Load	
Evaporatively Cooled A/Cs & Heat Pumps Cooling Ratings	≤ 65,000 Btu/h Cooling Capacity	Standard Conditions ¹ :	9.3 EER	8.5 IPLV	ARI 210/240 -1989 CTI 201 -1986
	> 65,000 and ≤ 135,000 Btu/h Cooling Capacity	Outdoor Conditions: 95°F db/75°F wb	10.5 EER	9.7 IPLV	
Water Source Heat Pump Cooling Ratings	≤ 65,000 Btu/h Cooling Capacity	Standard Conditions ¹ : Entering Water:	9.3 EER 85°F ewt ²	10.2 EER 75°F ewt ²	ARI 320 -1986 CTI 201 -1986
	> 65,000 and ≤ 135,000 Btu/h Cooling Capacity	Standard Conditions ¹ : Entering Water:	10.5 EER 85°F ewt ²	(NA)	
Ground Water Heat Pump Cooling Ratings	< 135,000 Btu/h Cooling Capacity	Standard Conditions ¹ : Entering Water:	11.0 EER 70°F ewt ²	11.5 EER 50°F ewt ²	ARI 325 -1985
Water Cooled Unitary Air Conditioners Cooling Ratings	≤ 65,000 Btu/h Cooling Capacity	Standard Conditions ¹ : Entering Water:	9.3 EER 85°F ewt ²	8.3 IPLV 75°F ewt ²	ARI 210/240 -1989 CTI 201 -1986
	> 65,000 and ≤ 135,000 Btu/h Cooling Capacity	Standard Conditions ¹ : Entering Water:	10.5 EER 85°F ewt ²	(NA)	
Water/Evap Cooled Air Cond. and Heat Pumps Cooling Ratings	> 135,000 Btu/h Cooling Capacity	Standard Conditions ¹ :	9.6 EER	9.0 IPLV	ARI 360 -1986 CTI 201 -1986
Air and Water/ Evap Cooled Condensing Units Cooling Ratings ³	> 135,000 Btu/h Cooling Capacity	Air Cooled	9.9 EER	11.0 IPLV	ARI 365 -1987 CTI 201 -1986
		Water/Evap Cooled	12.9 EER	12.9 IPLV	
Air and Water Cooled Water Chilling Packages Cooling Ratings	< 150 Tons	Water Cooled	3.8 COP ⁴	3.9 IPLV ⁴	ARI 550-90 ARI 590-86pN CTI 201 -1986
	≥ 150 and < 300 Tons		4.2 COP	4.5 IPLV	
	> 300 Tons		5.2 COP	5.3 IPLV	
	< 150 Tons	Air Cooled with Condenser	2.7 COP	2.8 IPLV	
> 150 Tons	2.5 COP		2.5 IPLV		
	All Capacities	Air Cooled Condenserless	3.1 COP	3.2 IPLV	
Water & Ground-Water Source Heat Pumps Heating Ratings	< 135,000 Btu/h Cooling Capacity	Water Source Standard Conditions ¹ :	3.8 COP 70°F ewt ²	(N/A) (N/A)	ARI 320 -1986 ARI 325 -1985
		Ground Water Source Standard Conditions ¹ :	3.4 COP 70°F ewt ²	3.0 COP 50°F ewt ²	

- Standard Indoor Conditions: 80°F dry bulb and 67°F wet bulb.
- ewt: Entering Water Temperature for water cooled heat pumps and air conditioners.
- Condensing unit requirements are based on single - number rating defined in paragraph 5.1.3.2 of ARI Standard 365.
- These requirements are reduced to 4.7 COP and 4.8 IPLV, where refrigerants with ozone depletion factors of 0.05 or less are used. No reduction is allowed for standard design systems analyzed under RS-29.

TABLE 14-3
Standard Rating Conditions and Minimum Performance,
Gas- and Oil-Fired Boilers

Reference	Category	Rating Condition	Minimum Performance
DOE Test Procedure 10 CFR, Part 430 AppN	Gas-Fired <300,000 Btu/h	Seasonal Rating	AFUE 80% ^{1,3}
	Oil-Fired <300,000 Btu/h	Seasonal Rating	AFUE 80% ¹
ANSI Z21.13-87 H.I. Htg. Boiler Std. 86 ASME PTC4.1-64 U.L. 795-73	Gas-Fired ≥300,000 Btu/h	1. Max. Rated Capacity ² Steady-State	E _c ⁴ 80%
		2. Min. Rated Capacity ² Steady-State	E _c ⁴ 80%
U.L. 726-75 H.I. Htg. Boiler Std. 86 ASME PTC4.1-64	Oil-Fired ≥300,000 Btu/h	1. Max. Rated Capacity ² Steady-State	E _c ⁴ 83%
		2. Min. Rated Capacity ² Steady-State	E _c ⁴ 83%
H.I. Htg. Boiler Std. 86 ASME PTC4.1-64	Oil-Fired (Residual) ≥300,000 Btu/h	1. Max. Rated Capacity ² Steady-State	E _c ⁴ 83%
		2. Min. Rated Capacity ² Steady-State	E _c ⁴ 83%

1. To be consistent with National Appliance Energy Conservation Act of 1987 (P.L. 100-12).
2. Provided and allowed by the controls.
3. Except for gas-fired steam boilers for which minimum AFUE is 75%.
4. E_c = combustion efficiency, 100% - flue losses. See reference document for detailed information.

TABLE 14-4
Energy Efficient Electric Motors
Minimum Nominal Full-Load Efficiency

Synchronous Speed (RPM)	Open Motors			Closed Motors		
	3,600	1,800	1,200	3,600	1,800	1,200
HP	Efficiency	Efficiency	Efficiency	Efficiency	Efficiency	Efficiency
1.0	-	82.5	80.0	75.5	82.5	80.0
1.5	82.5	84.0	84.0	82.5	84.0	85.5
2.0	84.0	84.0	85.5	84.0	84.0	86.5
3.0	84.0	86.5	86.5	85.5	87.5	87.5
5.0	85.5	87.5	87.5	87.5	87.5	87.5
7.5	87.5	88.5	88.5	88.5	89.5	89.5
10.0	88.5	89.5	90.2	89.5	89.5	89.5
15.0	89.5	91.0	90.2	90.2	91.0	90.2
20.0	90.2	91.0	91.0	90.2	91.0	90.2
25.0	91.0	91.7	91.7	91.0	92.4	91.7
30.0	91.0	92.4	92.4	91.0	92.4	91.7
40.0	91.7	93.0	93.0	91.7	93.0	93.0
50.0	92.4	93.0	93.0	92.4	93.0	93.0
60.0	93.0	93.6	93.6	93.0	93.6	93.6
75.0	93.0	94.1	93.6	93.0	94.1	93.6
100.0	93.0	94.1	94.1	93.6	94.5	94.1
125.0	93.6	94.5	94.1	94.5	94.5	94.1
150.0	93.6	95.0	94.5	94.5	95.0	95.0
200.0	94.5	95.0	94.5	95.0	95.0	95.0

TABLE 14-5
Ducts Insulation

Duct Location	Insulation R-Value
Not within conditioned space: On exterior of building, on roof, in attic, in enclosed ceiling space, in walls, in garage, in crawl spaces	R-7 ¹
Not within conditioned space: in concrete, in ground	R-5.3
Supply air ducts within conditioned space with HVAC equipment supply air temperature < 55 or > 105 ^o F	R-3.3

Note: Requirements apply to both supply and return ducts, whether heated or mechanically cooled. Mechanically cooled ducts requiring insulation shall have a vapor retarder, with a perm rating not greater than 0.5 and all joints sealed.

1. With approved weatherproof barrier.

INSULATION TYPES: Minimum densities and out of package thickness. Nominal R-values are for the insulation as installed and do not include air film resistance.

INSTALLED:

- R-3.3** 1.0 inch 1.5 to 3 lb/cu.ft. duct liner, mineral or glass fiber blanket or equivalent to provide an installed total thermal resistance of at least R-3.3.
- R-5.3** 2.0 inch 0.75 lb/cu.ft. mineral or glass fiber blanket, 1.5 inch 1.5 to 3 lb/cu.ft. duct liner, mineral or glass fiber blanket, 1.5 inch 3 to 7 lb/cu.ft. mineral or glass fiber board or equivalent to provide an installed total thermal resistance of at least R-5.3.
- R-7** 3-inch 0.75 lb/cu./ft. mineral or glass fiber blanket, 2-inch 1.5 to 3 lb/cu.ft. duct liner, mineral or glass fiber blanket, 2-inch 3 to 7 lb/cu.ft. mineral or glass fiber board or equivalent to provide an installed total thermal resistance of at least R-7.

TABLE 14-6
Minimum Pipe Insulation (inches)^{1,3}

Fluid Design Operating Temp. Range, °F	Insulation Conductivity		Nominal Pipe Diameter (in.)					
	Conductivity Range Btu · in./(h · ft · °F)	Mean Rating Temp. °F	Runouts ² up to 2	1 and less	> 1 to 2	> 2 to 4	> 4 to 6	> 6
Heating systems (Steam, Steam Condensate, and Hot water)			Nominal Insulation Thickness					
Above 350	0.32-0.34	250	1.5	2.5	2.5	3.0	3.5	3.5
251-350	0.29-0.31	200	1.5	2.0	2.5	2.5	3.5	3.5
201-250	0.27-0.30	150	1.0	1.5	1.5	2.0	2.0	3.5
141-200	0.25-0.29	125	0.5	1.5	1.5	1.5	1.5	1.5
105-140	0.24-0.28	100	0.5	1.0	1.0	1.0	1.5	1.5
Domestic and Service Hot Water Systems								
105 and Greater	0.24-0.28	100	0.5	1.0	1.0	1.5	1.5	1.5
Cooling Systems (Chilled Water, Brine, and Refrigerant)								
40-55	0.23-0.27	75	0.5	0.5	0.75	1.0	1.0	1.0
Below 40	0.23-0.27	75	1.0	1.0	1.5	1.5	1.5	1.5

1. For minimum thickness of alternative insulation types.
2. Runouts to individual terminal units not exceeding 12 ft. in length.
3. Alternative Insulation Types. Insulation thicknesses in Table 14-6 are based on insulation with thermal conductivities within the range listed in Table 14-6 for each fluid operating temperature range, rated in accordance with ASTM C 335-84³³ at the mean temperature listed in the table. For insulation that has a conductivity outside the range shown in Table 14-61 for the applicable fluid operating temperature range at the mean rating temperature shown (when rounded to the nearest 0.01 Btu in./(h · F · ft²)), the minimum thickness shall be determined in accordance with the following equation:

$$T = PR[1 + t/PR)^{k/k} - 1]$$

Where

- T = Minimum insulation thickness for material with conductivity K, inches.
- PR = Pipe actual outside radius, inches.
- t = Insulation thickness from Table 14-6, inches
- K = conductivity of alternate material at the mean rating temperature indicated in Table 14-6 for the applicable fluid temperature range, Btu in./(h · ft² · °F)
- k = the lower value of the conductivity range listed in Table 14-6 for the applicable fluid temperature range, Btu in./(h · ft² · °F)

NEW SECTION

WAC 51-11-1513 Lighting controls.

1513.1 Local Control and Accessibility: Each space, enclosed by walls or ceiling-height partitions, shall be provided with lighting controls located within that space. The lighting controls, whether one or more, shall be capable of turning off all lights within the space. The controls shall be readily accessible, at the point of entry/exit, to personnel occupying or using the space.

Exceptions: The following lighting controls may be centralized in remote locations:

1. Lighting controls for spaces which must be used as a whole.
2. Automatic controls.
3. Programmable controls.
4. Controls requiring trained operators.
5. Controls for safety hazards and security.

1513.2 Area Controls: The maximum lighting power that may be controlled from a single switch or automatic control shall not exceed that which is provided by a twenty ampere circuit loaded to not more than eighty percent. A master control may be installed provided the individual switches retain their capability to function independently. Circuit breakers may not be used as the sole means of switching.

Exceptions:

1. Industrial or manufacturing process areas, as may be required for production.
2. Areas less than five percent of footprint for footprints over 100,000 square feet.

1513.3 Daylight Zone Control: All daylighted zones, as defined in Chapter 12, both under overhead glazing and adjacent to vertical glazing, shall be provided with individual

controls, or daylight- or occupant-sensing automatic controls, which control the lights independent of general area lighting.

1513.4 Display, Exhibition, and Specialty Lighting Controls: All display, exhibition, or specialty lighting shall be controlled independently of general area lighting.

1513.5 Automatic Shut-off Controls, Exterior: Exterior lighting not intended for 24-hour continuous use shall be automatically switched by timer, photocell, or a combination of timer and photocell. Automatic time switches must also have program back-up capabilities, which prevent the loss of program and time settings for at least 10 hours, if power is interrupted.

1513.6 Automatic Shut-Off Controls, Interior: Office buildings greater than 25,000 sq. ft. and all school classrooms shall be equipped with separate automatic controls to shut off the lighting during unoccupied hours. Automatic controls may be an occupancy sensor, time switch, or other device capable of automatically shutting off lighting.

Exceptions:

1. Areas that must be continuously illuminated, or illuminated in a manner requiring manual operation of the lighting.
2. Emergency lighting systems.
3. Switching for industrial or manufacturing process facilities as may be required for production.

1513.6.1 Occupancy Sensors: Occupancy sensors shall be capable of automatically turning off all the lights in an area, no more than 30 minutes after the area has been vacated.

1513.6.2 Automatic Time Switches: Automatic time switches shall have a minimum 7 day clock and be capable of being set for 7 different day types per week and incorporate an automatic holiday "shut-off" feature, which turns off all loads for at least 24 hours and then resumes normally scheduled operations. Automatic time switches shall also have program back-up capabilities, which prevent the loss of program and time settings for at least 10 hours, if power is interrupted.

Automatic time switches shall incorporate an over-ride switching device which:

- a. Is readily accessible;
- b. Is located so that a person using the device can see the lights or the areas controlled by the switch, or so that the area being illuminated is annunciated; and
- c. Is manually operated;
- d. Allows the lighting to remain on for no more than two hours when an over-ride is initiated; and
- e. Controls an area not exceeding 5,000 square feet or 5 percent of footprint for footprints over 100,000 square feet, whichever is greater.

NEW SECTION

WAC 51-11-1532 Exterior lighting power allowance.

The exterior lighting power allowance shall be the sum of the calculated allowances for parking, outdoor areas and building exteriors. The lighting allowance for covered parking, open parking and outdoor areas shall be 0.20 watts per square foot. The lighting allowance for building exteriors shall be calculated either by multiplying the building

facade area by 0.25 watts per square foot or multiplying the building perimeter in feet by 7.5 watts per linear foot.

TABLE 15-1
Unit Lighting Power Allowance (LPA)

Use ¹	LPA ² (watts/sq. ft.)
Painting, welding, carpentry, machine shops	2.3
Barber shops, beauty shops	2.0
Hotel banquet/conference/exhibition hall ^{3,4}	2.0
Laboratories	2.0
Aircraft repair hangars	1.5
Cafeterias, fast food establishments ⁵	1.5
Factories, workshops, handling areas	1.5
Gas stations, auto repair shops ⁶	1.5
Institutions	1.5
Libraries ⁵	1.5
Nursing homes	1.5
Wholesale stores (pallet rack shelving)	1.5
Mall concourses	1.4
Schools buildings, school classrooms, day care centers	1.35
Laundries	1.3
Office buildings, office/administrative areas in facilities of other use types (including but not limited to schools, hospitals, institutions, museums, banks, churches) ^{5,7,11}	1.2
Police and fire stations ⁸	1.2
Atria (atriums)	1.0
Assembly spaces ⁹ , auditoriums, gymnasias ⁹ , theaters	1.0
Process plants	1.0
Restaurants/bars ⁵	1.0
Retail A ¹⁰	1.0
Retail B ¹⁰ , Retail banking	1.5
Locker and/or shower facilities	0.8
Warehouses ¹¹ , storage areas	0.5
Aircraft storage hangars	0.4
Parking garages	See Section 1532
Plans Submitted for Common Areas Only⁷	
Common area, corridors, lobbies (except mall concourse)	0.8
Toilet facilities and washrooms	0.8

Footnotes for Table 15-1

1. In cases in which an occupancy types is not mentioned specifically, the *Unit Power Allowance* shall be determined by the building official. This determination shall be based upon the most comparable occupancy specified in the table. See Section 1512 for exempt areas.
2. The watts per square foot may be increased, by two percent per foot of ceiling height above twenty feet, unless specifically directed otherwise by subsequent footnotes.
3. Watts per square foot of room may be increased, by two percent per foot of ceiling height above 12 feet.
4. For all other spaces, such as seating and common areas, use the *Unit Light Power Allowance* for assembly.
5. Watts per square foot of room may be increased by two percent per foot of ceiling height above nine feet.
6. Includes pump area under canopy.
7. In cases in which a lighting plan is submitted for only a portion of a floor, a *Unit Lighting Power Allowance* of 1.35 may be used for usable office floor area and 0.80 watts per square foot shall be used for the common areas, which may include elevator space, lobby area and rest rooms. Common areas, as herein defined do not include mall concourses.
8. For the fire engine room, the *Unit Lighting Power Allowance* is 1.0 watts per square foot.
9. For indoor sport tournament courts with adjacent spectator seating, the *Unit Lighting Power Allowance* for the court area is 2.6 watts per square foot.
10. For both *Retail A* and *Retail B*, light for free-standing display, building showcase illumination and display window illumination installed within two feet of the window are exempt.

Retail A allows a *Unit Lighting Power Allowance* of 1.0 watts per square foot. Ceiling mounted adjustable tungsten halogen and HID merchandise display illuminaries are exempt.

Retail B allows a *Unit Lighting Power Allowance* of 1.5 watts per square foot, including all ceiling mounted merchandise display luminaries.
11. Provided that a floor plan, indicating rack location and height, is submitted, the square footage for a warehouse may be defined, for computing the interior *Unit Lighting Power Allowance*, as the floor area not covered by racks plus the vertical face area (access side only) of the racks. The height allowance defined in footnote 2 applies only to the floor area not covered by racks.

NEW SECTION

WAC 51-11-2006 Default U-values for glazing and doors.

TABLE 20-6

Default U-Factors for Vertical Glazing, Overhead Glazing and Opaque Doors

Vertical Glazing

	U-Factor
Single	1.45
Double	0.90
1/2 Inch Air, Fixed	0.75
1/2 Inch Air, Low-e ^(0.40) , Fixed	0.60
1/2 Inch Argon, Low-e ^(0.10) , Fixed	0.50

Overhead Glazing

	U-Factor	
	Any Frame	Vinyl/Wood Frame
Single	2.15	2.15
Double	1.45	1.00
Low-e ^(0.40) or Argon	1.40	0.95
Low-e ^(0.40) + Argon	1.30	0.85
Low-e ^(0.20) Air	1.30	0.90
Low-e ^(0.20) + Argon	1.25	0.80
Triple	1.25	0.80

Opaque Doors

	U-Factor
Uninsulated Metal	1.20
Insulated Metal (Including Fire Door)	0.60
Wood	0.50

NOTES:

- Where a gap width is listed (i.e.: 1/2 inch), that is the minimum allowed..
 - Where a low-emissivity emittance is listed (i.e.: 0.40, 0.20, 0.10), that is the maximum allowed.
 - Where a gas other than air is listed (i.e.: argon), the gas fill shall be a minimum of 90 %.
 - Where an operator type ins listed (i.e.: fixed), the default is only allowed for that operator type.
 - Where a frame type is listed (i.e.: wood/vinyl), the default is only allowed for that frame type.
- Wood/Vinyl frame includes reinforced vinyl and aluminum-clad wood.

WSR 93-16-112
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
 [Filed August 4, 1993, 11:56 a.m.]

rulemaking under WSR 93-08-077: WAC 51-11-0502 and 51-11-0601.

William E. O'Neil, Jr.
 Rules Coordinator

The State Building Code Council hereby withdraws the following sections of chapter 51-11 WAC, as filed for

WSR 93-16-113
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 4, 1993, 11:57 a.m.]

Original Notice.

Title of Rule: Washington State Energy Code.

Purpose: To revise state Energy Code requirements for window thermal testing.

Statutory Authority for Adoption: RCW 19.27A.020(5).

Statute Being Implemented: RCW 19.27A.020 [(4)](b)(vii).

Summary: Option 1 retains existing Energy Code thermal testing requirements for windows. Options 2 and 3 of the proposed rule would change window testing requirements from the American Architectural Manufacturers Association (AAMA) 1503.1 or American Society for Testing Materials (ASTM) C236 or C976 Standards to the new National Fenestration Rating Council Standard (NFRC). All proposed options would require that window tests be certified.

Reasons Supporting Proposal: The NFRC Standard is the new state of the art standard that has been developed in cooperation with the window industry.

Name of Agency Personnel Responsible for Drafting and Implementation: Judith Darst, P.O. Box 48300, Olympia, WA 98504, (206) 586-2251; Enforcement: Local governments.

Name of Proponent: State Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: In addition to the proposed changes to the State Energy Code window thermal testing requirements, the council is interested in seeking comments on the following:

Three options are proposed for window testing requirements. The first option would retain the current AAMA and ASTM testing standards. The second and third options would adopt the NFRC testing standard. Which of these standards is the most appropriate for use in Washington state?

If Option 2 or 3 is adopted, changes to RCW 19.27A.020(5) may be needed. The council seeks recommendations as to how RCW 19.27A.020(5) should be revised, and any additional issues related to window thermal testing that should be addressed with the changes.

Option 3 includes adjustments to the window U-values for base case prescriptive paths in Tables 6-1, 6-2, 6-3, and 6-4. Are additional adjustments appropriate for consideration if the NFRC standard is adopted.

Is the proposed requirement for certification an undue hardship for small window manufacturers. If so, what sort of mitigation is appropriate under the Regulatory Fairness Act (chapter 19.85 RCW) in order to reduce the economic impact of the rule on those businesses?

Should all manufacturers be allowed to use the default table allowed in Exception 3 to WAC 51-11-0502.1.5.1, or should this exception only be allowed as mitigation to small businesses under the Regulatory Fairness Act?

How and when the existing AAMA and ASTM window tests should sunset?

Will use of the NFRC Standard 100-91 significantly alter the expected U-values for windows when compared to AAMA or ASTM tested products?

The current Energy Code favors the use of default values for the thermal efficiency of doors. Should the Energy Code thermal efficiency requirements for doors be adjusted to encourage testing?

Should skylights continue to be included as part of vertical glazing or should they be provided with thermal efficiency requirements specifically for skylights?

Options 2 and 3 include adjustments to the thermal efficiency requirements for log homes in order to provide more flexibility for log home builders in their design and construction. Are these adjustments appropriate? Please note that this will also require additional changes to chapter 19.27A RCW.

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

Explanation of Rule, its Purpose, and Anticipated Effects: As currently written, the rule establishes the Energy Code requirements for the thermal testing of windows and doors. In addition, the rule establishes the thermal efficiency requirements for windows and doors when prescriptive paths are used for construction.

The purpose of the proposal is to:

Consider whether window testing requirements in the State Energy Code should be revised in order to conform with the new National Fenestration Rating Council (NFRC) Standard 100-91.

Consider whether window tests should be certified. This would eliminate the need for Exception 3 to Section 502.1.5.1.

Consider whether adjustment to the thermal requirements for windows, doors and skylights are justified.

Proposal Changes the Following Existing Rules:

All the options require that window product tests shall be certified.

Option 2 and 3 of the proposal would amend the State Energy Code to require that windows be tested for thermal efficiency using the NFRC Standard 100-91, rather than the AAMA 1503.1-88 or the ASTM C236-87 or C976-82 as currently required.

Option 3 of the proposal adjusts the U-values for windows in the base case prescriptive paths found in Tables 6-1, 6-2, 6-3, and 6-4 in anticipation that the NFRC Standard 100-91 may be a more stringent testing requirement than the AAMA 1503.1-88 or the ASTM C236-87 or C976-82 as currently required.

Options 2 and 3 include revised prescriptive, component performance and system analysis requirements for log homes in anticipation that the NFRC Standard 100-91 may be a more stringent testing requirement than the AAMA 1503.1-88 or the ASTM C236-87 or C976-82 as currently required.

Small Business Economic Impact Statement:

BACKGROUND

Currently the State Energy Code requires that all windows be tested using the AAMA 1503.1-88 or the ASTM C236-87 or C976-82 thermal test standard.

This requires that each window product in a product line be tested by an accredited testing laboratory. The cost for

such tests is estimated at \$1,000 per test. Once tested, the product can then be submitted for inclusion on the State Building Code Council's list of "Window and Opaque Door U-Factor Test Reports." Certification of test results is not currently required.

PROPOSED CHANGES

Certification

Under all of the options in the proposal, all windows products tests shall be certified by the agency providing accreditation to the testing laboratory. This would require that window manufacturers pay a yearly fee of \$3400 to the accrediting agency, in order to certify test results. Certification includes random checks at manufacturing facilities to ensure tested products are being manufactured as tested, and requires that product lines be retested every four years if the product changes or the NFRC test standard significantly changes.

NFRC

If the NFRC Standard 100-91 is adopted, only two products in a product line are required to be physically tested. The thermal efficiency of each product in a product line is determined using a computer simulation. The entire product line can then be validated by physically testing only two products (the worst and best cases). For validation, the physical test results must be within 10% of the simulated values for the worst case and the best case products. The costs of the tests are expected to be the same as existing test standards (\$1,000 per unit tested). The cost of simulations varies (approximately \$35 to \$100 per simulation). For purposes of comparison, the cost of \$50 per simulation or \$500 for a ten product line was used.

The following table provides a cost comparison using the existing and proposed test methods, as they would affect a company with a ten product, product line.

**Comparison of the Cost of Testing
AAMA and ASTM vs. NFRC**

	Number of tests	Number of Simulations	Total Cost
Current (AAMA/ASTM)	10	0	\$10,000
Proposed (NFRC)	2	10	\$ 2,500

Conclusion

Therefore, the cost of implementation of the proposed testing requirements includes both the costs of testing, and the additional \$3,400 per year for certification.

Hearing Location: Spokane City Council Chambers, Spokane City Hall, West 808 Spokane Falls Boulevard, Spokane, WA, on September 10, 1993, at 9:00 a.m.; and at the West Coast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA, on October 8, 1993, at 9:00 a.m.

Submit Written Comments to: Gene Colin, Chair, State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, by October 15, 1993.

Date of Intended Adoption: November 12, 1993.

July 9, 1993
Gene Colin
Chair

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

WAC 51-11-0402 Systems analysis.

402.1 Special Requirements for All Group R Occupancy:

402.1.1 Energy Budgets: Proposed buildings designed in accordance with this section shall be designed to use no more energy from non-renewable sources for space heating, and domestic hot water heating than a standard building whose enclosure elements and energy consuming systems are designed in accordance with section 502.2 of this Code for the appropriate climate zone, and heating system type. Energy derived from renewable sources may be excluded from the total annual energy consumption attributed to the alternative building.

402.1.2 Calculation of Energy Consumption: The application for a building permit shall include documentation which demonstrates, using a calculation procedure as listed in Chapter 8, or an approved alternate, that the proposed building's annual space heating energy use does not exceed the annual space heating and water heating energy use of a standard building conforming to Chapter 5 of this Code for the appropriate climate zone. The total calculated annual energy consumption shall be shown in units of kWh/ft²/year or Btu/ft²/year of conditioned area.

402.1.3 Input Values: The following standardized input values shall be used in calculating annual space heating budgets:

PARAMETER	VALUE
Thermostat set point, heating	65° F
Thermostat set point, cooling	78° F
Thermostat night set back	65° F
Thermostat night set back period	0 hours
Internal gain	
R-3 units	3000 Btu/hr
R-1 units	1500 Btu/hr
Domestic Hot Water Heater Setpoint	120° F
Domestic Hot Water Consumption	20 gallons/person/day.
Minimum heat storage	Calculated using standard engineering practice for the actual building or as approved.
Site weather data	Typical meteorological year (TMY) or ersatz TMY data for the closest appropriate TMY site or other site as approved.

Heating equipment efficiency

Electric resistance heat	1.00
Heat Pumps	6.80 HSPF.
Other Fuels	0.78 AFUE.

The standard building shall be modeled with glazing area distributed equally among the four cardinal directions. Parameter values that may be varied by the building designer to model energy saving options include, but are not limited to, the following:

1. Overall thermal transmittance, U^o , of building envelope or individual building components;
2. Heat storage capacity of building;
3. Glazing orientation; area; and shading coefficients;
4. Heating system efficiency.

402.1.4 Solar Shading and Access: Building designs using passive solar features with eight percent or more south facing equivalent glazing to qualify shall provide to the building official a sun chart or other approved documentation depicting actual site shading for use in calculating compliance under this section. The building shall contain at least forty-five Btu/°F for each square foot of south facing glass.

402.1.5 Infiltration: Infiltration levels used shall be set at 0.35 air changes per hour for thermal calculation purposes only.

402.1.6 Heat Pumps: The heating season performance factor (HSPF) for heat pumps shall be calculated using procedures consistent with section 5.2 of the U.S. Department of Energy Test Procedure for Central Air Conditioners, including heat pumps published in the December 27, 1979 Federal Register Vol. 44, No. 24.10 CFR 430. Climate data as specified above, the proposed buildings overall thermal performance value (Btu/°F) and the standardized input assumptions specified above shall be used to model the heat pumps HSPF.

402.2 Energy Analysis: Compliance with this chapter will require an analysis of the annual energy usage, hereinafter called an annual energy analysis.

EXCEPTION: Chapters 5, and 6 of this Code establish criteria for different energy-consuming and enclosure elements of the building which, will eliminate the requirement for an annual systems energy analysis while meeting the intent of this Code.

A building designed in accordance with this chapter will be deemed as complying with this Code if the calculated annual energy consumption is not greater than a similar building (defined as a "standard design") whose enclosure elements and energy-consuming systems are designed in accordance with Chapter 5.

For an alternate building design to be considered similar to a "standard design," it shall utilize the same energy source(s) for the same functions and have equal floor area and the same ratio of envelope area to floor area, environmental requirements, occupancy, climate data and usage operational schedule.

402.3 Design: The standard design, conforming to the criteria of Chapter 5 and the proposed alternative design shall be designed on a common basis as specified herein:

The comparison shall be expressed as kBtu or kWh input per square foot of conditioned floor area per year at the building site.

402.4 Analysis Procedure: The analysis of the annual energy usage of the standard and the proposed alternative building and system design shall meet the following criteria:

a. The building heating/cooling load calculation procedure used for annual energy consumption analysis shall be detailed to permit the evaluation of effect of factors specified in section 402.5.

b. The calculation procedure used to simulate the operation of the building and its service systems through a full-year operating period shall be detailed to permit the evaluation of the effect of system design, climatic factors, operational characteristics, and mechanical equipment on annual energy usage. Manufacturer's data or comparable field test data shall be used when available in the simulation of systems and equipment. The calculation procedure shall be based upon eight thousand seven hundred sixty hours of operation of the building and its service systems.

402.5 Calculation Procedure: The calculation procedure shall cover the following items:

a. Design requirements—Environmental requirements as required in Chapter 3.

b. Climatic data—Coincident hourly data for temperatures, solar radiation, wind and humidity of typical days in the year representing seasonal variation.

c. Building data—Orientation, size, shape, mass, air, moisture and heat transfer characteristics.

d. Operational characteristics—Temperature, humidity, ventilation, illumination, control mode for occupied and unoccupied hours.

e. Mechanical equipment—Design capacity, part load profile.

f. Building loads—Internal heat generation, lighting, equipment, number of people during occupied and unoccupied periods.

EXCEPTIONS: 1. Group R Occupancy shall comply with calculation procedures in Chapter 8, or an approved alternate.

2. Log and solid timber walls that meet a minimum thickness criteria are exempt from compliance calculations and should not be modeled. For electric resistance heating in zone 2, the minimum average thickness is 5.5" and for other conditions the minimum is 3.5".

402.6 Documentation: Proposed alternative designs, submitted as requests for exception to the standard design criteria, shall be accompanied by an energy analysis comparison report. The report shall provide technical detail on the two building and system designs and on the data used in and resulting from the comparative analysis to verify that both the analysis and the designs meet the criteria of Chapter 4 of this Code.

OPTION 1

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0502 Building envelope requirements.

502.1 General:

502.1.1: The stated U- or F-value of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-value for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-values specified in this Section.

The U-values for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 19-27 in RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U-value shall be determined by one of the following methods:

1. Results of laboratory or field measurements.
2. Standard RS-25, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in Chapter 22 of RS-1, listed in Chapter 7.
4. Effective framing/cavity R-values as provided from the following table for metal stud walls:

WALL FRAMING	CAVITY INSULATION	
	R-11	R-19
2 x 4 @ 16" o.c.	5.50	-
2 x 4 @ 24" o.c.	6.60	-
2 x 6 @ 16" o.c.	-	7.60
2 x 6 @ 24" o.c.	-	8.55

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

- a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and
- b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 1712 and/or 1713 of the Uniform Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities, and maintain uniform R-values. To

the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than twenty-five and a smoke density not to exceed four hundred fifty when tested in accordance with UBC Standard 42-1.

EXCEPTIONS:

1. Foam plastic insulation shall comply with section 1712 of the Uniform Building Code.
2. When such materials are installed in concealed spaces of Types III, IV, and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is installed in substantial contact with the unexposed surface of the ceiling, floor, or wall finish.
3. Cellulose insulation shall comply with section 1713 of the Uniform Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturers specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose-fill insulation may be used in attic spaces where the slope of the ceiling is not more than three feet in twelve and there is at least thirty inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the Uniform Building Code section 3205(c) for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point six inches vertically above the height of noncompressed insulation, and twelve inches vertically above loose fill insulation.

502.1.4.6 Wall Insulation: Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

502.1.4.7 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is no more than twenty-four inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTION: Insulation may be omitted from floor areas over heated basements, heated garages, or underfloor areas used as HVAC supply plenums. See Uniform Mechanical Code section 1008 for underfloor supply plenum requirements. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of thirty degrees from horizontal, to divert air flow below the lower surface of the floor insulation.

502.1.4.8 Slab-On-Grade: Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of twenty-four inches or downward and then horizontally beneath the slab for a minimum combined distance of twenty-four inches. Insulation installed outside the foundation shall extend downward to a minimum of twenty-four inches or to the frostline. Above grade insulation shall be protected.

EXCEPTION: For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

502.1.4.9 Radiant Slabs: The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil-gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

502.1.4.10 Below-Grade Walls:

a. Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above grade insulation shall be protected.

b. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level.

502.1.5 Glazing and Door U-Values: For Group R Occupancy, glazing and door U-values shall be determined in accordance with section 502.1.5.1. ~~((For other occupancies, glazing and door U-values shall be determined in accordance with either section 502.1.5.1 or 502.1.5.2.))~~

502.1.5.1 Standard Procedure for Determination of Glazing and Door U-Values: U-values for glazing and doors, including all fire doors, shall be the tested U-values for thermal transmittance due to conduction resulting from either the AAMA 1503.1-88 test procedure or the ASTM C236-87 or C976-82 test procedures, provided that testing shall be conducted under established winter horizontal heat flow test conditions using fifteen mile per hour wind speed directed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1-88.

AAMA 1503.1-88 testing, shall be conducted by a laboratory accredited by AAMA to perform that test. ASTM C236-87 or C976-82 testing shall be conducted by an independent laboratory accredited by a nationally recognized accreditation program, independent of that laboratory. All tested U-values reported for listing by the state building code council after January 1, 1991, shall include certification by the manufacturer of gas content in the sealed insulated glass unit used for testing and in the production unit. All window products tests shall be certified by the agency providing accreditation to the testing laboratory.

Product samples tested shall be production line units or representative of units as purchased by the consumer or contractor. Product sample sizes tested shall be in accordance with AAMA 1503.1-88, except that skylights shall be tested with a nominal two foot by four foot size, or a nominal four foot by four foot size. The installation of the test sample shall be in accordance with AAMA 1503.1-88, section 8.4. All testing performed after January 1, 1991, shall not include screens. All glazing and doors shall be identified with a label that states an overall product U-value that is no less than the actual tested U-value. The labeled U-value shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 level A.

EXCEPTIONS:

1. The exterior frame dimensions of the product sample size tested shall not deviate by more than three inches from the height and width specified, except that skylights are allowed to be tested in the closest production line size to that specified above.

2. Passive air inlets are not required to be part of the tested assembly.

3. ~~((Products tested prior to December 31, 1990, to AAMA 1503.1-80, ASTM C236-80 or C976-82 which are not in compliance with the test size requirement above, and which are in compliance with the product sample sizes in AAMA 1503.1-80, shall be acceptable until December 31, 1994.~~

4)) Untested glazing and doors shall be assigned the default U-values listed in Chapter 10. The default values for the opaque portions of doors shall be those listed in Chapter 10, provided that the U-value listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.

~~((5))~~ 4. The U-value of an insulated glazing product which has a 'grille pattern' installed between the glazing layers shall be deemed equal to the U-value of an insulated glazing product which is tested without a 'grille pattern' in between glazing layers, provided a minimum one-eighth inch air space exists between the 'grille pattern' and both glass lites.

~~((6))~~ 5. For a glazing product which is manufactured with an alternative 'low-e coating' than the 'low-e coating' of the tested glazing product, the U-value shall be deemed equal provided that the alternative 'low-e coating' material has an equal or lower rated emissivity.

~~((7))~~ 6. U-factors, either tested or simulated, labeled and certified in accordance with the National Fenestration Rating Council's (NFRC) procedure 100-91 are acceptable if based on model size AA.

~~502.1.5.2 ((Alternate Glazing and Door U-Values for Other Than Group R Occupancy: Glazing U-values for other than Group R Occupancy are also allowed to be taken from Table 13 of Chapter 27 of RS-1 listed in Chapter 7 or calculated in accordance with the procedures of Chapter 27 of RS-1 listed in Chapter 7 and door U-values are also allowed to be taken from Table 6 in Chapter 22 of RS-1 listed in Chapter 7.)) Reserved.~~

502.1.6 Moisture Control:

502.1.6.1: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than one-third of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil. polyethylene or kraft faced material).

502.1.6.3: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling cavities [cavities] shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages twelve inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Wall Insulation: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

502.2 Thermal Criteria for Group R Occupancy:

502.2.1: The proposed UA as calculated using Equations 2 and 3 shall not exceed the Target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using figures in Table 5-1, and all the glazing shall be located in the wall area. The opaque door area shall be the same in the target UA and the proposed UA.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units, and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts per dwelling unit, or; 2) One watt per square foot of the gross floor area.

2. Other: All gas, wood, oil, and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

502.3 (~~Thermal Performance Criteria For Other Than Group R Occupancies.~~)

~~502.3.1: The overall thermal transmittance value (U^*) of the gross area of elements of the exterior building envelope of all buildings other than low rise residential buildings shall not exceed the values given in Tables 5-2. Equations 2, 4 and 5 shall be used to determine acceptable combinations of building components and thermal properties to meet this requirement for heating. U^* and U^{**} are specified in units of:~~

$$\frac{\text{Btu}}{\text{hr. ft}^2 \cdot ^\circ\text{F}}$$

~~502.3.2 Slab on Grade Floors: For slab on grade floors the thermal resistance of the insulation around the perimeter of the floor shall not be less than the value given in Table 5-2.~~

~~502.3.3 Alternative Wall Allowance for Other Than Group R Occupancies: For other than Group R Occupancies, three stories or less, the maximum allowed value for average thermal transmittance (U_p) of the exterior walls may be increased to the values given in Table 5-2 BUILDINGS OVER THREE CONDITIONED STORIES provided that at least one of the following criteria is also met:~~

~~1. Mechanical supply of outside air and mechanical exhaust of building air shall be automatically shut off and the duct closed for at least eight hours per day during hours of nonoccupancy, or~~

~~2. The primary source of heating for the building shall be one or more heat pumps meeting the provisions of section 503.4.2 or gas or oil combustion heating equipment with a minimum combustion efficiency of eighty five percent for central heating plants and eighty percent for room and space heaters. This efficiency shall be determined in accordance with the provisions of section 503.4.3.~~

~~Provided further: That if both criteria are met, the maximum allowed value for thermal transmittance (U^*) of the exterior walls used in Table 5-2 may be increased by 0.05 in determining compliance with the provisions of the Code.~~

~~For walls with a wall weight of at least thirty lbs. per ft² (provided that walls constructed of hollow masonry units have cores filled with either grout, concrete, or with an insulating material with resistance per inch (R) of at least 2.25 ft²/hr. °F/Btu) the calculated thermal resistance of the wall sections measured face to face on wall units which are exposed to inside air temperatures, not including the thermal resistance of air films or additional exterior wall elements may be increased by twenty five percent in determining compliance with the provisions of the code provided that:~~

~~Heating and cooling set point temperatures in the conditioned spaces or zones of the building shall be separated by at least five degrees F. The temperature control shall be designed to prevent new energy from being used to heat the space above the heating set point temperature or cool the space below the cooling set point temperature.) Reserved.~~

502.4 Air Leakage ((for All Occupancies)):

502.4.1: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

502.4.3:

a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility services through walls, floors, and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 occupancy shall be sealed, caulked, gasketed, or weatherstripped to limit air leakage.

b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim, and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane, or other approved technique.

d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

- 1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity and sealed or gasketed to prevent air leakage into the unconditioned space.
- 2. Type IC rated, installed inside a sealed box constructed from a minimum one-half inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.
- 3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at seventy-five Pascals or 1.57 lbs/ft² pressure difference and have a label attached, showing compliance.

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.

OPTIONS 2 & 3

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0502 Building envelope requirements.

502.1 General:

502.1.1: The stated U- or F-value of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-value for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-values specified in this Section.

The U-values for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 19-27 in RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U- value shall be determined by one of the following methods:

- 1. Results of laboratory or field measurements.
- 2. Standard RS-25, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.
- 3. The zone method as provided in Chapter 22 of RS-1, listed in Chapter 7.
- 4. Effective framing/cavity R-values as provided from the following table for metal stud walls:

WALL FRAMING	CAVITY	INSULATION
	R-11	R-19
2 x 4 @ 16" o.c.	5.50	-
2 x 4 @ 24" o.c.	6.60	-
2 x 6 @ 16" o.c.	-	7.60
2 x 6 @ 24" o.c.	-	8.55

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

- a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and
- b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 1712 and/or 1713 of the Uniform Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities, and maintain uniform R-values. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than twenty-five and a smoke density not to exceed four hundred fifty when tested in accordance with UBC Standard 42-1.

EXCEPTIONS:

1. Foam plastic insulation shall comply with section 1712 of the Uniform Building Code.
2. When such materials are installed in concealed spaces of Types III, IV, and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is installed in substantial contact with the unexposed surface of the ceiling, floor, or wall finish.
3. Cellulose insulation shall comply with section 1713 of the Uniform Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturers specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose-fill insulation may be used in attic spaces where the slope of the ceiling is not more than three feet in twelve and there is at least thirty inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the Uniform Building Code section 3205(c) for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point six inches vertically above the height of noncompressed insulation, and twelve inches vertically above loose fill insulation.

502.1.4.6 Wall Insulation: Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

502.1.4.7 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with

the surface being insulated. Insulation supports shall be installed so spacing is no more than twenty-four inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTION: Insulation may be omitted from floor areas over heated basements, heated garages, or underfloor areas used as HVAC supply plenums. See Uniform Mechanical Code section 1008 for underfloor supply plenum requirements. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of thirty degrees from horizontal, to divert air flow below the lower surface of the floor insulation.

502.1.4.8 Slab-On-Grade: Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of twenty-four inches or downward and then horizontally beneath the slab for a minimum combined distance of twenty-four inches. Insulation installed outside the foundation shall extend downward to a minimum of twenty-four inches or to the frostline. Above grade insulation shall be protected.

EXCEPTION: For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

502.1.4.9 Radiant Slabs: The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil-gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

502.1.4.10 Below-Grade Walls:

a. Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above grade insulation shall be protected.

b. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level.

502.1.5 Glazing and Door U-Values: For Group R Occupancy, glazing and door U-values shall be determined in accordance with section 502.1.5.1. ~~((For other occupancies, glazing and door U-values shall be determined in accordance with either section 502.1.5.1 or 502.1.5.2.))~~

502.1.5.1 Standard Procedure for Determination of Glazing and Door U-Values: U-values for glazing and doors, including all fire doors, shall be ~~((the tested U-values for thermal transmittance due to conduction resulting from either the AAMA 1503.1 88 test procedure or the ASTM C236 87 or C976 82 test procedures, provided that testing shall be conducted under established winter horizontal heat flow test conditions using fifteen mile per hour wind speed directed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1 88.~~

~~AAMA 1503.1 88 testing, shall be conducted by a laboratory accredited by AAMA to perform that test. ASTM~~

~~C236-87 or C976-82 testing shall be conducted by an independent laboratory accredited by a nationally recognized accreditation program, independent of that laboratory. All tested U-values reported for listing by the state building code council after January 1, 1991, shall include certification by the manufacturer of gas content in the sealed insulated glass unit used for testing and in the production unit.~~

~~Product samples tested shall be production line units or representative of units as purchased by the consumer or contractor. Product sample sizes tested shall be in accordance with AAMA 1503.1-88, except that skylights shall be tested with a nominal two foot by four foot size, or a nominal four foot by four foot size. The installation of the test sample shall be in accordance with AAMA 1503.1-88, section 8.4. All testing performed after January 1, 1991, shall not include screens. All glazing and doors shall be identified with a label that states an overall product U-value that is no less than the actual tested U-value)) determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Standard 100-91 by a certified independent agency licensed by the NFRC. Compliance shall be based on Model Size AA. Product samples used for U-factor determinations shall be production line units or representative of units as purchased by the consumer or contractor. Unlabeled glazing and doors shall be assigned the default U-value in Section 1006.~~

EXCEPTION: Compliance for skylights and sloped glazings shall be based on Model Size BB. The labeled U-value shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 level A.

EXCEPTIONS:

1. The exterior frame dimensions of the product sample size tested shall not deviate by more than three inches from the height and width specified, except that skylights are allowed to be tested in the closest production line size to that specified above.
2. Passive air inlets are not required to be part of the tested assembly.
3. ~~((Products tested prior to December 31, 1990, to AAMA 1503.1-80, ASTM C236-80 or C976-82 which are not in compliance with the test size requirement above, and which are in compliance with the product sample sizes in AAMA 1503.1-80, shall be acceptable until December 31, 1994.~~
- 4.) Untested glazing and doors shall be assigned the default U-values listed in Chapter 10. The default values for the opaque portions of doors shall be those listed in Chapter 10, provided that the U-value listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.
- ~~((5-)) 4.~~ The U-value of an insulated glazing product which has a 'grille pattern' installed between the glazing layers shall be deemed equal to the U-value of an insulated glazing product which is tested without a 'grille pattern' in between glazing layers, provided a minimum one-eighth inch air space exists between the 'grille pattern' and both glass lites.
- ~~((6- For a glazing product which is manufactured with an alternative 'low e coating' than the 'low e coating' of the tested glazing product, the U-value shall be deemed equal provided that the alternative 'low e coating' material has an equal or lower rated emissivity.~~
- ~~7- U factors, either tested or simulated, labeled and certified in accordance with the National Fenestration Rating Council's (NFRC) procedure 100-91 are acceptable if based on model size AA.))~~

~~502.1.5.2 ((Alternate Glazing and Door U-Values for Other Than Group R Occupancy: Glazing U-values for other than Group R Occupancy are also allowed to be taken from Table 13 of Chapter 27 of RS-1 listed in Chapter 7 or~~

~~calculated in accordance with the procedures of Chapter 27 of RS-1 listed in Chapter 7 and door U-values are also allowed to be taken from Table 6 in Chapter 22 of RS-1 listed in Chapter 7.)) Reserved.~~

502.1.6 Moisture Control:

502.1.6.1: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than one-third of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil. polyethylene or kraft faced material).

502.1.6.3: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling cavities [cavities] shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages twelve inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Wall Insulation: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

502.2 Thermal Criteria for Group R Occupancy:

502.2.1: The proposed UA as calculated using Equations 2 and 3 shall not exceed the Target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using figures in Table 5-1, and all the glazing shall be located in the wall area. The opaque door area shall be the same in the target UA and the proposed UA.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units, and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts per dwelling unit, or; 2) One watt per square foot of the gross floor area.

2. Other: All gas, wood, oil, and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

~~502.3 (Thermal Performance Criteria For Other Than Group R Occupancies:~~

~~502.3.1: The overall thermal transmittance value (U^*) of the gross area of elements of the exterior building envelope of all buildings other than low-rise residential buildings shall not exceed the values given in Tables 5-2. Equations 2, 4 and 5 shall be used to determine acceptable combinations of building components and thermal properties to meet this requirement for heating. U^* and U^{**} are specified in units of:~~

$$\frac{\text{Btu}}{\text{hr} \cdot \text{ft}^2 \cdot ^\circ\text{F}}$$

~~502.3.2 Slab on Grade Floors: For slab on grade floors the thermal resistance of the insulation around the perimeter of the floor shall not be less than the value given in Table 5-2.~~

~~502.3.3 Alternative Wall Allowance for Other Than Group R Occupancies: For other than Group R Occupancies, three stories or less, the maximum allowed value for average thermal transmittance (U_o) of the exterior walls may be increased to the values given in Table 5-2 BUILDINGS OVER THREE CONDITIONED STORIES provided that at least one of the following criteria is also met:~~

~~1. Mechanical supply of outside air and mechanical exhaust of building air shall be automatically shut off and the duct closed for at least eight hours per day during hours of nonoccupancy, or~~

~~2. The primary source of heating for the building shall be one or more heat pumps meeting the provisions of section 503.4.2 or gas or oil combustion heating equipment with a minimum combustion efficiency of eighty five percent for central heating plants and eighty percent for room and space heaters. This efficiency shall be determined in accordance with the provisions of section 503.4.3.~~

~~Provided further: That if both criteria are met, the maximum allowed value for thermal transmittance (U^*) of the exterior walls used in Table 5-2 may be increased by 0.05 in determining compliance with the provisions of the Code.~~

~~For walls with a wall weight of at least thirty lbs. per ft² (provided that walls constructed of hollow masonry units have cores filled with either grout, concrete, or with an insulating material with resistance per inch (R) of at least 2.25 ft²/hr. °F/Btu) the calculated thermal resistance of the wall sections measured face to face on wall units which are exposed to inside air temperatures, not including the thermal resistance of air films or additional exterior wall elements may be increased by twenty five percent in determining compliance with the provisions of the code provided that:~~

~~Heating and cooling set point temperatures in the conditioned spaces or zones of the building shall be separat-~~

~~ed by at least five degrees F. The temperature control shall be designed to prevent new energy from being used to heat the space above the heating set point temperature or cool the space below the cooling set point temperature.) Reserved.~~

502.4 Air Leakage ((for All Occupancies)):

502.4.1: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

502.4.3:

a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility services through walls, floors, and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 occupancy shall be sealed, caulked, gasketed, or weatherstripped to limit air leakage.

b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim, and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane, or other approved technique.

d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity and sealed or gasketed to prevent air leakage into the unconditioned space.

2. Type IC rated, installed inside a sealed box constructed from a minimum one-half inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.

3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at seventy-five Pascals or 1.57 lbs/ft² pressure difference and have a label attached, showing compliance.

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 (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0525 Equation 1—Group R Occupancy.

EQUATION 1—GROUP R OCCUPANCY

TARGET UA

$$U_{AT} = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

Where:

U_{AT} = the target combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

U_W = the thermal transmittance value of the opaque above-grade wall area found in Table 5-1.

A_W = opaque above-grade wall area.

U_{BGW} = the thermal transmittance value of the below-grade opaque wall area found in Table 5-1.

A_{BGW} = opaque below-grade wall area.

U_G = the thermal transmittance value of the glazing area found in Table 5-1.

A_G = .15 (total floor area of the conditioned space).

U_F = the thermal transmittance value of the floor area found in Table 5-1.

A_F = floor area over unconditioned space.

U_{RC} = the thermal transmittance value of the roof/ceiling area found in Table 5-1.

A_{RC} = roof/ceiling area.

U_{CC} = the thermal transmittance value of the cathedral ceiling area found in Table 5-1.

A_{CC} = cathedral ceiling area.

U_D = the thermal transmittance value of the opaque door area found in table 5-1.

A_D = opaque door area.

F_S = concrete slab component F-value found in Table 5-1.

P_S = Lineal ft. of concrete slab perimeter.

(OPTION 1)
EQUATION 1 – GROUP R OCCUPANCY

TARGET UA

$$\underline{UA_T} = \underline{U_{RC}A_{RC}} + \underline{U_{CC}A_{CC}} + \underline{U_WA_W} + \underline{U_D A_D} + \underline{U_G A_G} + \underline{U_F A_F} + \underline{F_S P_S} + \underline{U_{BGW} A_{BGW}}$$

Where:

UA_T = the target combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

U_{RC} = the thermal transmittance value of the roof/ ceiling area found in Table 5-1.

A_{RC} = roof/ceiling area.

U_{CC} = the thermal transmittance value of the cathedral ceiling area found in Table 5-1.

A_{CC} = cathedral ceiling area.

U_W = the thermal transmittance value of the opaque above grade wall area found in Table 5-1.

A_W = opaque above grade wall area.

U_D = the thermal transmittance value of the opaque door area found in table 5-1.

A_D = opaque door area.

U_G = the thermal transmittance value of the glazing area found in Table 5-1.

A_G = 0.15 (total floor area of the conditioned space).

U_F = the thermal transmittance value of the floor area found in Table 5-1.

A_F = floor area over unconditioned space.

F_S = concrete slab component F-factor found in Table 5-1.

P_S = Lineal ft. of concrete slab perimeter.

U_{BGW} = the thermal transmittance value of the below grade opaque wall area found in Table 5-1.

A_{BGW} = opaque below grade wall area.

(OPTION 2 or 3)
EQUATION 1 -- GROUP R OCCUPANCY

TARGET UA

$$U_{AT} = U_{RC}A_{RC} + U_{CC}A_{CC} + U_{W}A_{W} + U_{D}A_{D} + U_{G}A_{G} + U_{F}A_{F} + F_{S}P_{S} + U_{BGW}A_{BGW}$$

Where:

U_{AT} = the target combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

U_{RC} = the thermal transmittance value of the roof/ ceiling area found in Table 5-1.

A_{RC} = roof/ceiling area.

U_{CC} = the thermal transmittance value of the cathedral ceiling area found in Table 5-1.

A_{CC} = cathedral ceiling area.

U_W = the thermal transmittance value of the opaque above grade wall area found in Table 5-1.

A_W = opaque above grade wall area.

U_D = the thermal transmittance value of the opaque door area found in Table 5-1.

A_D = opaque door area.

U_G = the thermal transmittance value of the glazing area found in Table 5-1.

A_G = 0.15 (total floor area of the conditioned space).

U_F = the thermal transmittance value of the floor area found in Table 5-1.

A_F = floor area over unconditioned space.

F_S = concrete slab component F-factor found in Table 5-1.

P_S = Lineal ft. of concrete slab perimeter.

U_{BGW} = the thermal transmittance value of the below grade opaque wall area found in Table 5-1.

A_{BGW} = opaque below grade wall area.

NOTE: Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Section 402.5 should not be included in A_W.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0527 Equation 3—Group R Occupancy.

~~EQUATION 3—GROUP R OCCUPANCY~~

~~PROPOSED UA~~

$$UA = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

~~Where:~~

~~UA = the combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.~~

~~U_W = the thermal transmittance of the opaque wall area.~~

~~U_{BGW} = the thermal transmittance value of the below grade opaque wall area.~~

~~A_{BGW} = opaque below grade wall area.~~

~~A_W = opaque wall area.~~

~~U_G = the thermal transmittance of the glazing (window or skylight) area.~~

~~A_G = glazing area, including windows in exterior doors.~~

~~U_F = the thermal transmittance of the floor area.~~

~~A_F = floor area over unconditioned space.~~

~~U_{RC} = the thermal transmittance of the roof/ceiling area.~~

~~A_{RC} = roof/ceiling area.~~

~~U_{CC} = the thermal transmittance of the cathedral ceiling area.~~

~~A_{CC} = cathedral ceiling area.~~

~~U_D = the thermal transmittance value of the opaque door area.~~

~~A_D = opaque door area.~~

~~F_S = concrete slab component f factor.~~

~~P_S = lineal ft. of concrete slab perimeter.~~

~~NOTE: Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub elements as:~~

$$U_{W1} A_{W1} + U_{W2} A_{W2} + U_{W3} A_{W3} + \dots \text{etc.}$$

(OPTION 1)
EQUATION 3 -- GROUP R OCCUPANCY

PROPOSED UA

$$\underline{UA} = \underline{U_{RC}A_{RC}} + \underline{U_{CC}A_{CC}} + \underline{U_WA_W} + \underline{U_D A_D} + \underline{U_G A_G} + \underline{U_F A_F} + \underline{F_S P_S} + \underline{U_{BGW} A_{BGW}}$$

Where:

UA = the combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

U_{RC} = the thermal transmittance of the roof/ceiling area.
A_{RC} = roof/ceiling area.

U_{CC} = the thermal transmittance of the cathedral ceiling area.
A_{CC} = cathedral ceiling area.

U_W = the thermal transmittance of the opaque wall area.
A_W = opaque wall area.

U_D = the thermal transmittance value of the opaque door area.
A_D = opaque door area.

U_G = the thermal transmittance of the glazing (window or skylight) area.
A_G = glazing area, including windows in exterior doors.

U_F = the thermal transmittance of the floor area.
A_F = floor area over unconditioned space.

F_S = concrete slab component F-factor.
P_S = lineal ft. of concrete slab perimeter.

U_{BGW} = the thermal transmittance value of the below grade opaque wall area.
A_{BGW} = opaque below grade wall area.

NOTE: Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:

$$\underline{U_{W1}A_{W1}} + \underline{U_{W2}A_{W2}} + \underline{U_{W3}A_{W3}} + \dots \text{etc.}$$

(OPTION 2 or 3)
EQUATION 3 – GROUP R OCCUPANCY

PROPOSED UA

$$\underline{UA} = \underline{U_{RC}A_{RC}} + \underline{U_{CC}A_{CC}} + \underline{U_{W}A_{W}} + \underline{U_{D}A_{D}} + \underline{U_{G}A_{G}} + \underline{U_{F}A_{F}} + \underline{F_{S}P_{S}} + \underline{U_{BGW}A_{BGW}}$$

Where:

UA = the combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

U_{RC} = the thermal transmittance of the roof/ceiling area.
A_{RC} = roof/ceiling area.

U_{CC} = the thermal transmittance of the cathedral ceiling area.
A_{CC} = cathedral ceiling area.

U_W = the thermal transmittance of the opaque wall area.
A_W = opaque wall area.

U_D = the thermal transmittance value of the opaque door area.
A_D = opaque door area.

U_G = the thermal transmittance of the glazing (window or skylight) area.
A_G = glazing area, including windows in exterior doors.

U_F = the thermal transmittance of the floor area.
A_F = floor area over unconditioned space.

F_S = concrete slab component F-factor.
P_S = lineal ft. of concrete slab perimeter.

U_{BGW} = the thermal transmittance value of the below grade opaque wall area.
A_{BGW} = opaque below grade wall area.

NOTES:

1. Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:

$$\underline{U_{W1}A_{W1}} + \underline{U_{W2}A_{W2}} + \underline{U_{W3}A_{W3}} + \dots \text{etc.}$$

2. Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Section 402.5 should not be included in A_W.

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

WAC 51-11-0601 Scope.

601.1 General: This chapter establishes design criteria in terms of prescribed requirements for building construction.

The provisions of this chapter are applicable to all Occupancies. Occupancies shall comply with all the requirements of Chapter 5 except for the modifications herein specified.

The building envelope requirements of this chapter may be met by installing one of the prescriptive packages in Tables 6-1 to ~~((6-6)) 6-4~~ for Group R Occupancy(~~or Table 6-7 for Other Occupancies~~). Installed components shall meet the requirements of section 602 and 605. Compliance with nominal R-Values shall be demonstrated for the thermal resistance of the added insulation in framing cavities and/or insulated sheathing only and shall not include the thermal transmittance of other building materials or air films, but shall permit interruption by occasional framing members.

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

WAC 51-11-0602 Building envelope requirements for Group R Occupancy.

602.1 Roof/Ceiling: Ceilings below vented attics and single-rafter, joist-vaulted ceilings shall be insulated to not less than the nominal R-value specified for ceilings in Tables 6-1 to ~~((6-6)) 6-4~~ as applicable.

602.2 Exterior Walls Both Above and Below Grade: Above grade exterior walls shall be insulated to not less than the nominal R-value specified in Tables 6-1 to ~~((6-6)) 6-4~~ as applicable. The following walls should be considered to meet R-19 without additional documentation:

1. 2 x 6 framed and insulated with R-19 fiberglass batts.
2. 2 x 4 framed and insulated with R-13 fiberglass batts plus R-3.2 foam sheathing.
3. 2 x 4 framed and insulated with R-11 fiberglass batts plus R-5.0 foam sheathing.

602.3 Exterior Walls (Below Grade): Below grade exterior walls surrounding conditioned space shall be insulated to not less than the nominal R-value specified for below grade walls in Tables 6-1 to ~~((6-6)) 6-4~~ as applicable.

602.4 Slab-on-grade Floors: Slab-on-grade floors shall be insulated along their perimeter to not less than the nominal R-values specified for slab-on-grade floors in Tables 6-1 to ~~((6-6)) 6-4~~ as applicable. Slab insulation shall be installed in compliance with section 502.1.4.8. See Chapter 5, section 502.1.4.9, for additional requirements for radiant slab heating.

602.5 Floors Over Unconditioned Space: Floors over unconditioned spaces, such as vented crawl spaces, unconditioned basements, and parking garages shall be insulated to not less than the nominal R-value shown for floors over unconditioned spaces, in Tables 6-1 to ~~((6-6)) 6-4~~.

602.6 Exterior Doors: For all doors which are less than fifty percent glazing, including fire doors, the opaque door area shall have a maximum area weighted average U-value not exceeding that shown in Tables 6-1 to ~~((6-6)) 6-4~~ and the glazing shall comply with section 602.7. U-values for the opaque door area shall be determined in accordance with section 502.1.5.1. For all doors which are fifty percent or more glazing, the entire door area shall comply with the glazing requirements in section 602.7.

EXCEPTION: Doors whose area and U-value are included in the calculations for compliance with the requirements for glazing in section 602.7 shall be exempt from the U-value requirements stated above.

602.7 Glazing:

602.7.1 Glazing Area: The total glazing area as defined in Chapter 2 shall not exceed the percentage of gross conditioned floor area specified in Tables 6-1 to ~~((6-6)) 6-4~~. This area shall also include any doors using the exception of section 602.6.

602.7.2 Glazing U-Value: The total glazing area as defined in Chapter 2 shall have an area weighted average U-value not to exceed that specified in Tables 6-1 to ~~((6-6)) 6-4~~. U-values for glazing shall be determined in accordance with section 502.1.5.1. These areas and U-values shall also include any doors using the exception of section 602.6.

If the U-values for all glazing products are below the U-value specified, then no calculations are required. If compliance is to be achieved through an area weighted calculation, then the areas and U-values shall be included in the plans submitted with a building permit application.

EXCEPTION: Single glazing for ornamental, security, or architectural purposes shall have its area doubled and shall be included in the percentage of the total glazing area as allowed for in Tables 6-1 to ~~((6-6)) 6-4~~. The maximum area (before doubling) allowed for the total of all single glazing is one percent of the floor area.

602.8 Air Leakage For Group R Occupancy: The minimum air leakage control measures shall be as specified in section 502.4 as applicable.

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

WAC 51-11-0603 Building mechanical systems for Group R Occupancy.

603.1: Group R Occupancies that are space heated by air-to-air, ground-to-air, or water-to-air heat pumps shall comply with Table 6-2 or 6-4 ~~((or 6-6))~~ for other fuels. System sizing shall be determined by an analysis consistent with section 503.2 of this Code, or, when approved by the building official, Chapter 9. All mechanical equipment efficiencies and service water heating system efficiencies shall comply with standards as stated in sections 503 and 504 of this Code.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0625 Table 6-1.

**TABLE 6-1 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE I • HEATING BY ELECTRIC RESISTANCE**

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ²	VAULTED CEILING ³	WALL ABOVE GRADE	WALL ⁴ int BELOW GRADE	WALL ⁴ ext BELOW GRADE	FLOOR ⁵	SLAB ⁶ ON GRADE
I.	10%	0.46	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
III.	12%	0.40	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV. ⁷	15%	0.40	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
V.	18%	0.39	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. ⁷	25%	0.32 ⁷	0.20	R-38	R-30	R-19+RS ⁸	R-21	R-10	R-30	R-10
VIII. ⁷	30%	0.29 ⁷	0.20	R-38	R-30	R-19+RS ⁸	R-21	R-10	R-30	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joint vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a

water-resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

**TABLE 6-1 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE I • HEATING BY ELECTRIC RESISTANCE**

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ²	VAULTED CEILING ³	WALL ABOVE GRADE	WALL ⁴ int BELOW GRADE	WALL ⁴ ext BELOW GRADE	FLOOR ⁵	SLAB ⁶ ON GRADE
I.	10%	0.46	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
III.	12%	0.40	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV. ⁷	15%	0.40	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
V.	18%	0.39	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. ⁷	25%	0.32 ⁷	0.20	R-38	R-30	R-19+RS ⁸	R-21	R-10	R-30	R-10
VIII. ⁷	30%	0.29 ⁷	0.20	R-38	R-30	R-19+RS ⁸	R-21	R-10	R-30	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joint vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a

water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

TABLE 6-1 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ²	WALL ABOVE GRADE	WALL • int • BELOW GRADE	WALL • ext • BELOW GRADE	FLOOR ³	SLAB ⁴ ON GRADE
I.	10%	0.46	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.20	R-38	R-30	R-19 ⁹	R-19	R-10	R-30	R-10
III.	12%	0.40	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV. ⁵	15%	0.40	0.20	R-38	R-30	R-19 ⁹	R-19	R-10	R-30	R-10
V.	18%	0.39	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. ⁷	25%	0.32 ⁷	0.20	R-38	R-30	R-19+R5 ⁴	R-21	R-10	R-30	R-10
VIII. ⁷	30%	0.29 ⁷	0.20	R-38	R-30	R-19+R5 ⁴	R-21	R-10	R-30	R-10

Reference Case

- ¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.
- ² Requirement applies to all ceilings except single rafter or joint vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- ³ Requirement applicable only to single rafter or joint vaulted ceilings.
- ⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a

- water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
- ⁵ Floors over crawl spaces or exposed to ambient air conditions.
- ⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
- ⁷ The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.
- ⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- ⁹ Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

TABLE 6-1 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ²	WALL ABOVE GRADE	WALL • int • BELOW GRADE	WALL • ext • BELOW GRADE	FLOOR ³	SLAB ⁴ ON GRADE
I.	10%	0.46	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.20	R-38	R-30	R-19 ⁹	R-19	R-10	R-30	R-10
III.	12%	0.45	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV. ⁵	15%	0.45	0.20	R-38	R-30	R-19 ⁹	R-19	R-10	R-30	R-10
V.	18%	0.39	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. ⁷	25%	0.32 ⁷	0.20	R-38	R-30	R-19+R5 ⁴	R-21	R-10	R-30	R-10
VIII. ⁷	30%	0.29 ⁷	0.20	R-38	R-30	R-19+R5 ⁴	R-21	R-10	R-30	R-10

Reference Case

- ¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.
- ² Requirement applies to all ceilings except single rafter or joint vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- ³ Requirement applicable only to single rafter or joint vaulted ceilings.
- ⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a

- water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
- ⁵ Floors over crawl spaces or exposed to ambient air conditions.
- ⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
- ⁷ The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.
- ⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- ⁹ Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

PROPOSED

OPTION 2

OPTION 3

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0626 Table 6-2.

TABLE 6-2 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY OTHER FUELS

OPTION	HVAC ¹ EQUIP. EFFIC.	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ¹	WALL ABOVE GRADE	WALL+int ⁴ BELOW GRADE	WALL+ext ⁴ BELOW GRADE	FLOOR ¹	SLAB ¹ ON GRADE
I.	Med.	10%	0.70	0.40	R-30	R-30	R-15	R-15	R-10	R-10	R-10
II.	Med.	12%	0.65	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
III.	High	21%	0.75	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
IV. ²	Med.	21%	0.65	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
V.	Low	21%	0.60	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
VI. ³	Med.	25%	0.45 ⁷	0.40	R-38	R-30	R-19	R-19	R-10	R-25	R-10
VII. ³	Med.	30%	0.40 ⁷	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joist vaulted ceilings. "Adv." denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joist vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

⁹ Minimum HVAC Equipment efficiency requirement. "Low" denotes an AFUE of 0.74. "Med." denotes an AFUE of 0.78. "High" denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. "Low" denotes an HSPF of 6.35. "Med." denotes an HSPF of 6.8. "High" an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5.3.

TABLE 6-2 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY OTHER FUELS

OPTION	HVAC ¹ EQUIP. EFFIC.	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ¹	WALL ABOVE GRADE	WALL+int ⁴ BELOW GRADE	WALL+ext ⁴ BELOW GRADE	FLOOR ¹	SLAB ¹ ON GRADE
I.	Med.	10%	0.70	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
II.	Med.	12%	0.65	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
III.	High	21%	0.75	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
IV. ²	Med.	21%	0.65	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
V.	Low	21%	0.60	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
VI. ³	Med.	25%	0.45 ⁷	0.40	R-38	R-30	R-19	R-19	R-10	R-25	R-10
VII. ³	Med.	30%	0.40 ⁷	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joist vaulted ceilings. "Adv." denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joist vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

⁹ Minimum HVAC Equipment efficiency requirement. "Low" denotes an AFUE of 0.74. "Med." denotes an AFUE of 0.78. "High" denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. "Low" denotes an HSPF of 6.35. "Med." denotes an HSPF of 6.8. "High" an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5.3.

PROPOSED

OPTION 1

PROPOSED

OPTION 2

TABLE 6-2 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY OTHER FUELS

Table with 12 columns: OPTION, HVAC EQUIP. EFFIC., GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING, VAULTED CEILING, WALL ABOVE GRADE, WALL-ins BELOW GRADE, WALL-ext BELOW GRADE, FLOOR, SLAB ON GRADE. Rows I-VII with varying values for each category.

Reference Case

- 1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.
2 Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
3 Requirement applicable only to single rafter or joist vaulted ceilings.
4 Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
5 Floors over crawl spaces or exposed to ambient air conditions.

- 4 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
5 The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.
6 This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
7 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSPF of 6.35. 'Med.' denotes an HSPF of 6.8. 'High' an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-2.
10 Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

TABLE 6-2 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 1 • HEATING BY OTHER FUELS

Table with 12 columns: OPTION, HVAC EQUIP. EFFIC., GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING, VAULTED CEILING, WALL ABOVE GRADE, WALL-ins BELOW GRADE, WALL-ext BELOW GRADE, FLOOR, SLAB ON GRADE. Rows I-VII with varying values for each category.

Reference Case

- 1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.
2 Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
3 Requirement applicable only to single rafter or joist vaulted ceilings.
4 Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
5 Floors over crawl spaces or exposed to ambient air conditions.

- 4 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
5 The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.
6 This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
7 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSPF of 6.35. 'Med.' denotes an HSPF of 6.8. 'High' an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-2.
10 Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

OPTION 3

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0627 Table 6-3.

TABLE 6-3 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ¹	WALL ABOVE GRADE	WALL*int ⁴ BELOW GRADE	WALL*ext ⁴ BELOW GRADE	FLOOR ¹	SLAB ⁴ ON GRADE
I.	10%	0.38	0.20	R-38	R-30	R-21	R-21	R-12	R-30	R-10
II.	12%	0.40	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-25	R-10
III. ²	15%	0.40	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
IV.	18%	0.38	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
V. ³	21%	0.35	0.20	R-38Adv	R-38	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
VI. ³	25%	0.30 ⁷	0.20	R-49Adv	R-38	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
VII. ³	30%	0.28 ⁷	0.20	R-60Adv	R-38	R21+R7.5 ⁹	R-21	R-12	R-30	R-10

¹ Reference Case

² Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 10%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

³ Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

⁴ Requirement applicable only to single rafter or joint vaulted ceilings.

⁵ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁶ Floors over crawl spaces or exposed to ambient air conditions.

⁷ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁸ The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.

⁹ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

¹⁰ This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.

TABLE 6-3 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ¹	VAULTED CEILING ¹	WALL ABOVE GRADE	WALL*int ⁴ BELOW GRADE	WALL*ext ⁴ BELOW GRADE	FLOOR ¹	SLAB ⁴ ON GRADE
I.	10%	0.38	0.20	R-38	R-30	R-21	R-21	R-12	R-30	R-10
II.	12%	0.40	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-25	R-10
III. ²	15%	0.40	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
IV.	18%	0.38	0.20	R-38	R-30	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
V. ³	21%	0.35	0.20	R-38Adv	R-38	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
VI. ³	25%	0.30 ⁷	0.20	R-49Adv	R-38	R-19+R-5 ⁵	R-21	R-12	R-30	R-10
VII. ³	30%	0.28 ⁷	0.20	R-60Adv	R-38	R21+R7.5 ⁹	R-21	R-12	R-30	R-10

¹ Reference Case

² Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 10%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

³ Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

⁴ Requirement applicable only to single rafter or joint vaulted ceilings.

⁵ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁶ Floors over crawl spaces or exposed to ambient air conditions.

⁷ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁸ The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.

⁹ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

¹⁰ This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.

OPTION 1

TABLE 6-3 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE

Table with 11 columns: OPTION, GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING², VAULTED CEILING³, WALL ABOVE GRADE, WALL•int⁴ BELOW GRADE, WALL•ext⁴ BELOW GRADE, FLOOR⁵, SLAB⁶ ON GRADE. Rows I-VII.

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joist vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joist vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

⁹ This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.

¹⁰ Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

TABLE 6-3 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE

Table with 11 columns: OPTION, GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING², VAULTED CEILING³, WALL ABOVE GRADE, WALL•int⁴ BELOW GRADE, WALL•ext⁴ BELOW GRADE, FLOOR⁵, SLAB⁶ ON GRADE. Rows I-VII.

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Requirement applies to all ceilings except single rafter or joist vaulted ceilings. "Adv" denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joist vaulted ceilings.

⁴ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁷ The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.

⁸ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

⁹ This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.

¹⁰ Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec. 402.5 are permitted.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0628 Table 6-4.

TABLE 6-4 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY OTHER FUELS

OPTION	HVAC ² EQUIP. EFFIC.	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ³	VAULTED CEILING ³	WALL ABOVE GRADE	WALL* ^{int} BELOW GRADE	WALL* ^{ext} BELOW GRADE	FLOOR ⁴	SLAB ⁵ ON GRADE
I.	Med.	10%	0.70	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
II.	Med.	12%	0.65	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
III.	High	17%	0.65	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
IV.*	Med.	17%	0.60	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
V.	Low	17%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VI.	Med.	21%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VII.	Med.	25%	0.40 ⁷	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VIII.	Med.	30%	0.40 ⁷	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

* Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv." denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joint vaulted ceilings.

⁵ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁶ Floors over crawl spaces or exposed to ambient air conditions.

⁷ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁸ The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.

⁹ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

¹⁰ Minimum HVAC Equipment efficiency requirement. "Low" denotes an AFUE of 0.74. "Med." denotes an AFUE of 0.78. "High" denotes an AFUE of 0.88.

TABLE 6-4 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY
CLIMATE ZONE 2 • HEATING BY OTHER FUELS

OPTION	HVAC ² EQUIP. EFFIC.	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ³	VAULTED CEILING ³	WALL ABOVE GRADE	WALL* ^{int} BELOW GRADE	WALL* ^{ext} BELOW GRADE	FLOOR ⁴	SLAB ⁵ ON GRADE
I.	Med.	10%	0.70	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
II.	Med.	12%	0.65	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
III.	High	17%	0.65	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
IV.*	Med.	17%	0.60	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
V.	Low	17%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VI.	Med.	21%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VII.	Med.	25%	0.40 ⁷	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VIII.	Med.	30%	0.40 ⁷	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10

Reference Case

¹ Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

* Requirement applies to all ceilings except single rafter or joint vaulted ceilings. "Adv." denotes Advanced Framed Ceiling.

³ Requirement applicable only to single rafter or joint vaulted ceilings.

⁵ Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

⁶ Floors over crawl spaces or exposed to ambient air conditions.

⁷ Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

⁸ The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.

⁹ This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

¹⁰ Minimum HVAC Equipment efficiency requirement. "Low" denotes an AFUE of 0.74. "Med." denotes an AFUE of 0.78. "High" denotes an AFUE of 0.88.

PROPOSED

OPTION 1

PROPOSED

OPTION 2

TABLE 6-4 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY CLIMATE ZONE 2 • HEATING BY OTHER FUELS

Table with 12 columns: OPTION, HVAC EQUIP. EFFIC., GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING, VAULTED CEILING, WALL ABOVE GRADE, WALL*int* BELOW GRADE, WALL*ext* BELOW GRADE, FLOOR, SLAB* ON GRADE. Rows I-VIII.

Reference Case

1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

2 Requirement applies to all ceilings except single rafter or joint vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.

3 Requirement applicable only to single rafter or joint vaulted ceilings.

4 Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

5 Floors over crawl spaces or exposed to ambient air conditions.

6 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

7 The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.

8 This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

9 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88.

10 Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec 402.5 are permitted.

TABLE 6-4 • PRESCRIPTIVE REQUIREMENTS¹ FOR GROUP R OCCUPANCY CLIMATE ZONE 2 • HEATING BY OTHER FUELS

Table with 12 columns: OPTION, HVAC EQUIP. EFFIC., GLAZING % FLOOR AREA, GLAZING U-VALUE, DOORS U-VALUE, CEILING, VAULTED CEILING, WALL ABOVE GRADE, WALL*int* BELOW GRADE, WALL*ext* BELOW GRADE, FLOOR, SLAB* ON GRADE. Rows I-VIII.

Reference Case

1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

2 Requirement applies to all ceilings except single rafter or joint vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.

3 Requirement applicable only to single rafter or joint vaulted ceilings.

4 Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

5 Floors over crawl spaces or exposed to ambient air conditions.

6 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

7 The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.

8 This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

9 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88.

10 Log and solid timber walls that meet the minimum thickness criteria stated in Exception 2 of Sec 402.5 are permitted.

OPTION 3

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0629 Table 6-5.

~~TABLE 6-5
LOG HOMES PRESCRIPTIVE REQUIREMENTS¹
HEATING BY ELECTRIC RESISTANCE~~

OPTION	AVERAGE² LOG THICKNESS	GLAZING % FLOOR AREA	GLAZING U VALUE	DOORS U VALUE	CEILING³	VAULTED⁴ CEILING	FLOOR⁵	SLAB⁶ ON GRADE
CLIMATE ZONE 1								
I.⁷	5.5"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
II.⁷	7.5"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
III.⁷	9.6"	15%	0.40	0.20	R-38	R-30	R-30	R-10
CLIMATE ZONE 2								
IV.⁷	6.7"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
V.⁷	8.7"	15%	0.40	0.14	R-60 Adv	R-38	R-38	R-10
VI.⁷	9.8"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
VII.⁷	10.5"	15%	0.40	0.20	R-49 Adv	R-38	R-30	R-10
VIII.⁷	13.5"	15%	0.40	0.20	R-38	R-30	R-30	R-10

~~Reference Case~~

~~¹ For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~² Required minimum average log thickness.~~

~~³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~⁴ Requirement applicable only to single rafter joist vaulted ceilings.~~

~~⁵ Floors over crawl spaces or exposed to ambient air conditions.~~

~~⁶ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~⁷ These options shall be applicable to buildings less than three stories.~~

OPTION 1

**TABLE 6-5
LOG HOMES PRESCRIPTIVE REQUIREMENTS¹
HEATING BY ELECTRIC RESISTANCE**

OPTION	AVERAGE ² LOG THICKNESS	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ³	VAULTED ⁴ CEILING	FLOOR ⁵	SLAB ⁶ ON GRADE
CLIMATE ZONE 1								
I. ⁷	5.5"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
II. ⁷	7.5"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
III. [*]	9.6"	15%	0.40	0.20	R-38	R-30	R-30	R-10
CLIMATE ZONE 2								
IV. ⁷	6.7"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
V. ⁷	8.7"	15%	0.40	0.14	R-60 Adv	R-38	R-38	R-10
VI. ⁷	9.8"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
VII. ⁷	10.5"	15%	0.40	0.20	R-49 Adv	R-38	R-30	R-10
VIII. [*]	13.5"	15%	0.40	0.20	R-38	R-30	R-30	R-10

* Reference Case

¹ For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.

² Required minimum average log thickness.

³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.

⁴ Requirement applicable only to single rafter joist vaulted ceilings.

⁵ Floors over crawl spaces or exposed to ambient air conditions.

⁶ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.

⁷ These options shall be applicable to buildings less than three stories.

OPTION 2

TABLE 6-5 (Reserved)
~~LOG HOMES PRESCRIPTIVE REQUIREMENTS¹~~
~~HEATING BY ELECTRIC RESISTANCE~~

OPTION	AVERAGE²	GLAZING	GLAZING	DOORS	CEILING³	VAULTED⁴	FLOOR⁵	SLAB⁶
	LOG	% FLOOR	U VALUE	U VALUE		CEILING		ON
	THICKNESS	AREA						GRADE

~~CLIMATE ZONE 1~~

I.⁷	5.5"	15%	0.31	0.14	R 60 Adv	R 38	R 38	R 10
II.⁷	7.5"	15%	0.40	0.20	R 60 Adv	R 38	R 30	R 10
III.⁷	9.6"	15%	0.40	0.20	R 38	R 30	R 30	R 10

~~CLIMATE ZONE 2~~

IV.⁷	6.7"	15%	0.31	0.14	R 60 Adv	R 38	R 38	R 10
V.⁷	8.7"	15%	0.40	0.14	R 60 Adv	R 38	R 38	R 10
VI.⁷	9.8"	15%	0.40	0.20	R 60 Adv	R 38	R 30	R 10
VII.⁷	10.5"	15%	0.40	0.20	R 49 Adv	R 38	R 30	R 10
VIII.⁷	13.5"	15%	0.40	0.20	R 38	R 30	R 30	R 10

~~Reference Case~~

~~1 For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~2 Required minimum average log thickness.~~

~~3 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~4 Requirement applicable only to single rafter joist vaulted ceilings.~~

~~5 Floors over crawl spaces or exposed to ambient air conditions.~~

~~6 Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~7 These options shall be applicable to buildings less than three stories.~~

OPTION 3

TABLE 6-5 (Reserved)
~~LOG HOMES PRESCRIPTIVE REQUIREMENTS¹~~
~~HEATING BY ELECTRIC RESISTANCE~~

OPTION	AVERAGE²	GLAZING	GLAZING	DOORS	CEILING³	VAULTED⁴	FLOOR⁵	SLAB⁶
	LOG	% FLOOR	U-VALUE	U-VALUE		CEILING		ON
	THICKNESS	AREA						GRADE

~~CLIMATE ZONE 1~~

I.⁷	5.5"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
II.⁷	7.5"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
III.⁷	9.6"	15%	0.40	0.20	R-38	R-30	R-30	R-10

~~CLIMATE ZONE 2~~

IV.⁷	6.7"	15%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
V.⁷	8.7"	15%	0.40	0.14	R-60 Adv	R-38	R-38	R-10
VI.⁷	9.8"	15%	0.40	0.20	R-60 Adv	R-38	R-30	R-10
VII.⁷	10.5"	15%	0.40	0.20	R-49 Adv	R-38	R-30	R-10
VIII.⁷	13.5"	15%	0.40	0.20	R-38	R-30	R-30	R-10

~~Reference Case~~

~~¹ For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~² Required minimum average log thickness.~~

~~³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~⁴ Requirement applicable only to single rafter joist vaulted ceilings.~~

~~⁵ Floors over crawl spaces or exposed to ambient air conditions.~~

~~⁶ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~⁷ These options shall be applicable to buildings less than three stories.~~

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0630 Table 6-6.

~~TABLE 6-6
LOG HOMES PRESCRIPTIVE REQUIREMENTS¹
HEATING BY OTHER FUELS~~

OPTION	AVERAGE² LOG THICKNESS	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING³	VAULTED⁴ CEILING	FLOOR⁵	SLAB⁶ ON GRADE
CLIMATE ZONE 1								
I.⁷	3.5"	21%	0.40	0.39	R-49 Adv	R-38	R-30	R-10
II.	4.4"	21%	0.40	0.40	R-38	R-30	R-19	R-10
III.	5.2"	21%	0.50	0.40	R-38	R-30	R-19	R-10
IV.	6.5"	21%	0.60	0.40	R-38	R-30	R-19	R-10
V.	7.0"	21%	0.60	0.40	R-38	R-30	R-19	R-10
VI.⁸	8.2"	21%	0.65	0.40	R-38	R-30	R-19	R-10
CLIMATE ZONE 2								
VII.⁷	3.5"	17%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
VIII.^{7,1}	3.5"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
IX.⁷	4.6"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
X.	5.4"	17%	0.40	0.40	R-38	R-30	R-30	R-10
XI.	6.8"	17%	0.50	0.40	R-38	R-30	R-30	R-10
XII.⁸	9.0"	17%	0.60	0.40	R-38	R-30	R-30	R-10

~~Reference Case~~

~~¹ For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~² Required minimum average log thickness.~~

~~³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings. Requirement applicable only to single rafter joist vaulted ceilings.~~

~~⁴ Floors over crawl spaces or exposed to ambient air conditions.~~

~~⁵ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~⁶ These options shall be applicable to buildings less than three stories.~~

~~⁷ For this option, minimum HVAC system efficiency is an AFUE of 0.88.~~

OPTION 1

**TABLE 6-6
LOG HOMES PRESCRIPTIVE REQUIREMENTS¹
HEATING BY OTHER FUELS**

OPTION	AVERAGE ² LOG THICKNESS	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING ³	VAULTED ⁴ CEILING	FLOOR ⁵	SLAB ⁶ ON GRADE
<u>CLIMATE ZONE 1</u>								
I. ⁷	3.5"	21%	0.40	0.39	R-49 Adv	R-38	R-30	R-10
II.	4.4"	21%	0.40	0.40	R-38	R-30	R-19	R-10
III.	5.2"	21%	0.50	0.40	R-38	R-30	R-19	R-10
IV.	6.5"	21%	0.60	0.40	R-38	R-30	R-19	R-10
V.	7.0"	21%	0.60	0.40	R-38	R-30	R-19	R-10
VI. ⁸	8.2"	21%	0.65	0.40	R-38	R-30	R-19	R-10
<u>CLIMATE ZONE 2</u>								
VII. ⁷	3.5"	17%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
VIII. ^{7,8}	3.5"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
IX. ⁷	4.6"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
X.	5.4"	17%	0.40	0.40	R-38	R-30	R-30	R-10
XI.	6.8"	17%	0.50	0.40	R-38	R-30	R-30	R-10
XII. ⁸	9.0"	17%	0.60	0.40	R-38	R-30	R-30	R-10

Reference Case

- ¹ For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.
- ² Required minimum average log thickness.
- ³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.
Requirement applicable only to single rafter joist vaulted ceilings.
- ⁴ Floors over crawl spaces or exposed to ambient air conditions.
- ⁵ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.
- ⁷ These options shall be applicable to buildings less than three stories.
- ⁸ For this option, minimum HVAC system efficiency is an AFUE of 0.88.

OPTION 2

TABLE 6-6 (Reserved)
~~LOG HOMES PRESCRIPTIVE REQUIREMENTS¹~~
~~HEATING BY OTHER FUELS~~

OPTION	AVERAGE²	GLAZING	GLAZING	DOORS	CEILING³	VAULTED⁴	FLOOR⁵	SLAB⁶
	LOG	% FLOOR	U-VALUE	U-VALUE		CEILING		ON
	THICKNESS	AREA						GRADE

~~CLIMATE ZONE 1~~

I.⁷	3.5"	21%	0.40	0.39	R-49 Adv	R-38	R-30	R-10
II.	4.4"	21%	0.40	0.40	R-38	R-30	R-19	R-10
III.	5.2"	21%	0.50	0.40	R-38	R-30	R-19	R-10
IV.	6.5"	21%	0.60	0.40	R-38	R-30	R-19	R-10
V.	7.0"	21%	0.60	0.40	R-38	R-30	R-19	R-10
VI.⁸	8.2"	21%	0.65	0.40	R-38	R-30	R-19	R-10

~~CLIMATE ZONE 2~~

VII.⁷	3.5"	17%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
VIII^{2,1}	3.5"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
IX.⁷	4.6"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
X.	5.4"	17%	0.40	0.40	R-38	R-30	R-30	R-10
XI.	6.8"	17%	0.50	0.40	R-38	R-30	R-30	R-10
XII.⁸	9.0"	17%	0.60	0.40	R-38	R-30	R-30	R-10

~~Reference Case~~

~~¹ For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~² Required minimum average log thickness.~~

~~³ 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~Requirement applicable only to single rafter joist vaulted ceilings.~~

~~⁴ Floors over crawl spaces or exposed to ambient air conditions.~~

~~⁵ Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~⁷ These options shall be applicable to buildings less than three stories.~~

~~⁸ For this option, minimum HVAC system efficiency is an AFUE of 0.88.~~

PROPOSED

OPTION 3

TABLE 6-6 (Reserved)

~~LOG HOMES PRESCRIPTIVE REQUIREMENTS¹
HEATING BY OTHER FUELS~~

OPTION	AVERAGE² LOG THICKNESS	GLAZING % FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING³ CEILING	VAULTED⁴ CEILING	FLOOR⁵	SLAB⁶ ON GRADE
CLIMATE ZONE 1								
I.⁷	3.5"	21%	0.40	0.39	R-49 Adv	R-38	R-30	R-10
II.	4.4"	21%	0.40	0.40	R-38	R-30	R-19	R-10
III.	5.2"	21%	0.50	0.40	R-38	R-30	R-19	R-10
IV.	6.5"	21%	0.60	0.40	R-38	R-30	R-19	R-10
V.	7.0"	21%	0.60	0.40	R-38	R-30	R-19	R-10
VI.⁸	8.2"	21%	0.65	0.40	R-38	R-30	R-19	R-10
CLIMATE ZONE 2								
VII.⁷	3.5"	17%	0.31	0.14	R-60 Adv	R-38	R-38	R-10
VIII.^{2,1}	3.5"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
IX.⁷	4.6"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
X.	5.4"	17%	0.40	0.40	R-38	R-30	R-30	R-10
XI.	6.8"	17%	0.50	0.40	R-38	R-30	R-30	R-10
XII.⁸	9.0"	17%	0.60	0.40	R-38	R-30	R-30	R-10

~~Reference Case~~

¹ ~~For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

² ~~Required minimum average log thickness.~~

³ ~~'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~Requirement applicable only to single rafter joist vaulted ceilings.~~

⁴ ~~Floors over crawl spaces or exposed to ambient air conditions.~~

⁵ ~~Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

⁷ ~~These options shall be applicable to buildings less than three stories.~~

⁸ ~~For this option, minimum HVAC system efficiency is an AFUE of 0.88.~~

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

WAC 51-11-1006 Section 1006 Default U-values for glazing and doors.

1006.1 Untested Glazing and Doors: Untested glazing and doors shall be assigned the following U-values:

a. Manufactured glazing products:

- single glazing (all): U = 1.20;
- double glazing:
- aluminum or steel framed: U = 0.90;
- wood or vinyl framed: U = 0.75;

b. Nonmanufactured site built fixed lite glazing products with a minimum of one-half inch airspace in a wood frame only. All products supplied by manufacturers, such as kits for solariums, shall use the default U-values for manufactured glazing products cited above.

- air-filled: U = 0.60;
- argon-filled: U = 0.55;
- low-e, air-filled: U = 0.50;
- low-e, argon-filled: U = 0.40;

Products which do not comply with all of these criteria shall use the default U-values listed under manufactured glazing products.

c. For Doors, see Table 10-6 on the next page.

TABLE 10-6A
APPROVED WINDOW AND SKYLIGHT DEFAULT TABLE^{1, 2}

DESCRIPTION ^{3, 4, 5, 6, 7}	FRAME TYPE ^{8, 9}			
	ALUMINUM	ALUM. THERMAL BREAK ¹⁰	WOOD/VINYL	ALUM. CLAD WOOD / REINFORCED VINYL ¹¹
Double, Clear 1/4"	0.82	0.66	0.56	0.59
Double, Clear 1/4" + argon	0.77	0.63	0.53	0.56
Double, Low-e4 1/4"	0.76	0.61	0.52	0.54
Double, Low-e2 1/4"	0.73	0.60	0.51	0.53
Double, Low-e1 1/4"	0.70	0.55	0.47	0.49
Double, Low-e4 1/4" + argon	0.70	0.55	0.47	0.49
Double, Low-e2 1/4" + argon	0.66	0.52	0.43	0.46
Double, Low-e1 1/4" + argon	0.64	0.50	0.41	0.43
Double, Clear 3/8"	0.78	0.63	0.54	0.57
Double, Clear 3/8" + argon	0.75	0.60	0.51	0.54
Double, Low-e4 3/8"	0.72	0.57	0.48	0.51
Double, Low-e2 3/8"	0.69	0.55	0.46	0.48
Double, Low-e1 3/8"	0.66	0.51	0.43	0.46
Double, Low-e4 3/8" + argon	0.68	0.53	0.44	0.47
Double, Low-e2 3/8" + argon	0.63	0.49	0.41	0.44
Double, Low-e1 3/8" + argon	0.61	0.47	0.39	0.41
Double, Clear 1/2"	0.75	0.60	0.50	0.54
Double, Clear 1/2" + argon	0.72	0.58	0.48	0.51
Double, Low-e4 1/2"	0.68	0.53	0.44	0.47
Double, Low-e2 1/2"	0.64	0.50	0.41	0.44
Double, Low-e1 1/2"	0.61	0.47	0.39	0.42
Double, Low-e4 1/2" + argon	0.65	0.50	0.42	0.44
Double, Low-e2 1/2" + argon	0.60	0.46	0.38	0.40
Double, Low-e1 1/2" + argon	0.58	0.43	0.35	0.38
Triple, Clear 1/4"	0.65	0.52	0.42	0.44
Triple, Clear 1/4" + argon	0.63	0.49	0.39	0.42
Triple, Low-e4 1/4"	0.64	0.50	0.40	0.40
Triple, Low-e2 1/4"	0.62	0.48	0.39	0.41
Triple, Low-e1 1/4"	0.61	0.47	0.38	0.40
Triple, Low-e4 1/4" + argon	0.60	0.46	0.37	0.39
Triple, Low-e2 1/4" + argon	0.58	0.43	0.34	0.37
Triple, Low-e1 1/4" + argon	0.57	0.42	0.34	0.36
Triple, Clear 1/2"	0.61	0.46	0.37	0.40
Triple, Clear 1/2" + argon	0.59	0.45	0.36	0.38
Triple, Low-e4 1/2"	0.58	0.43	0.35	0.37
Triple, Low-e2 1/2"	0.55	0.41	0.32	0.35
Triple, Low-e1 1/2"	0.54	0.39	0.31	0.33
Triple, Low-e4 1/2" + argon	0.55	0.41	0.32	0.35
Triple, Low-e2 1/2" + argon	0.52	0.38	0.30	0.32
Triple, Low-e1 1/2" + argon	0.51	0.37	0.29	0.31

¹ This Default Table shall expire July 1, 1994, except for Skylights.
² Subtract 0.02 from the listed default U-Value for insulated spacers. Insulated spacer material include fiberglass, wood and butyl or other material with an equivalent K-value
³ 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.
 3/8" = a minimum dead air space of 0.375 inches between the panes of glass.
 1/2" = a minimum dead air space of 0.5 inches between the panes of glass.
 Products with air spaces different than those listed above shall use the value for the next smaller air space, i.e. 3/4-inch = 1/2-inch U-factor, 7/16-inch = 3/8-inch U factors, 5/16-inch = 1/4 inch U-factor.
⁴ Low-e4 (emissivity) shall be 0.4 or less.
 Low-e2 (emissivity shall be 0.2 or less.
 Low-e1 (emissivity) shall be 0.1 or less.
⁵ U-factors listed for argon shall consist of sealed, gas-filled, insulated units for argon, CO₂, SF₆, and argon/SF₆ mixtures.
 The following conversion factor shall apply to Krypton gas-filled units:
 1/4" or greater with krypton is equivalent to 1/2" argon.
⁶ Dividers placed between glazing: The U-factor listed shall be used where the divider has a minimum gap of 1/8-inch between the divider and lite of each inside glass surface. Add 0.04 to the listed U-factor for True Divided Lite windows.
⁷ "Glass block" assemblies may use a U-factor of 0.51.
⁸ Insulated fiberglass framed products shall use wood/vinyl U-factors.
⁹ Subtract 0.02 from the listed default values for solariums.
¹⁰ Aluminum Thermal Break = An aluminum thermal break framed window shall incorporate the following minimum design characteristics:
 a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr-ft²/F°,
 b) The thermal break material shall not be less than 0.210 inches; and
 c) All metal framing members of the product to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.
¹¹ Aluminum clad wood windows shall use the U-values listed for Aluminum Clad Wood/Reinforced Vinyl windows. Vinyl clad wood shall use the U-values listed for Wood/Vinyl windows. Any vinyl frame window with metal reinforcement in 50 % or more of the frame shall use the U-factors listed for Aluminum Clad Wood/Reinforced Vinyl window.

PROPOSED

**TABLE 10-6B TRANSMISSION COEFFICIENTS (U)
FOR WOOD AND STEEL DOORS**
Btu/hr•ft²•°F

Nominal Door Thickness, Inches	Description	No Storm Door	Wood Storm Door ^c	Metal Storm Door ^d
Wood Doors^b				
1-3/8	Panel door with 7/16 inch panels ^e	0.57	0.33	0.37
1-3/8	Hollow core flush door	0.47	0.30	0.32
1-3/8	Solid core flush door	0.39	0.26	0.28
1-3/4	Panel door with 7/16 inch panels ^e	0.57	0.33	0.36
1-3/4	Hollow core flush door	0.46	0.29	0.32
1-3/4	Panel door with 1-1/8 inch panels ^e	0.39	0.26	0.28
1-3/4	Solid core flush door	0.33	0.28	0.25
2-1/4	Solid core flush door	0.27	0.20	0.21
Steel Doors^b				
1-3/4	Fiberglass or mineral wool core w/ steel stiffeners, no thermal break ^f	0.60	---	---
1-3/4	Paper honeycomb core without thermal break ^f	0.56	---	---
1-3/4	Solid urethane foam core without thermal break ^a	0.40	---	---
1-3/4	Solid fire rated mineral fiberboard core without thermal break ^f	0.38	---	---
1-3/4	Polystyrene core without thermal break(18 gage commercial steel) ^f	0.35	---	---
1-3/4	Polyurethane core without thermal break(18 gage commercial steel) ^f	0.29	---	---
1-3/4	Polyurethane core without thermal break(24 gage commercial steel) ^f	0.29	---	---
1-3/4	Polyurethane core w/ thermal break & wood perimeter(24 gage commercial steel) ^f	0.20	---	---
1-3/4	Solid urethane foam core with thermal break	0.19	0.16	0.17

Note: All U-factors for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.

^a Values are based on a nominal 32 by 80 in. door size with no glazing.

^b Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.

^c Values for wood storm door are for approximately 50 percent glass area.

^d Values for metal storm door are for any percent glass area.

^e 55 percent panel area

^f ASTM C 236 hotbox data on a nominal 3 by 7 ft door size with no glazing.

The U-factors in Table 6 are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hot box tests (Sabine et al. 1975; Yellot 1965) or from manufacturer's test reports. An outdoor surface conductance of 6.0 Btu/h•ft²•°F was used, and the indoor surface conductance was taken as 1.4 Btu/h•ft²•°F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, the glazing should be analyzed as a window.

WSR 93-16-114
PROPOSED RULES
OFFICE OF THE
SECRETARY OF STATE
 [Filed August 4, 1993, 11:59 a.m.]

Original Notice.

Title of Rule: Revision of corporation profit and nonprofit making administrative rules as a result of new authority granted to the Secretary of State by the legislature in 1993.

Purpose: To set fees for all corporations filings, miscellaneous activities, and photocopying, establish staggered renewal dates for nonprofit; establishing a new chapter in the Secretary of State's administrative rules and repealing an existing chapter. Repealing chapter 434-50 WAC and proposing chapter 434-110 WAC.

Statutory Authority for Adoption: Chapters 269 and 356, Laws of 1993 (SSB 5492 and SSB 5471).

Statute Being Implemented: Titles 23, 23B, 24, and 46 RCW and chapter 43.07 RCW.

Summary: Fees set for all corporations, renewal dates set for nonprofit corporations, all corporations information made current, and new rule for profit corporation registrant to claim inactive status.

Reasons Supporting Proposal: The Secretary of State needs to set fees for certain activities based on the amount of work involved in performing the service and the statutory requirements for the activity. Renewal dates for nonprofit corporations need to be staggered to even out the workload for the division.

Name of Agency Personnel Responsible for Drafting: Barbara E. Brown, 505 East Union, 2nd Floor, 753-1485; and **Implementation:** Linda Mackintosh, 505 East Union, 2nd Floor, 753-2896.

Name of Proponent: Corporations Division, Office of Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule sets fees for profit corporations in line with costs for each activity, consolidates fees for an many transactions as possible, and clarifies how and when fees and penalties are charged. Nonprofit corporation (and like organization) fees remain essentially the same with corrections only for statutory directives. Anticipated effect is to make filing and other transactions easier, more efficient, and faster for the customer and the staff alike. Whether transaction is by mail, by telephone, or in person, customers will find it easier to accomplish their transactions.

Proposal Changes the Following Existing Rules: Repeals chapter 434-50 WAC and proposes chapter 434-110 WAC. Clarifies and updates existing rules and information, abandons some existing rules, and establishes new rules regarding fees, renewals, and inactive profit corporation status.

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

A small business impact statement is not needed because these rules are designed to reduce the workload for any corporation doing business with the Office of the Secretary of State. The only new timetable established is for nonprofit corporation renewals, which should have no impact

on the amount of work required of the filer. Wherever possible content of material needed from corporation is described so corporations can either use corporations division forms or include the information in a letter or form of the corporations design. Small businesses will not need to utilize any new professional services, other than those they use now. The change in costs may be only the change in the fee for a particular transaction.

Hearing Location: Hearing Room A, John L. O'Brien Building, Capitol Campus, Olympia, Washington, on September 8, 1993, at 9:30 - noon.

Submit Written Comments to: Linda Mackintosh, Director or Barbara Brown, Corporations Division, 753-2896 or 753-1485, by September 20.

Date of Intended Adoption: October 1, 1993.

August 4, 1993
 Donald F. Whiting
 Deputy Secretary of State

Chapter 434-110 WAC
CORPORATION FILING PROCEDURES AND
SPECIAL FEES

NEW SECTION

WAC 434-110-010 Purpose. These rules establish procedures and fee schedules for filings, for expedited and telephone services, and for access to public records in the corporations division of the office of the secretary of state. These rules are adopted pursuant to Titles 23, 23B, 24, and 46 RCW, and chapter 43.07 RCW.

NEW SECTION

WAC 434-110-020 Office address. (1) The mailing address is: Corporations Division, Office of the Secretary of State, P.O. Box 40234, Olympia, Washington 98504-0234.

(2) The offices of the corporations division are located on the second floor of the Republic Building at 505 Union Avenue SE, Olympia, Washington.

NEW SECTION

WAC 434-110-030 Office hours. (1) Business office hours are from 8:00 a.m. to 5:00 p.m. daily, Monday through Friday. Walk-in, counter services are available for an expedited fee specified in WAC 434-110-060. Emergency counter service at other times is available under terms of WAC 434-110-060 (5)(b).

(2) Documents, including substitute service-of-process on the secretary of state, delivered after normal working hours will be deemed to be received on the next working day. The secretary assumes no responsibility for any form of delivery other than that received personally by an employee of the office of the secretary of state.

NEW SECTION

WAC 434-110-040 Telephone services. (1) The telephone number of the corporations information unit is (206) 753-7115, which is open from 9:00 a.m. to 4:00 p.m. Information on active corporations and on filing a new corporation immediately available at this number includes the following:

- (a) Exact name of corporation on file in the secretary of state's records;
 - (b) Whether the corporation is for profit or nonprofit;
 - (c) Unified business identifier (UBI) number;
 - (d) Expiration date of corporate license;
 - (e) Whether the corporation is designated a public benefits corporation;
 - (f) Name of registered agent;
 - (g) Registered office address;
 - (h) Incorporation date of Washington firm;
 - (i) Qualification to-do-business-in-Washington date for foreign corporation;
 - (j) Filing date of most recent annual report;
 - (k) Status of corporation; and
 - (l) Filing requirements for new corporations.
- (2) When customers request information requiring a file search, such as names of the board of directors and officers, the operator will provide the information by return call.
- (3) A customer may request a copy of the most recent annual report including a list of officers and directors by calling the annual report line on (206) 753-7115. While there is no copy fee for these telephone requests, the sum of four dollars to cover postage and handling should be mailed to the Corporations Division, Office of Secretary of State, P.O. Box 40234, Olympia, WA 98504-0234.
- (4) The telephone number of the receptionist for general, nonspecific corporation information, forms, or ongoing filing requirements is 753-7120.
- (5) Name reservations cannot be made by telephone. An information operator will respond to a name search request with a review of the existing computer data base only.
- (6) The telephone number for information about charitable trusts or charitable organizations is (206) 753-7118. Persons calling within Washington may call 1-800-332-GIVE (1-800-332-4483).

NEW SECTION

WAC 434-110-050 Mail-in service. (1) Expedited services for mail-in requests are currently not available.

(2) All mailed-in documents are processed and filed in order of date of receipt unless incomplete or incorrect. Upon customer request, a staff member will call (collect) to confirm the filing date of a document. A specific filing date may be reserved for up to thirty days in advance. The necessary documents, in appropriate format with correct fees, must be in the office by the specified date. Requests for information in a nonactive or archived file, will be processed on a time-available basis.

(3) Requests for name searches coupled with a name reservation are completed in date order. A name reservation may be made by completing the form provided by the corporations division or in a letter containing the corporate name desired, with two alternate names, the name and address of the applicant, signature of the applicant, and the application date. An application on behalf of a client should also include the client's name and complete address.

NEW SECTION

WAC 434-110-060 In-person or expedited counter service—Special fees. (1) The corporations division counter is open to in-person requests from 8:00 a.m. to 5:00 p.m. each business day. Staff provides expedited, same-day processing of corporate documents for requests received prior to 4:30 p.m. on that day. These services are available for the following transactions:

- (a) Charter document review and filing;
- (b) Name reservation review and filing;
- (c) Document certification;
- (d) Document copying;
- (e) Status change filings; and
- (f) Trademark filings.

(2) The fee for same-day service is twenty dollars for single or multiple transactions within each new or existing corporation file. In addition, a regulatory fee for each transaction may apply.

(3) There is no expedited fee for the following transactions:

- (a) Registered agent or address change;
- (b) Initial reports;
- (c) License renewal and required annual report;
- (d) Amended annual reports;
- (e) Reinstatements;
- (f) In-person inspection or review of corporation files or other public documents located in the corporations division office;

(g) Documents left at the counter for processing with mail-in documents received the same day; or

(h) A search for nonactive corporations or trademark files less than twenty years old.

A request for search of nonactive corporation or trademark files more than twenty years old should be made directly to the archives division of the office of the secretary of state.

(4) (a) If staff cannot complete the expedited service request before the end of the same day, the transaction will be completed first on the following business day.

(b) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer must give consent before emergency services are provided.

(5) Over-the-counter service hours may be shortened under extraordinary circumstances. Separate service requests by one person may be limited to those relating to three corporations per day. Documents submitted by courier services or document-handling companies may receive twenty-four-hour service. A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

NEW SECTION

WAC 434-110-070 Fees. (1) For Washington registered profit domestic and foreign corporations fees are as follows:

- (a) Articles of amendment, restatement, correction, or revocation of dissolution, thirty dollars;
 - (b) License renewal with required annual report filed after due date and before administrative dissolution, penalty fee of twenty-five dollars, plus the statutory fee of fifty dollars and the department of licensing handling fee of nine dollars;
 - (c) Reinstatement, one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount;
 - (d) Articles of merger or exchange, twenty dollars for each listed company;
 - (e) Resignation of registered agent, twenty dollars;
 - (f) Resignation of officer or director, an initial report or amended annual report, and the appointment or change of registered agent or change of registered address, ten dollars;
 - (g) Registration, reservation, or transfer of name, thirty dollars;
 - (h) Articles of dissolution, certificate of withdrawal, dissolution by judicial decree, or revocation of certificate of authority by either failure to renew or judicial decree, no fee;
 - (i) Agent's consent to act as agent, agent's resignation if appointed without consent, or annual report when filed concurrently with annual license fee, no fee; and
 - (j) Other statement or report filed, ten dollars.
- (2) For Washington registered domestic and foreign nonprofit corporations, nonprofit miscellaneous and mutual corporations, and building corporations fees, when applicable, are as follows:
- (a) Articles of amendment, restatement, or correction, twenty dollars;
 - (b) Articles of dissolution or certificate of withdrawal, no fee;
 - (c) Revocation of dissolution, twenty dollars;
 - (d) Reinstatement following administrative dissolution, thirty dollars plus all delinquent annual fees and a five-dollar penalty;
 - (e) Articles of merger or exchange, twenty dollars for each listed corporation;
 - (f) Resignation of officer or director, an initial report or amended annual report, the appointment or change of registered agent, or change of registered address, ten dollars;
 - (g) Resignation of registered agent, twenty dollars;
 - (h) Registration, reservation, or transfer of reservation of name, twenty dollars;
 - (i) Certificate of election adopting provisions of chapter 24.03 RCW as described in RCW 24.03.017, thirty dollars; and
 - (j) Other statement or report filed, ten dollars.

NEW SECTION

WAC 434-110-075 Miscellaneous fees. (1) For photocopies fees are as follows:

- (a) Each annual report, five dollars;
- (b) Articles of incorporation or any single document, ten dollars;
- (c) Amendments to articles and mergers, twenty dollars;

- (d) All charter documents, thirty dollars;
- (e) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty-page increment (number of pages determined by weight of copies).

(2) For certificates of existence fees are as follows:

- (a) With complete historical data, under embossed seal, thirty dollars;
- (b) Computer generated, under embossed seal, twenty dollars;
- (c) Duplicate certificate, under gold or embossed seal, twenty dollars.

(3) For each certified copy of any document the fee is ten dollars plus the copy fee.

NEW SECTION

WAC 434-110-080 Fee prepayment—When required. (1) All fees must be prepaid before the corporations division can take action.

(2) Anyone desiring a service for which the exact fee may not be known in advance may send a request accompanied by a check made payable to the "secretary of state," with the phrase "not to exceed (specified dollar amount)" above the space intended for the written dollar amount. The staff person who processes the request will fill in the exact fee amount and include a memo indicating the exact amount of the check with the certificate or other document.

(3) The annual report copy fee may be waived for requests made on the annual-report-telephone-line, 753-7115. A billing of four dollars for postage and handling will accompany the report.

(4) With permission of the secretary, a customer may set up a prepaid account by depositing a specified sum of money with the fiscal office. The customer will receive a statement each month showing its transactions and the balance in the account.

NEW SECTION

WAC 434-110-090 Original signature requirement—Original retained. The corporations division will retain the original document when a profit or nonprofit organization submits for filing an original document with original signature and an exact or conformed copy. If the organization provides only the original copy, the division may charge a photocopy fee to make an exact copy. The copy returned to the organization will be date stamped on the day it was processed and filed.

NEW SECTION

WAC 434-110-100 Registered office address—Requirements. A post office box address may be used in conjunction with a registered geographic office address when:

- (1) The United States Postal Service cannot or will not deliver to the street address; and
- (2) The post office box address is in the same Washington city or town as the registered office address; and
- (3) The agent notifies the office of the secretary of state and the corporation of any changes in either the street address or the post office box address.

NEW SECTION

WAC 434-110-120 Initial and annual reports—Form of content. (1) Any corporation filing under the Washington Business Corporations Act shall file its initial (annual) report on the form provided by the secretary of state or topically sectioned in the following manner:

(a) Section 1. Corporate name and registered agent and office address currently on file with the corporations division, the unified business identification number, corporations account number, state of incorporation, and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address include the effective date and the new agent's signature signifying acceptance of the appointment or the new address;

(c) Section 3. Address of principal place of business in Washington or, if a foreign corporation, the principal office address in state of original incorporation, the corporation telephone number, and a brief statement of nature of business;

(d) Section 4. A list of names and addresses of all corporate officers and directors; and

(e) Section 5. Signature of either the chair or president of the board of directors or an officer listed within the report.

There is no fee for initial reports filed at the time of incorporation. When filed later, initial reports must be filed concurrently with the fee listed in WAC 434-110-070 (2)(f).

(2) All profit and nonprofit corporations shall file their annual reports on the form prescribed by the secretary of state or topically sectioned in the following manner:

(a) Section 1. Corporate name and registered agent and office address currently on file with the corporations division, the unified business identification number, corporations account number, state of incorporation and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address include the effective date and the new agent's signature signifying acceptance of the appointment or the new address;

(c) Section 3. A list of names and addresses of all corporate officers and directors; and

(d) Section 4. The signature of either the chair or president of the board of directors or an officer listed within the report.

All annual reports must be accompanied by the statutory fee in RCW 23B.01.530 or 24.03.450 (1)(b).

NEW SECTION

WAC 434-110-130 Annual reports—Due date for all nonprofit corporations. Beginning in January 1994, and for every year thereafter, each nonprofit corporation shall file its annual report on the last day of the month of its original registration as a corporation. The fee paid to file the 1993 annual report or for filing new articles of incorporation in 1993 shall be sufficient to maintain an organization's good standing until its 1994 renewal date comes due. The corporations division shall notify all nonprofit corporations of this change in renewal dates by mail sent on December 15, 1993. Thereafter, beginning in January of 1994, the division shall notify each nonprofit corporation of its annual

renewal date forty-five days in advance by a mailing that includes the annual report form. Failure to receive an annual report notice is insufficient reason for failing to file the statutorily required annual report.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 434-50-010 Purpose.
- WAC 434-50-015 Office address.
- WAC 434-50-020 Office hours.
- WAC 434-50-025 Telephone services.
- WAC 434-50-030 Mail-in service.
- WAC 434-50-035 In-person or expedited counter service—Special fees.
- WAC 434-50-040 Miscellaneous charges—Special service fees.
- WAC 434-50-045 Fee prepayment, when required.
- WAC 434-50-050 Original signature requirement—Original retained.
- WAC 434-50-055 Registered office address—Requirements.

WSR 93-16-007
PERMANENT RULES
SOUTHWEST AIR
POLLUTION CONTROL AUTHORITY

[Filed July 22, 1993, 3:32 p.m.]

Date of Adoption: June 15, 1993.

Purpose: To adopt by reference the new source performance standards (NSPS) regulations adopted by the Department of Ecology on February 16, 1993, and incorporate these regulations in the state implementation plan.

Citation of Existing Rules Affected by this Order: Amending Section 400-135 Standards of performance for new sources.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 93-10-078 on May 4, 1993.

Changes Other than Editing from Proposed to Adopted Version: To adopt by reference the Department of Ecology regulation for new source performance standards (NSPS) rather than a unique SWAPCA regulation.

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

July 19, 1993

Robert D. Elliott
 Executive Director

REPEALER

Section 400-115 Bubble Rules

REPEALER

Section 400-135 Standards of Performance for New Sources

NEW SECTION

SWAPCA 400-115 Standards of performance for new sources.

Section 173-400-115 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all aspects as though the sections were set forth herein in full. Title 40, Code of Federal Regulations, Part 60 (Standards of Performance for New Sources), as in effect on January 1, 1993, is adopted by reference except for sections 60.5 (Determination of Construction or Modification) and 60.6 (Review of Plans). The term "Administrator" in 40 CFR Part 60 shall mean the Administrator of EPA, the Director of Ecology and the Control Officer of the Authority.

As of January 1, 1993, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

- Subpart D ~~Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts~~
- Subpart Da ~~Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat~~

~~input greater than 73 megawatts but not greater than 250 megawatts~~

- Subpart Db ~~Industrial commercial institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts~~
- Subpart De ~~Small industrial commercial institutional steam generating units~~
- Subpart E ~~Incinerators~~
- Subpart Ea ~~Municipal waste combustors~~
- Subpart F ~~Portland cement plants~~
- Subpart G ~~Nitric acid plants~~
- Subpart H ~~Sulfuric acid plants~~
- Subpart I ~~Asphalt concrete plants~~
- Subpart J ~~Petroleum refineries which produce less than 25,000 barrels per day of refined products~~
- Subpart K ~~Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons~~
- Subpart Ka ~~Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons~~
- Subpart Kb ~~Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984~~
- Subpart L ~~Secondary lead smelters~~
- Subpart M ~~Brass and bronze ingot production plants~~
- Subpart N ~~Iron and steel plants~~
- Subpart O ~~Sewage treatment plants~~
- Subpart P ~~Primary copper smelters~~
- Subpart Q ~~Primary zinc smelters~~
- Subpart R ~~Primary lead smelters~~
- Subpart S ~~Primary aluminum reduction plants~~
- Subpart T ~~Phosphate fertilizer industry: Wet process phosphoric acid plants~~
- Subpart U ~~Phosphate fertilizer industry: Superphosphoric acid plants~~
- Subpart V ~~Phosphate fertilizer industry: Diammonium phosphate plants~~
- Subpart W ~~Phosphate fertilizer industry: Triple superphosphate plants~~
- Subpart X ~~Phosphate fertilizer industry: Granular triple superphosphate storage facilities~~
- Subpart Y ~~Coal preparation plants~~
- Subpart Z ~~Ferroalloy production facilities~~
- Subpart AA ~~Steel plants: Electric arc furnaces~~
- Subpart AAa ~~Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels~~
- Subpart BB ~~Kraft pulp mills~~
- Subpart CC ~~Glass manufacturing plants~~
- Subpart DD ~~Grain elevators~~
- Subpart EE ~~Industrial surface coating: Metal furniture~~
- Subpart GG ~~Stationary gas turbines~~
- Subpart HH ~~Lime manufacturing plants~~
- Subpart KK ~~Lead acid battery plants~~
- Subpart LL ~~Metallic mineral processing plants~~

PERMANENT

- ~~Subpart MM Automobile and light duty truck surface coating operations~~
- ~~Subpart NN Phosphate rock plants~~
- ~~Subpart PP Ammonium sulfate manufacture~~
- ~~Subpart QQ Publication rotogravure printing~~
- ~~Subpart RR Pressure sensitive tape and label surface coating operations~~
- ~~Subpart SS Industrial surface coating: Large appliances~~
- ~~Subpart TT Industrial surface coating: Metal coils~~
- ~~Subpart UU Asphalt processing and asphalt roofing manufacture~~
- ~~Subpart VV Synthetic Organic Chemical Manufacturing Industry equipment leaks (VOC)~~
- ~~Subpart WW Beverage can surface coating operations~~
- ~~Subpart XX Bulk gasoline terminals~~
- ~~Subpart AAA New residential wood heaters~~
- ~~Subpart BBB Rubber tire manufacturing industry~~
- ~~Subpart DDD VOC emissions from the polymer manufacturing industry~~
- ~~Subpart FFF Flexible vinyl and urethane coating and printing~~
- ~~Subpart GGG Petroleum refineries: compressors and fugitive emission sources~~
- ~~Subpart HHH Synthetic fiber production facilities~~
- ~~Subpart III VOC emissions from Synthetic Organic Chemical Manufacturing Industry air oxidation unit processes~~
- ~~Subpart JJJ Petroleum dry cleaners~~
- ~~Subpart KKK Equipment leaks of VOC from onshore natural gas processing plants~~
- ~~Subpart LLL Onshore natural gas processing; SO₂ emissions~~
- ~~Subpart NNN VOC emissions from Synthetic Organic Chemical Manufacturing Industry distillation operations~~
- ~~Subpart PPP Wool fiberglass insulation manufacturing plants~~
- ~~Subpart QQQ VOC emissions from petroleum refinery wastewater emissions~~
- ~~Subpart SSS Magnetic tape coating facilities~~
- ~~Subpart TTT Industrial surface coating: Surface coating of plastic parts for business machines~~
- ~~Subpart VVV Polymeric coating of supporting substrates facilities~~

~~Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.~~

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 93-16-008
PERMANENT RULES
SOUTHWEST AIR
POLLUTION CONTROL AUTHORITY
 [Filed July 22, 1993, 3:33 p.m.]

Date of Adoption: June 15, 1993.

Purpose: To adopt regulations to bring the Southwest Air Pollution Control Authority's regulations to be consistent with the asbestos standards of 40 CFR 61 Subpart M and to adopt current policies as regulations for enforceability.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 93-10-086 on May 4, 1993.

Changes Other than Editing from Proposed to Adopted Version: Based on Public Comment deletion of "continuous" in 476-030(1); deletion of "maintenance" in 476-030(5) and adoption of sentence at the end dealing with routine maintenance; addition of new 476-040(b) to respond to comments on the approval date for submittals; clarification in 476-040 (3)(a)(v)(d), 476-050 (4)(c) and 476-060 (2)(c)(iv) that alternative proposals can be approved; and clarification in 476-060 (1)(a)(iii) that indelible markers are satisfactory.

Effective Date of Rule: Thirty-one days after filing.
 July 19, 1993
 Robert D. Elliott
 Executive Director

SWAPCA 476 Standards for asbestos control.

NEW SECTION

SWAPCA 476-010 Purpose.

The purpose of this regulation is to control asbestos emissions from the removal, encapsulation, salvage, disposal, or disturbance of asbestos-containing materials in order to protect public health.

NEW SECTION

SWAPCA 476-030 Definitions.

- (1) "Adequately wet" means sufficiently mixed, saturated, penetrated, or coated with a fine mist of water or aqueous solution to prevent emissions.
- (2) "Asbestos" means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentine), crocidolite (riebeckite), or anthophyllite.
- (3) "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 materials, regardless of asbestos content, when the following conditions are met:
 - (a) The asbestos-containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

- (b) The binder is petroleum based, the asbestos fibers are suspended in that base, and individual fibers are still encapsulated; and
- (c) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and
- (d) 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.
- (4) "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-containing 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.
- (5) "Asbestos project" means the construction, demolition, repair, remodeling, 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. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other nonasbestos materials to seal or fill exposed areas where asbestos fibers may be released. Nor does this include routine maintenance and other non-abatement projects that may minimally disturb ACM.
- (6) "Asbestos survey" means an inspection using the procedures contained in 40 CFR 763.86, or an alternate method that has received prior approval from the Authority, 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.
- (7) "Authority" means the Southwest Air Pollution Control Authority (SWAPCA).
- (8) "Certified asbestos worker/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.
- (9) "Collected for disposal" means sealed in a leak-tight container while adequately wet.
- (10) "Component" means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos-containing material.
- (11) "Controlled area" means an area to which only certified asbestos workers, or other persons authorized by the Washington Industrial Safety and Health Act (WISHA), have access. For residential dwellings, the controlled area is the interior of the dwelling.
- (12) "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.
- (13) "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 of vital utilities. Such events may include earthquakes, fire damage, non-routine failure or malfunction of equipment, or identification of additional asbestos-containing material discovered during an asbestos project.
- (14) "Encapsulant" means a compound that creates a membrane over a surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).
- (15) "Encapsulation" means the application of an encapsulant on surfaces that are covered, coated or manufactured from asbestos containing material to control the release of asbestos fibers into the air. For purposes of this regulation, encapsulation includes the construction of enclosures.
- (16) "Enclosure" means a permanent airtight protective overlay, such as a ceiling, floor, or wall, covering surfaces that are coated, covered, or manufactured from asbestos-containing material to control the release of asbestos fibers into the air.
- (17) "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 99.7% efficiency or greater.
- (18) "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.
- (19) "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.*

- (20) "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.
- (21) "Renovation" means the modification of any existing building, vessel, structure, component, or portion thereof, involving the removal, encapsulation, alteration, disposal, or disturbance of any releasing, or likely to release asbestos fibers into the air.
- (22) "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 as their domicile. This term includes houses, mobile homes, trailers, houseboats, and homes 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.
- (23) "Visible emissions" means any emissions that are visually detectable without the aid of instruments. This term does not include condensed uncombined water vapor.
- (24) "Waste generator" means any owner or operator of a source whose act or process produces asbestos-containing waste material.
- (25) "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.
- (26) "Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

NEW SECTION

SWAPCA 476-040 Notification requirements and fees.

- (1) **Applicability.** It shall be unlawful for any person to cause or allow work on an asbestos project unless the owner or operator has filed with the Authority written notice as follows:
- (a) A written "Notice of Intent to Remove or Encapsulate Asbestos" shall be submitted on Authority provided forms by the owner or operator for the approval by the Authority before any work on an asbestos project begins;
- (b) A written "Notice of Intent to Remove or Encapsulate Asbestos" approval date will be from the date that all required submittals are received at SWAPCA.

- (c) The written notice shall expire on the project completion date as specified by the owner or operator and shall be accompanied by the appropriate fee at the time of the submittal in accordance with SWAPCA 476-040(2);
- (d) The duration of the asbestos project shall not exceed one (1) year beyond the original project starting date and shall have a project starting and completion date that is commensurate with the amount of asbestos-containing material involved;
- (e) A copy of the approved written notice shall be available for inspection at the asbestos project site until completion of the project; and
- (f) Each written notice shall include the following information:
- (i) The scheduled starting and completion dates of the asbestos project;
- (ii) The complete street address or location(s) of the asbestos project, including the city, zip code, and county;
- (iii) The description, specific location(s) at the project site, and amount (in linear feet for pipes and square feet for other components) of asbestos-containing material involved in the project. If an asbestos project involves a volume amount, then each cubic foot of asbestos-containing material must be converted to twelve (12) square feet of asbestos-containing material;
- (iv) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos project;
- (v) The description, size (total square feet and number of floors), and approximate age of the structure, vessel, or building;
- (vi) The type of asbestos project involved and the method that will be used to accomplish it;
- (vii) The procedures that will be used to comply with the asbestos emission control and disposal requirements of SWAPCA 476-050 and 476-060; and
- (viii) The name and location of the waste disposal site where asbestos-containing waste material will be deposited.
- (g) Upon completion of an asbestos project, the owner or operator shall provide written confirmation to the Authority within 30 days of completion. This written confirmation of project completion shall contain as a minimum the project name and location, date of completion, actual quantity of asbestos obtaining material removed, and the name of the disposal facility.

- (2) **Advance notification period and fee.** Any notification required by SWAPCA 476-040(1) shall be considered

incomplete until all the information required by SWAPCA 476-040(1) is received by the Authority and accompanied by the appropriate fee. A facsimile of the completed notification form shall be acceptable documentation for the start of the notification period, but the appropriate fee shall be received before the project can be approved. The advance notification period and appropriate fee shall be determined as follows:

Asbestos Project	Advance Notification Period	Notification Fee	Forms Required
Residential	Prior Notification Required	\$ 25	Notification to Perform an Asbestos Project
<10 linear ft <11 square ft	Prior Notification Required	\$ 25	Notification to Perform an Asbestos Project
10-260 linear ft 11-160 square ft	10 Working Days	\$ 100	Notification to Perform an Asbestos Project
>260 linear ft >160 square ft	10 Working Days	\$ 250	Notification to Perform an Asbestos Project
Amendments to All Projects	Prior Notification Required	\$ 25 3rd amendment & after	Amended Copy of Approved Notification
Emergencies All projects that normally require a 10 working day notification period	Prior Notification Required	\$ 25 plus Normal Notification Fee	Emergency Waiver Request Letter (submitted by property owner)

(3) **Annual notification.** In addition to the notification requirements of SWAPCA 476-040(1) and 476-040(2), the owner or operator of a facility may file for approval by the Authority an annual written notification 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 SWAPCA 476-040 (1)(a) through 476-040 (1)(d), 476-040 (1)(g) and 476-040(2) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(a) **Conditions.**

- (i) Annual written notifications shall be submitted to the Authority for approval before commencing work on any asbestos projects specified in an annual application.
- (ii) 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.
- (iii) The notification requirements of SWAPCA 476-040(1) and 476-040(2) 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.
- (iv) A copy of the approved annual notice shall be available for inspection at the property owner's or operator's office until the end of the calendar year.

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

- (A) All asbestos-containing waste material shall be treated in accordance with SWAPCA 476-060 (1)(a), 476-060 (1)(b), and 476-060 (1)(c);
- (B) Accumulated asbestos-containing waste materials 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
- (C) All stored asbestos-containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal, except as otherwise approved by the Authority 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.

(b) **Reporting Requirements and Fees.** Annual written notifications required by Section 476-040 (3)(a) shall be submitted by the facility owner or operator on forms provided by the Authority. Notifications shall be submitted for approval by the Authority and accompanied by an annual fee of \$500.

(c) **Quarterly Reporting Requirements.** In addition to the written annual notification requirements of Section 476-040 (3)(c), the facility owner or operator shall submit quarterly written reports to the Authority within fifteen (15) days after the end of each calendar quarter. Each quarterly report shall be submitted on forms provided by the Authority or an alternate format approved by the Authority.

(4) **Amendments.** It shall be unlawful for any person to cause or allow any deviation from the information contained in a written notice unless an amended notification has been received and approved by the Authority. Amended notifications addressed by this section shall be filed by the original applicant, received by the Authority no later than the last filed completion date, and are limited to the following revisions:

- (a) A change in the job size category because of identification 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 476-040(2);
- (b) The asbestos or demolition project starting or completion date, provided the total duration of the

PERMANENT

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 SWAPCA 476-040(4) and approved by the Authority. If an amended application results in a job size category that requires a waiting period as specified in SWAPCA 476-040(2) and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;

- (c) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;
 - (d) 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;
 - (e) Method of removal or compliance procedures, provided the revised work plan meets the asbestos emission control and disposal requirements of SWAPCA 476-050 and 450-060;
 - (f) 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
 - (g) Any other information requested by the Authority.
- (5) **Exemptions.** The Authority may waive the required ten (10) working day advance notification period in SWAPCA 476-040(b) for an asbestos project if the facility owner demonstrates to the Authority that there is an emergency as follows:
- (a) **Emergency Asbestos Removal - Renovation.** 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 Authority and be accompanied by the completed notification and fee as identified in SWAPCA 476-040(1) and 476-040(2).
 - (b) **Emergency Asbestos Removal - Demolition.** The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an emergency demolition operation 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 to the Authority for approval and be accompanied by the completed notification and fee as identified in SWAPCA 476-040(1) and 476-040(2).

NEW SECTION

SWAPCA 476-050 Procedures for asbestos emission control.

(1) **Project requirements.** It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed:

- (a) 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 SWAPCA 400-050(2) for residential dwellings.
- (b) All asbestos containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.
- (c) No visible emissions shall result from an asbestos project.
- (d) All asbestos-containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:
 - (i) Kept adequately wet until collected for disposal;
 - (ii) Collected for disposal at the end of each working day;
 - (iii) Contained in a controlled area at all times until transported to a waste disposal site; and
 - (iv) 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
 - (v) 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.
- (e) 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 SWAPCA 476-060 (1)(a)(iii).
 - (i) 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.
 - (ii) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos-containing material may avoid wetting and leak tight wrapping if:

- (A) All access to the asbestos-containing material is welded shut; or
- (B) 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
- (C) The components are labeled in accordance with SWAPCA 476-060 (1)(a)(iii).
- (f) Local exhaust ventilation and collection systems used on an asbestos project shall:
- (i) Be maintained to ensure the integrity of the system; and
 - (ii) 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.
- (g) 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 shall allow no visible emissions.
- (2) **Exemptions for residential dwellings.** The requirements of SWAPCA 476-050 (1)(a) shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling.
- (3) **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.
- (4) **Demolition removal exemptions.** Asbestos-containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof, if:
- (a) 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 notification requirements of SWAPCA 476-040 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with SWAPCA 476-060 (1)(b); or
 - (b) 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 SWAPCA 476-040 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 SWAPCA 476-060 (1)(b); or
 - (c) 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 to the Authority for approval to waive the requirements of SWAPCA 476-050(3). In this case, the application requirements of SWAPCA 476-040 shall apply and the exposed asbestos-containing material and asbestos contaminated debris shall be kept adequately wet at all times unless otherwise approved by the Authority until disposed of in accordance with SWAPCA 476-060 (1)(b). Evidence of the hazardous condition, as documented by a state or local government agency, shall accompany the written request in addition to the completed notification and appropriate fee as identified in SWAPCA 476-040. The request for exemption from SWAPCA 476-050(3) shall include, at a minimum:
 - (i) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city, zip code, and county;
 - (ii) The complete street address or location of the demolition site, including the city, zip code, and county;
 - (iii) The name, title, and authority of the state or local government representative who has determined the hazardous condition;
 - (iv) 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
 - (v) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.
- (5) **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:
- (a) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;
 - (b) The complete street address or location of the site, including the city, zip code, and county;

PERMANENT

- (c) 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
- (d) 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.

NEW SECTION

SWAPCA 476-060 Disposal of asbestos-containing waste material.

(1) **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 waste material:

- (a) 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 (indelible markers or labels made with indelible ink) 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.
- (b) 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 SWAPCA 476-040(3) for asbestos-containing waste material from asbestos projects conducted under annual applications.

- (c) All asbestos-containing waste material, handled as dangerous waste in accordance with WAC 173-303, shall be excluded from the requirements of SWAPCA 476-060 (1)(a)(iii) and 476-060 (1)(b).
- (2) **Alternative storage method - asbestos storage facility.** The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Authority to establish a facility for the purpose of collecting and temporarily storing asbestos-containing waste material.
 - (a) It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Authority.
 - (b) The owner or operator must submit a completed notice for establishment of an asbestos storage facility on forms provided by the Authority. When approved, an Asbestos Storage Facility Authorization will be returned to be posted at the entrance to the facility.
 - (c) 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
 - (iv) Storage, transportation, disposal, and return of the waste shipment record to the waste generator shall not exceed the 45-day requirement of 40 CFR Part 61.150. except as otherwise approved by the Authority.
- (3) **Alternative disposal method - Asbestos-cement water pipe.** Asbestos-cement water pipe used on public right-of-ways or public easements shall be excluded from the disposal requirements of SWAPCA 476-060 (1)(b) if the following conditions are met:
 - (a) Any asbestos-cement water pipe greater than one (1) linear foot in size may be buried on public right-of-ways or public easements if covered with at least three (3) feet or more of non-asbestos fill material; and
 - (b) 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 SWAPCA 476-010 through 476-060.

WSR 93-16-009
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed July 22, 1993, 3:34 p.m.]

Date of Adoption: July 16, 1993.

Purpose: To distinguish examination qualifications from application procedures, and to add the administrative requirements of the additional examination conducted in December of each year. To specify the administrative requirements for reinstatement of a delinquent license. To repeal two sections involving registration eligibility.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-13-022 and 308-13-025; amending WAC 308-13-020, 308-13-032, and 308-13-100; and new section WAC 308-13-024.

Statutory Authority for Adoption: RCW 18.96.060.

Pursuant to notice filed as WSR 93-12-105 on June 1, 1993.

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

July 16, 1993

Jeanne Batson

Chairman of the Board

AMENDATORY SECTION (Amending Order PM 707, filed 2/12/88)

WAC 308-13-020 Qualifications for admittance to the examination. Applicants for the examination shall ~~((file with the director of licensing on or before March 15 an application, on forms provided by the board, accompanied by fee and verification of academic and practical training and such additional evidence as may be required to satisfy the board that the applicant has the following qualifications:~~

~~(1) Possession of good moral character, verified by five references, three from landscape architects and two from other persons.~~

~~(2) Attainment of at least eighteen years of age.~~

~~(3)) provide documentation verifying a minimum of seven years of any combination of academic and practical training experience approved by the board((,-e-g)).~~

~~((a)) (1) ACADEMIC TRAINING~~

~~((a)) (a) With a passing grade, 32 semester credit hours or ((48)) 45 quarter credit hours is considered to be one year. Any fraction, one-half year or greater, will be counted one-half year, and less than one-half year will not be counted.~~

~~((b)) (b) A degree in landscape architecture or credits from ((a-registered)) an accredited college will be weighted at one hundred percent with a four year maximum credit for academic training.~~

~~((c)) (c) Credits in landscape architecture from a college not((,-registered)) accredited may be weighted up to seventy-five percent with a three year maximum credit for academic training.~~

~~((d)) (d) Credits in architecture or civil engineering will be weighted at fifty percent with a two year maximum credit for academic training.~~

~~((b)) (2) PRACTICAL TRAINING~~

~~((a)) (a) Practical training experience, work in landscape architecture and related work experience, will be measured in ((calendar years)) months.~~

~~((b)) (b) No training prior to graduation from high school will be accepted.~~

~~((c)) (c) At least one year of practical training experience shall be attained after termination of academic training.~~

~~((iv)) (iv) Employment duration less than three months will not be counted.~~

~~((v)) (v) One third of the required minimum practical training must be under the direct supervision of a landscape architect.~~

~~((vi)) (vi) Work under the direct supervision of a landscape architect will be weighted at one hundred percent, no limit.~~

~~((vii)) (vii) Work under the direct supervision of an architect, engineer, city or urban planner, nurseryman or landscape contractor will be weighted at seventy five percent, in any combination limited to two thirds of the required training experience.)~~

(c) Full time practical work experience must be at least thirty-five hours per week for a minimum of ten consecutive weeks; and part time practical work experience must be at least twenty hours per week for six or more consecutive months.

NEW SECTION

WAC 308-13-024 Application for examination. (1)

The application for examination must be submitted on forms approved by the board, accompanied by academic and/or practical experience verification to document eligibility under the provisions of RCW 18.96.070. Applications for admission to an examination if scheduled, must be submitted or postmarked not later than the following dates. If the cut-off date falls on a Saturday or Sunday, the postmark deadline will be the following Monday.

<u>Examination Months</u>	<u>Cut-off Dates</u>
June	April 1
December	October 1

(2) Examinees may retake any sections offered that have not been passed. Applications for examination or reexamination must be accompanied by the application fee for examination or reexamination and the appropriate examination fee as established by the director and published in chapter 308-13 WAC, landscape architect fees. For reexamination applicants, examination fees are listed by separate section.

(3) A completed application includes:

(a) A notarized application form LA 656-3;

(b) Three references from landscape architects having personal knowledge of the applicant's landscape architectural experience;

(c) Transcript of academic experience showing courses taken and degree received with registrar's seal/stamp/signature. Photocopies of transcripts are not acceptable;

(d) Verification of work experience;

(e) Application and examination fees.

(4) Notice of acceptance (examination admission letters) will be mailed to eligible applicants approximately six weeks prior to the examination along with detailed information as to times, place, and scheduled examination sections.

(5) Application fees for examination and reexamination are administrative charges and will not be refunded. The examination fees (cost of each test) may be refunded if

PERMANENT

notice of cancellation is received by the department prior to ordering of examinations from the national testing service.

AMENDATORY SECTION (Amending WSR 92-10-030, filed 4/30/92, effective 5/31/92)

WAC 308-13-032 Licensing examination. The form of the examination required of applicants shall consist of a written and graphic examination. Subject to the provisions of RCW 18.96.090, the board adopts the landscape architectural registration examination and grading procedure prepared by the Council of Landscape Architectural Registration Boards (CLARB) as ~~((its))~~ the state examination ~~((to test the applicant's qualifications and minimum competency))~~ for registration.

~~((The board shall periodically, and in no event not less than once every year, review the passing grade score established by CLARB to ensure that such score conforms with the provisions of RCW 18.96.090. The board may convert raw scores received from CLARB to conform to the passing grade percentage established in RCW 18.96.090.~~

~~(1) Procedure for admittance to the examination:~~

~~(a) Upon completion of the qualifications for admittance to the examination under WAC 308-13-020, submit the completed application provided by the board, including fees. The complete application, including fees, must be post-marked by March 15th or earlier to be considered for the next scheduled examination.~~

~~(b) No application fee will be refunded because of withdrawal from the examination.~~

~~(c) Examination fees are refundable when notice of withdrawal is given prior to May 15th.~~

~~(d) A completed application includes:~~

~~(i) Notarized application form LA 656-3;~~

~~(ii) Three landscape architect references;~~

~~(iii) Transcript of academic experience showing courses taken and degree awarded with registrar's seal;~~

~~(iv) Verification of work experience;~~

~~(v) Application and examination fees.~~

~~(e) Notice of acceptance, along with preexamination information, will be mailed to accepted applicants approximately six weeks in advance of the examination, accompanied by specific details regarding the time and place of the examination.)~~ The ~~((written))~~ examination is administered according to the published national schedule.

~~((2) Examination scoring:~~

~~(a) The written parts of the examination are machine scored. The graphic parts of the examination are manually graded at the national grading session.~~

~~(b)) To pass the examination, an applicant must achieve a passing score of seventy-five percent on each of the sections of the examination. ~~((e))~~ Applicants are notified of their grades by mail. No grades are given by telephone. ~~((d))~~ Reexamination information shall be provided to candidates along with scores if the candidate has not passed all sections.~~

An applicant must successfully complete the entire examination within a five-year period. The five-year period shall begin with the month an applicant begins the examination process. Passing scores for any section of the examination may be carried forward for a period of five years from the date the applicant passed that section of the examination.

Applicants shall retake any section of the examination which was passed more than five years previously, along with any section of the examination not yet passed.

AMENDATORY SECTION (Amending Order PL 511, filed 1/31/85)

WAC 308-13-100 Reinstatement of delinquent, suspended, or revoked licenses. ~~((A hearing with the board will be required of any person applying for restoration of a suspended or revoked license. The fee for reissue of license shall be the then current annual renewal fee.))~~ (1)(a) Reinstatement of a license, delinquent less than five years, requires a letter to the board administrator requesting reinstatement, payment of all delinquent renewal fees plus the current penalty fee.

(b) Reinstatement of a license, delinquent five or more years, requires a letter of application to the board requesting reinstatement, payment of all delinquent renewal fees plus the current penalty fee, a resume of landscape architectural activities and projects since the date of expiration, a detailed explanation of the circumstances surrounding the failure to maintain current licensure and a summary analysis of the law and rules governing landscape architects in sufficient detail to demonstrate a thorough understanding of the law and rules. Additional requirements may be established by the board.

(2) Requests for reinstatement of a suspended or revoked license shall be submitted in a letter of application to the board and shall include a resume of professional activities and projects since suspension or revocation, a summary analysis of the law and rules governing landscape architects in sufficient detail to demonstrate a thorough understanding of the law and rules and such other documents and materials as directed by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-13-022	Reexamination.
WAC 308-13-025	Proctoring.

WSR 93-16-010

PERMANENT RULES

SOUTHWEST AIR

POLLUTION CONTROL AUTHORITY

[Filed July 22, 1993, 3:36 p.m.]

Date of Adoption: June 15, 1993.

Purpose: To adopt regulations to bring the Southwest Air Pollution Control Authority's regulations to be consistent with the state and federal regulations on the use of oxygenated fuels. This proposed regulation will implement existing policies and enforcement capability for this regulation.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 93-10-087 on May 4, 1993.

Changes Other than Editing from Proposed to Adopted Version: Based on public comments, revise the fee for Very Large Volume Blender from \$50,000 to \$25,000 in 492-050

to correct a clerical error; and in 492-070 deleted all references to expansion of the existing program to other areas.

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

July 19, 1993
 Robert D. Elliott
 Executive Director

**SWAPCA 492 - OXYGENATED FUELS
 REGULATION**

NEW SECTION

SWAPCA 492-010 Policy and Purpose.

The purpose of this regulation is to reduce carbon monoxide emissions from gasoline powered motor vehicles, through the wintertime use of oxygenated gasolines in areas that are either known or expected to exceed health-based air quality standards for carbon monoxide.

NEW SECTION

SWAPCA 492-020 Applicability.

This regulation shall apply to all gasoline offered for sale in the control area and over the control period defined in section SWAPCA 492-070.

NEW SECTION

SWAPCA 492-030 Definitions.

The following words and phrases shall have the following meanings:

- (1) "Authority" means the Southwest Air Pollution Control Authority.
- (2) "Blender" means a person who owns oxygenated gasoline which is sold or dispensed from an oxygenate blending facility for use in a control area during a control period.
- (3) "Control area" means an area in which only oxygenated gasoline under the oxygenated gasoline program may be sold or dispensed. Each control area is a county or group of counties administered by the Authority.
- (4) "Control period" means the period during which oxygenated gasoline must be sold or dispensed within the control area which is November 1 through February 29.
- (5) "Ecology" means the Washington State Department of Ecology.
- (6) "Gasoline" means any fuel sold for use in motor vehicles equipped with internal combustion engines, and commonly known or sold as gasoline. Blended and oxygenated fuels are considered gasoline.
- (7) "Large Volume Blender" means blenders that blend and offer for sale or sell one million gallons or more, but less than 15 million gallons, of oxygenated gasoline per month, on average, during a control period within a control area.
- (8) "Medium Volume Blender" means blenders that blend and offer for sale or sell 100 thousand gallons or more,

but less than one million gallons, of oxygenated gasoline per month, on average, during a control period within a control area.

- (9) "Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in the gasoline blend. Lawful use of any combination of these substances requires that they be substantially similar under section 211 (f)(1) of the Federal Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of section 211 (f)(4) of the CAA.
- (10) "Oxygenated gasoline" means gasoline which contains a measurable amount of oxygenate, generally an alcohol or ether.
- (11) "Small Volume Blender" means blenders that blend and offer for sale or sell less than 100 thousand gallons of oxygenated gasoline per month, on average, during a control period within a control area.
- (12) "Southwest Air Pollution Control Authority (SWAPCA)" means the regional agency empowered to enforce and implement the Federal Clean Air Act (42 U.S.C. 7410, et seq.) and the Clean Air Washington Act (RCW 70.94) in Clark, Cowlitz, Lewis, Skamania and Wahkiakum Counties of Washington State.
- (13) "Very Large Volume Blender" means blenders that blend and offer for sale or sell 15 million gallons or more of oxygenated gasoline per month, on average, during a control period within a control area.

NEW SECTION

SWAPCA 492-040 Compliance Requirements

- (1) Retail Sales. No gasoline intended as a final product for fueling of motor vehicles within the control area and control period as defined in SWAPCA 492-070 shall be offered for sale, sold or dispensed by any person unless the gasoline has at least 2.0% oxygen content by weight.
- (2) Average Blend Requirements. Over each two-month interval during the control period, gasoline intended as a final product for fueling of motor vehicles within the Authority's control area defined in SWAPCA 492-070 supplied by blenders to purchasers within the Authority's control area defined in SWAPCA 492-070 shall average at least 2.7% oxygen by weight, and in no case be less than 2.0% oxygen content by weight.
- (3) Reports. Blenders shall provide periodic reports, as stipulated in the blenders registration, to the Authority summarizing how the requirements of SWAPCA 492-040(2) were met. With prior approval from the Authority, a credit trading program may be used to comply with these requirements. Such reports shall be on forms provided by the Authority.

PERMANENT

NEW SECTION

SWAPCA 492-050 Registration Requirements.

Each blender who offers for sale, sells, or dispenses gasoline in the Authority's control area shall register with the Authority each year, in each control area where a blender offers for sale, sells, or dispenses gasoline. Each request for registration shall be on forms supplied by the Authority and shall be accompanied by a fee to compensate for the cost of administering the registration program, including on-site inspections necessary to verify compliance with these requirements. The location of each blender facility shall be included in the information provided by the blender at registration. The fee for a control area shall be based on the volume of oxygenated gasoline sold or offered for sale by the blender in that control area to comply with the provisions of SWAPCA 492-040. Applicable fees are required to be paid in full by October 1 of each year or within 30 days after becoming a blender, whichever occurs later. The following fee table shall apply to blenders:

Small Volume Blender	\$ 500
Medium Volume Blender	\$ 1,000
Large Volume Blender	\$10,000
Very Large Volume Blender	\$25,000

NEW SECTION

SWAPCA 492-060 Labeling Requirements.

In addition to other labeling requirements, fuel dispensing systems delivering oxygenated gasoline shall be conspicuously labeled during the control period and in the control area stated in SWAPCA 492-070 as follows:

"The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

NEW SECTION

SWAPCA 492-070 Control Area and Control Period.

Beginning in 1992, the oxygenated gasoline requirements of this regulation shall apply to the following control area during the following control period:

CONTROL AREA	COUNTIES	CONTROL PERIOD	
		BEGINNING	ENDING
Southwest	Clark	November 1	February 29

NEW SECTION

SWAPCA 492-080 Enforcement and Compliance.

(1) Compliance with the requirements of this regulation shall be monitored and enforced by the Authority. Non-compliance shall be subject to the penalties and other remedies provided in 70.94 RCW.

- (2) The Authority may designate any appropriate agency of the State to assist in the compliance monitoring of this regulation.
- (3) Compliance with the standards set forth in this regulation shall be determined by use of testing methods approved by Ecology or the Authority. The maximum accuracy tolerance of this method shall be limited to +/- 0.3% oxygen by weight, or an equivalent tolerance when measured by volume.

NEW SECTION

SWAPCA 492-090 Unplanned Conditions.

An unplanned condition, such as an unforeseen emergency or "act of God", which may interfere with compliance to this regulation, shall be reported to the Authority as soon as possible. The responsible party shall also submit a full written report within ten days to the Authority, including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence. Compliance with the requirements of SWAPCA 492-090 does not relieve the responsible party from the responsibility to maintain continuous compliance with all the requirements of this regulation nor from the resulting liabilities for failure to comply. The Authority shall consider the circumstances of the unplanned condition, and may use the circumstances when determining enforcement.

NEW SECTION

SWAPCA 492-100 Severability.

The provisions of this regulation are severable and if any provision is held invalid, the application of such provision to the other circumstances and the remainder of this regulation shall not be affected.

WSR 93-16-011
PERMANENT RULES
SOUTHWEST AIR
POLLUTION CONTROL AUTHORITY
 [Filed July 22, 1993, 3:41 p.m.]

Date of Adoption: June 15, 1993.

Purpose: To adopt regulations to bring the Southwest Air Pollution Control Authority's regulations to be consistent with those contained in the Washington Administrative Code for enforcement authority.

Statutory Authority for Adoption: Chapter 70.94 RCW. Pursuant to notice filed as WSR 93-10-089 on May 4, 1993.

Changes Other than Editing from Proposed to Adopted Version: Proposed SWAPCA 403 was not approved.

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

July 19, 1993
 Robert D. Elliott
 Executive Director

PERMANENT

SWAPCA 425
OPEN BURNING

NEW SECTION

SWAPCA 425 Open burning.

Section 173-425 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 433
SOLID FUEL BURNING DEVICE

NEW SECTION

SWAPCA 433 Solid fuel burning device.

Section 173-433 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 434
SOLID WASTE INCINERATOR FACILITIES

NEW SECTION

SWAPCA 434 Solid waste incinerator facilities.

Section 173-434 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 435
EMERGENCY EPISODE PLAN

NEW SECTION

SWAPCA 435 Emergency episode plan.

Section 173-435 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 460
CONTROLS FOR NEW SOURCES OF TOXIC AIR
POLLUTANTS

NEW SECTION

SWAPCA 460 Controls for new sources of toxic air pollutants.

Section 173-460 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 470
AMBIENT AIR QUALITY STANDARDS FOR
PARTICULATE MATTER

NEW SECTION

SWAPCA 470 Ambient air quality standards for particulate matter.

Section 173-470 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 474
AMBIENT AIR QUALITY STANDARDS FOR SULFUR
OXIDES

NEW SECTION

SWAPCA 474 Ambient air quality standards for sulfur oxides.

Section 173-474 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 475
AMBIENT AIR QUALITY STANDARDS FOR
CARBON MONOXIDE, OZONE, AND NITROGEN
DIOXIDE

NEW SECTION

SWAPCA 475 Ambient air quality standards for carbon monoxide, ozone, and nitrogen dioxide.

Section 173-475 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 490
EMISSION STANDARDS AND CONTROLS FOR
SOURCES EMITTING VOLATILE ORGANIC
COMPOUNDS (VOC)

NEW SECTION

SWAPCA 490 Emission standards and controls for sources emitting volatile organic compounds (VOC).

Section 173-490 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

SWAPCA 491
EMISSION STANDARDS AND CONTROLS FOR
SOURCES EMITTING GASOLINE VAPORS

NEW SECTION

SWAPCA 491 Emission standards and controls for sources emitting gasoline vapors.

Section 173-491 of the Washington Administrative Code is hereby adopted by reference as part of this regulation in all respects as though the sections were set forth herein in full.

PERMANENT

WSR 93-16-013
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 93-07—Filed July 22, 1993, 4:30 p.m.]

Date of Adoption: July 16, 1993.

Purpose: Shoreline master program for the city of Mountlake Terrace.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3911 Mountlake Terrace shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 93-13-047 on June 15, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 16, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3911 Mountlake Terrace, city of. City of Mountlake Terrace master program approved December 27, 1974. Revision approved July 16, 1993.

WSR 93-16-017'
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 3015—Filed July 23, 1993, 1:10 p.m.]

Date of Adoption: July 23, 1993.

Purpose: To restrict the use of ziram and Phosdrin.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Pursuant to notice filed as WSR 93-12-128 on June 2, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 23, 1993
John King
Acting Director

Chapter 16-219 WAC
Restricted Use Pesticides

WAC	
16-219-010	Ziram—Bosc pears.
16-219-015	Restricted use pesticides—Mevinphos (Phosdrin).
16-219-020	Application requirements—Mevinphos (Phosdrin).
16-219-025	Restricted entry interval—Posting—Mevinphos (Phosdrin).
16-219-030	Training—Mevinphos (Phosdrin).

NEW SECTION

WAC 16-219-010 Ziram—Bosc pears. All dry formulations (such as wettable powders or water dispersible granules) of ziram labeled for use on pears are hereby declared state restricted use pesticides because of dermal

effects to persons exposed while working in Bosc pear orchards.

(1) Growers shall observe the Environmental Protection Agency restricted entry interval or "re-entry interval" label requirements following any treatment with dry wettable formulations of ziram before entering or allowing persons to enter pear orchards without personal protective clothing.

(2) Any entry during the restricted entry interval shall follow the Environmental Protection Agency regulations that became effective October 20, 1992, regarding handler, farm worker safety, and early-entry handler requirements.

(3) After the restricted entry interval has passed, growers shall observe an additional period of time totalling fourteen days after an application before entering or allowing workers to enter Bosc pear orchards without personal protective clothing as defined below.

(4) For the purposes of this section, minimum personal protective clothing shall consist of: A long sleeved shirt; long-legged pants; socks; and chemical resistant gloves.

NEW SECTION

WAC 16-219-015 Restricted use pesticides—Mevinphos (Phosdrin). For the purposes of WAC 16-219-015 through 16-219-030, all formulations of mevinphos (Phosdrin) are declared to be restricted use pesticides due to its acute toxicity. If any restriction in WAC 16-219-015 through 16-219-030 is in conflict with restrictions on the pesticide label, the most restrictive statement will apply.

NEW SECTION

WAC 16-219-020 Application requirements—Mevinphos (Phosdrin). The following restrictions apply to any application of mevinphos (Phosdrin) to pears or apples:

(1) A maximum of one pound active ingredient may be applied per acre per application.

(2) A minimum of seven days between applications shall be observed.

(3) Do not apply within ninety-six hours of harvest.

(4) An observer shall be present during all mixing and loading activities in order to furnish assistance in the event of an accident. The observer shall not be involved in the mixing or loading operation.

(5) Do not apply within one hundred feet of any inhabited building or public road.

(6) Do not apply when wind speeds exceed ten miles per hour.

(7) Do not apply when air temperature exceeds 80 degrees Fahrenheit.

(8) Do not apply with hand equipment.

(9) Human flaggers are prohibited during aerial application.

(10) The pilot making the application may not assist in the mixing and loading operation, but may act as the observer as required in subsection (4) of this section.

NEW SECTION

WAC 16-219-025 Restricted entry interval—Posting—Mevinphos (Phosdrin). (1) Entry into a pear or apple orchard treated with mevinphos (Phosdrin) is prohibited for ninety-six hours after application: PROVIDED, That

PERMANENT

entry into the treated area may occur within the ninety-six hour interval if the person is wearing all the protective clothing required on the pesticide label for an applicator.

(2) Any time mevinphos (Phosdrin) is applied to pears or apples, the area being treated shall be posted with warning signs.

NEW SECTION

WAC 16-219-030 Training—Mevinphos (Phosdrin).

(1) Any company registering any formulation of mevinphos (Phosdrin) for use on apples or pears in Washington shall be responsible for ensuring that appropriate training in the safe use of mevinphos (Phosdrin), is made available. The training shall include, but not be limited to the following information: Storage, handling, disposal, enclosed cabs, closed mixing/loading systems, poisoning symptoms/first aid, personal protective equipment, reentry and posting.

WSR 93-16-022

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed July 23, 1993, 2:02 p.m.]

Date of Adoption: July 8, 1993.

Citation of Existing Rules Affected by this Order: New WAC 356-30-331 Reduction in force—Transition pool.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.150.

Pursuant to notice filed as WSR 93-14-057 on June 30, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 12, 1993
Dennis Karras
Secretary

NEW SECTION

WAC 356-30-331 Reduction in force—Transition pool. The director of personnel or designee may waive the appropriate rules to implement the reduction in force transition pool resolution adopted by the board on July 8, 1993.

WSR 93-16-027

PERMANENT RULES

DEPARTMENT OF HEALTH

(Examining Board of Psychology)

[Order 382—Filed July 26, 1993, 3:15 p.m.]

Date of Adoption: July 10, 1993.

Purpose: Adopt model procedural rules for adjudicative proceedings by the Examining Board of Psychology. Adopting by reference the Department of Health rules contained in chapter 246-11 WAC including subsequent amendments.

Statutory Authority for Adoption: RCW 18.83.050(5). Pursuant to notice filed as WSR 93-11-038 on May 11, 1993.

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

July 10, 1993
Kathleen O'Shaunessy, Ph.D.
Chair

NEW SECTION

WAC 246-924-475 Model procedural rules. The Examining Board of Psychology hereby adopts the model procedural rules for boards as filed by the department of health as chapter 246-11 WAC, including subsequent amendments.

WSR 93-16-030

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 381—Filed July 26, 1993, 3:26 p.m.]

Date of Adoption: May 21, 1993.

Purpose: Requires disclosure statements from individuals working with children and developmentally disabled persons and criminal history background checks of individuals working with vulnerable adults. These rules are intended to reduce the incidence of mistreatment, abuse and exploitation of vulnerable citizens of Washington state.

Citation of Existing Rules Affected by this Order: Amending WAC 246-316-020, 246-316-040, 246-316-050, 246-318-040, and 246-388-070.

Statutory Authority for Adoption: RCW 43.43.842.

Other Authority: RCW 43.43.830 through 43.43.842. Pursuant to notice filed as WSR 93-08-078 on April 6, 1993.

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

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-020 Boarding home license application—Department denial, suspension, revocation of license. (1) Boarding home license applicants shall:

- (a) Submit appropriate, signed, completed department application forms to the department;
 - (b) Apply at least thirty days prior to expiration of license for renewal;
 - (c) Promptly report changes in information related to the application including identity of:
 - (i) Officers and directors if operated by a legally incorporated entity; and
 - (ii) Partners if a legal partnership.
- (2) The department shall:

- (a) Evaluate qualifications of persons named in boarding home license application prior to granting initial and subsequent licenses;
- (b) Deny, suspend, or revoke a boarding home license if the department finds persons named unqualified or unable to operate or direct operation of the facility as described in chapter 18.20 RCW and this chapter;
- (c) Determine if reasonable relationship exists between any previous conviction of the applicant and ability to competently, safely oversee, or operate a boarding home;

PERMANENT

(d) Deny, suspend, or revoke a boarding home license if any person named:

(i) Was previously denied a license to operate an agency for care of children, aged, ill, or infirm in Washington or elsewhere;

(ii) Had a license to operate an agency for treatment or care of people revoked or suspended;

(iii) Has a record of a criminal or civil conviction ~~((for: (A) Operating an agency for care of aged, children, ill, or infirm without an appropriate, applicable license; or~~

~~(B) Any crime involving physical harm to another person-~~

~~(iv) Is identified on department abuse registry as perpetrator of substantiated abuse described in chapter 26.44 RCW;~~

~~(v)) as specified in WAC 246-316-045(4);~~

(iv) Committed, permitted, aided, or abetted an illegal act on boarding home premises;

~~((v)) (v) Demonstrated cruelty, abuse, negligence, assault, or indifference to welfare and well-being of a resident;~~

~~((vi)) (vi) Failed to exercise fiscal accountability and responsibility involving:~~

(A) A resident;

(B) The department;

(C) Public agencies; or

(D) The business community.

(3) The department may grant a license to operate a boarding home to previously disqualified licensees as specified in subsection (2) of this section if such person provides evidence including demonstrated ability to operate a boarding home according to applicable laws and rules.

(4)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.70.115. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department 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 Administrative Hearings Unit, Department of Health, 1300 Quince Street S.E., P.O. Box 47851, Olympia, WA 98504-7851; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 246-08 WAC. If a provision in this chapter conflicts with chapter 246-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-040 Requirement for and qualifications of boarding home administrator. (1) Boarding

homes shall have continuous availability of an administrator or designated alternate who:

(a) Is available in person or by phone or page at all times;

(b) Is at least twenty-one years of age;

(c) Is not a resident as defined in WAC 246-316-010(30);

(d) Possesses a high school diploma or equivalent unless administering a boarding home in Washington state prior to January 1, 1958;

(e) Has demonstrated competence and experience in management of a boarding home or completed high school or post-high school courses including:

(i) Basic accounting, except when a designated alternate administrator is in charge for two weeks or less;

(ii) Management including personnel management; and

(iii) Care of persons characteristic of those admitted or accepted as residents in a specific boarding home, such as frail elderly, developmentally disabled, or mentally ill persons.

(f) Meets requirements as specified in WAC ~~((246-316-050-(2)(b)))~~ 246-316-045.

(2) Boarding homes shall notify the department when changes in the administrator occur including:

(a) Provide written notice to the department of new administrator's name upon appointment; and

(b) Provide a statement of administrator's compliance with this section and WAC 246-316-050.

NEW SECTION

WAC 246-316-045 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the licensed boarding home having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed boarding home, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-050 Staff and employees—Other persons living in boarding home. (1) Boarding homes shall provide:

(a) Sufficient, trained staff in each boarding home to provide:

(i) Services and care needed by residents;

(ii) Maintenance of the facility for resident health and safety;

(iii) Implementation of fire and disaster plans.

(b) One or more staff aged eighteen years of age or older:

(i) On boarding home premises at all times when residents are present;

(ii) Capable of assisting all residents present in boarding home; and

(c) Staff present and responsible for "on-premises" supervision when any resident is working as staff or employed by the boarding home unless approved in advance by the department;

(d) Orientation and appropriate training of employees and staff pertinent to expected duties including:

(i) Organization of boarding home;

(ii) Physical facility layout;

(iii) Specific duties and responsibilities;

(iv) Policies, procedures, equipment necessary to perform duties as expected, minimally including:

(A) Actions during emergencies;

(B) Actions related to suspected, or alleged abuse, neglect, or accidents involving residents; and

(C) Methods of preventing transmission of infection.

(2) Boarding homes shall require and have ~~((~~ staff with resident care duties possessing:

~~((+))~~ (a) Current first aid cards, unless licensed nurses, from instructors certified by:

~~((A))~~ (i) American Red Cross; or

~~((B))~~ (ii) American Heart Association; or

~~((C))~~ (iii) United States Bureau of Mines; or

~~((D))~~ (iv) Washington state department of labor and industries.

~~((+))~~ (b) Current cardiopulmonary resuscitation cards from instructors certified as in subsection (2)(a)(i) ~~((A), (B), (C))~~ (ii), (iii), and ~~((D))~~ (iv) of this section.

~~((b))~~ A written statement from all staff and persons other than residents living or working in a boarding home regarding:

~~(i) Convictions for felony;~~

~~(ii) Convictions for crimes involving physical harm to another; and~~

~~(iii) Previous perpetrator of substantiated abuse as described in chapter 26.44 RCW.~~

~~(e) Exclusion of persons other than residents from living or working on the premises when evidence indicates previous conviction or abuse, as in subsection (2)(b) of this section, unless the boarding home licensee:~~

~~(i) Determines such person is rehabilitated enough to warrant public trust; and~~

~~(ii) Records the facts and basis for decision.)~~

(3) Boarding homes shall reassign and/or restrict staff contact with residents when:

(a) Staff have a known communicable disease in the infectious stage; and

(b) The disease is likely to be spread in the boarding home setting or by casual contact.

(4) Boarding homes shall maintain documentation of ~~((~~ staff orientation and training pertinent to duties ~~((;))~~ including cardiopulmonary resuscitation and first aid if required in subsection (2)(a) of this section ~~((; and~~

~~(b) Individual staff statements related to conviction or abuse and related boarding home actions as required in subsection (2)(b) and (c) of this section).~~

NEW SECTION

WAC 246-323-022 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the licensed residential treatment facility for psychiatrically impaired children and youth having direct contact with:

- (a) Children under sixteen years of age;
 - (b) Vulnerable adults as defined under RCW 43.43.830; and
 - (c) Developmentally disabled individuals.
- (2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

- (a) With the initial application for licensure; or
- (b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed residential treatment facility for psychiatrically impaired children and youth, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

- (a) Maintained in a confidential and secure manner;
- (b) Used for employment purposes only;
- (c) Not disclosed to any person except:
 - (i) The person about whom the licensee made the disclosure or background inquiry;
 - (ii) Authorized state and federal employees; and
 - (iii) The Washington state patrol auditor.
- (d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

- (a) Review records required under this section;
- (b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and
- (c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-318-040 Personnel. (1) Hospitals shall employ sufficient qualified personnel to operate each department of the hospital with verification of required license, certification, or registration.

(2) Hospitals shall ensure that nonemployees providing direct patient care comply with hospital policies and procedures.

(3) Hospitals shall establish written job descriptions for each job classification, minimally including:

(a) Job title, reporting relationships, summary of duties and responsibilities, and qualifications; and

(b) Provisions for review every two years with revision when necessary.

(4) Hospitals shall:

(a) Ensure a periodic performance appraisal of employees and volunteers related to:

- (i) Satisfactory performance of assigned tasks; and
- (ii) Competence in delivering health care services;

~~(b) ((Document background checks required under RCW 43.43.830 through 43.43.842 for all prospective employees and volunteers who may have regularly scheduled unsupervised access to:~~

- ~~(i) Children under sixteen years of age;~~
- ~~(ii) Groups of children under certain circumstances;~~
- ~~(iii) The elderly;~~
- ~~(iv) The developmentally disabled;~~
- ~~(v) Individuals declared mentally incompetent or unable to participate in consent to care given; and~~
- ~~(vi) Others as required under chapter 43.43 RCW;~~

(e)) Designate an employee responsible for volunteer services and activities;

((d)) (c) Plan and implement orientation and education programs minimally to include:

(i) New employee and volunteer orientation for:

(A) Organizational structure;

(B) Building layout;

(C) Infection control;

(D) Safety, including the fire and disaster plan;

(E) Policies and procedures; and

(F) Equipment pertinent to the job;

(ii) Employee continuing education for maintaining and improving skills;

(iii) Documentation of orientation, in-service, and continuing education for employees; and

(iv) HIV/AIDS training for employees as specified under WAC 246-318-035;

((e)) (d) Establish a nursing service under the direction of a registered nurse to:

(i) Provide for adequate numbers of registered nurses on duty at all times; and

(ii) Require registered nurse supervision of employees and others performing nursing service functions;

((f)) (e) Ensure adequate supervision of employees and nonemployees;

((g)) (f) Maintain a current employee call back list for disasters;

((h)) (g) Require each employee to have on employment a tuberculin skin test by the Mantoux method within thirty days of employment and as follows:

(i) For new employees, a negative skin test is defined as less than ten millimeters of induration read at forty-eight to seventy-two hours. Employees with negative reactions to the first test and thirty-five years of age or older shall have a second test one to three weeks after the first test;

(ii) New employees with positive reactions to either test shall have a chest x-ray within thirty days. Hospitals shall:

(A) Retain records of test results, reports of x-ray findings, exceptions, or exemptions in the facility; and

(B) Provide a copy of test results to the employee;

(iii) Exclude from skin testing:

(A) New employees documenting a positive Mantoux test in the past;

(B) New employees providing documentation of meeting requirements under subsection (4)(h)(i) and (ii) of this section within the six months preceding the date of employment; and

(C) An employee with a written waiver from the department after stating the tuberculin skin test by the Mantoux method presents a hazard to his or her health and presenting supportive medical data to the department tuberculosis control program;

((i)) (h) Document the following when individuals request tuberculosis skin test waivers from the department:

(i) Department notification of the individual requesting a waiver from tuberculosis skin testing and department decision; and

(ii) Department advice to the individual employee and the hospital regarding department screening requirements if a waiver is granted.

NEW SECTION

WAC 246-318-042 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the licensed hospital having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed hospital, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed hospital prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

- (a) Maintained in a confidential and secure manner;
- (b) Used for employment purposes only;
- (c) Not disclosed to any person except:
 - (i) The person about whom the licensee made the disclosure or background inquiry;
 - (ii) Authorized state and federal employees; and
 - (iii) The Washington state patrol auditor.
- (d) Retained and available for department review during and at least two years following termination of employment.
- (7) The department shall:
 - (a) Review records required under this section;
 - (b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and
 - (c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.
- (8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-321-018 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the hospice care center having direct contact with:

- (a) Children under sixteen years of age;
 - (b) Vulnerable adults as defined under RCW 43.43.830; and
 - (c) Developmentally disabled individuals.
- (2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

- (a) With the initial application for licensure; or
 - (b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.
- (3) A licensee or license applicant shall:
- (a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:
 - (i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed hospice care center, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and
 - (ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;
 - (b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;
 - (c) Require the person to sign an acknowledgement statement that a background inquiry will be made;
 - (d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

- (a) Immediately obtains a disclosure statement from the person; and
 - (b) Requests a background inquiry within three business days of the conditional acceptance of the person.
- (5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:
- (a) Convicted of a crime against persons as defined in RCW 43.43.830;
 - (b) Convicted of a crime relating to financial exploitation of a vulnerable adult;
 - (c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or
 - (d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

- (a) Maintained in a confidential and secure manner;
- (b) Used for employment purposes only;
- (c) Not disclosed to any person except:
 - (i) The person about whom the licensee made the disclosure or background inquiry;
 - (ii) Authorized state and federal employees; and
 - (iii) The Washington state patrol auditor.
- (d) Retained and available for department review during and at least two years following termination of employment.
- (7) The department shall:
 - (a) Review records required under this section;
 - (b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and
 - (c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.
- (8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-325-022 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the licensed adult residential rehabilitation center or private adult treatment home having direct contact with:

- (a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed adult residential rehabilitation center or private adult treatment home, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-327-090 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the home health agency having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed home health agency, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-329-035 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the childbirth center having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed childbirth center, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with or accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have

occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-331-100 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the hospice agency having direct contact with:

- (a) Children under sixteen years of age;
- (b) Vulnerable adults as defined under RCW 43.43.830;

and

- (c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

- (a) With the initial application for licensure; or
 - (b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.
- (3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed hospice agency, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

- (a) Maintained in a confidential and secure manner;
- (b) Used for employment purposes only;
- (c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-336-100 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the home care agency having direct contact with:

- (a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed home care agency, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

NEW SECTION

WAC 246-340-085 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the facility having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed facility, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

PERMANENT

- (a) Review records required under this section;
- (b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and
- (c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-388-070 Personnel. (1) Rural health care facilities shall employ qualified personnel with verification of required license, certification, or registration.

(2) Rural health care facilities shall establish personnel policies requiring:

(a) Written job descriptions for each job classification including job title, reporting relationships, summary of duties and responsibilities, and qualifications;

(b) Provisions for review every two years, with revision as necessary;

(c) Periodic performance evaluation of:

(i) All employees; and

(ii) Volunteers providing direct patient care;

~~(d) ((Documented background checks as required under RCW 43.43.830 through 43.43.842 for all prospective employees and volunteers who may have regularly scheduled unsupervised access to patients;~~

~~(e))~~ (e) Coordination and supervision of volunteer services and activities by a designated employee of the rural health care facility;

~~((f))~~ (f) Orientation and education programs for employees and volunteers including:

(i) Purpose and organizational structure;

(ii) Location and layout of the rural health care facility;

(iii) Infection control;

(iv) Safety;

(v) Policies and procedures; and

(vi) Equipment pertinent to the job;

~~((g))~~ (g) Continuing education for maintaining skills for personnel and volunteers providing direct patient care;

~~((h))~~ (h) Documentation of orientation, in-service, and continuing education; and

~~((i))~~ (i) HIV/AIDS education of employees and volunteers including:

(i) Verifying or arranging for appropriate education and training on prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and

(ii) Use of infection control standards and educational materials consistent with the department-approved manual *KNOW-HIV/AIDS Prevention Education for Health Care Facility Employees*, January 1991, office on HIV/AIDS.

(3) Rural health care facilities shall:

(a) Provide nursing staff on duty necessary to take care of inpatients with an on-call system when inpatients are not present;

(b) Require medical staff or registered nurse supervision of nonemployees and others performing patient care functions;

(c) Maintain an employee callback list for use in the event of disaster;

(d) Require individuals to remain off duty if they have a known communicable disease in an infectious stage when transmission to patients is probable during performance of assigned work duties;

(e) Require each employee and volunteer to have a tuberculin skin test by the Mantoux method within one week of serving with the rural health care facility, and as follows:

(i) A negative skin test defined as less than ten millimeters of induration read at forty-eight to seventy-two hours;

(ii) Negative reactors to the first test who are thirty-five years of age or older are required to have a second test one to three weeks after the first test;

(iii) Positive reactors to either test are required to have a chest x-ray within thirty days;

(iv) A record of test results, reports of x-ray findings, or exceptions to such kept in the facility;

(v) A copy of the record in (e)(iv) of this subsection supplied to the individual;

(vi) Exceptions including:

(A) Exclusion of new persons from screening if documenting a positive Mantoux test in the past; and

(B) Exclusion of an employee with a written waiver from the department tuberculosis control program after stating the tuberculin skin test by the Mantoux method presents a hazard to his or her health and presenting supportive medical data to the department tuberculosis control program.

NEW SECTION

WAC 246-388-072 Criminal history, disclosure, and background inquiries. (1) A licensee or license applicant shall require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the rural health care facility having direct contact with:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

(2) A license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

(a) With the initial application for licensure; or

(b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) A licensee or license applicant shall:

(a) Require a Washington state patrol background inquiry as specified in RCW 43.43.842(1) for each:

(i) Employee, volunteer, contractor, student, and any other person currently associated with the licensed rural health care facility, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective employee, volunteer, contractor, student, and person applying for association with the licensed facility prior to allowing the person direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each person identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the person to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the person of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the person within ten days of receipt.

(4) A licensee may conditionally employ, contract with, accept as a volunteer or associate, a person having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the person; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the person.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any person having direct contact with vulnerable adults, if that person has been:

(a) Convicted of a crime against persons as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation of a vulnerable adult;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any person except:

(i) The person about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(d) Retained and available for department review during and at least two years following termination of employment.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for a person associated with the licensed facility having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

WSR 93-16-032
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION

(Division of Banking)

[Filed July 27, 1993, 11:00 a.m.]

Date of Adoption: July 27, 1993.

Purpose: To make the rule consistent with changes in the statute passed by the 1993 legislature (amending RCW 31.45.030), chapter 176, Laws of 1993, relating to the bonding and security requirements for check sellers.

Citation of Existing Rules Affected by this Order: Amending WAC 50-30-030.

Statutory Authority for Adoption: RCW 31.45.200.

Pursuant to notice filed as WSR 93-13-143 on June 23, 1993.

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

July 27, 1993

John L. Bley

Supervisor of Banking

AMENDATORY SECTION (Amending WSR 92-24-028, filed 11/24/92, effective 12/25/92)

WAC 50-30-030 Bond for applicants engaging in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose. (1)(a) RCW 31.45.030 (5)(a) requires a licensee engaged in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose to obtain at the beginning of each calendar year and file with the supervisor a bond running to the state of Washington, which bond shall be ~~("for the protection of the public against loss suffered through embezzlement by any person having access to funds collected by or for the licensee or having authority to draw against such funds or from mysterious disappearance, theft, holdup, or burglary." Such bond shall be)~~ issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the supervisor. This surety bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the supervisor and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the supervisor. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the

licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event said claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(b) The penal sum of the surety bond that shall be filed by each licensee shall not be less than the amount established in the following table:

Highest Monthly Liability*	Required Bond	Plus Percentage of Excess Over
Up to \$50,000	Highest Monthly Liability	Highest Monthly Liability
\$50,001 to \$100,000	\$50,000	.5 above \$50,000
\$100,000 plus	\$75,000	.25 above \$100,000

The maximum fidelity coverage required shall be three million dollars.

* The monthly liability is the total sum of checks for a given month. The "Highest Monthly Liability" shall be determined by the highest monthly liability of checks from the preceding calendar year multiplied by seventy-five percent.

(2) In lieu of such surety bond, the applicant may deposit with such banks, savings banks, savings and loan associations, or trust companies in this state as such applicant may designate and the supervisor may approve, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the state of Washington or of a municipality, county, school district, or instrumentality of the state of Washington or guaranteed by the state to an aggregate amount, based on principal amount or market value, whichever is lower, of not less than the amount of the required fidelity bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the fidelity bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the supervisor, to substitute other qualified securities for those deposited, and shall be required so to do on written order of the supervisor made for good cause shown.

(3) In lieu of such surety bond, the applicant may deposit with the supervisor an irrevocable letter of credit drawn in favor of the supervisor for an amount equal to or

greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, or savings and loan association in this state as such applicant may designate and the supervisor may approve.

WSR 93-16-033
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Banking)
[Filed July 27, 1993, 11:02 a.m.]

Date of Adoption: July 27, 1993.

Purpose: To make the rule regarding restrictions as to charges for consumer loan companies consistent with changes in the statute passed by the 1993 legislature (amending RCW 31.04.105), chapter 190, Laws of 1993, relating to allowable fees in connection with delinquent debts, repossession, and foreclosures.

Citation of Existing Rules Affected by this Order: Amending WAC 50-20-130.

Statutory Authority for Adoption: RCW 31.04.165.

Pursuant to notice filed as WSR 93-13-144 on June 23, 1993.

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

July 27, 1993

John L. Bley

Supervisor of Banking

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-130 Restrictions as to charges. (1) No licensee shall charge or collect from the borrower any funds for the cost of filing, recording, releasing, or reconveyance of mortgages, deeds of trust, security agreements, or other documents, or for transferring title certificates to vehicles, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing, recording, transferring, releasing, or reconveyance thereof. Fees for releasing or reconveying security for the obligation owed to the licensee may be charged and collected at the time of final payment of the loan.

(2) No licensee may charge and collect an annual fee in excess of thirty-five dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(3) No licensee may charge or collect a fee in excess of twenty-five dollars for a check returned unpaid by the bank drawn upon. Only one fee may be collected with respect to a particular check in the event it has been redeposited and returned a second time.

(4) No licensee may charge or collect an appraisal fee incurred or to be incurred in appraising security offered by the borrower in excess of the actual costs paid or to be paid to an independent third party professional appraiser. Such charge may be made or collected from the borrower for costs of an appraisal at the time of application for the loan or at any time thereafter except as prohibited herein. If the

PERMANENT

appraisal fee is not collected at the time of the application, the licensee's good faith estimate of that fee shall be given to the borrower at the time of the application.

(5) A licensee may agree with the borrower for the payment by the borrower of the fees charged by a title company in connection with title insurance required by the licensee in connection with a loan. The borrower has the right to select the person or company by or through whom such title insurance will be offered, subject to the licensee's reasonable conditions, such as type of coverage or endorsements, or financial soundness and proper licensing of the company to do business in the state of Washington. The licensee may select the person or company by or through whom such title insurance will be offered if the borrower does not do so within a reasonable time before the loan transaction is consummated.

(6) A licensee may include the premiums for noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing.

(7) In the event a licensee makes a new loan where any part of the proceeds is used to pay the amount due on an existing loan within four months from date of origination or of the most recent advance upon an existing loan, an origination fee shall be permitted only to the extent that new money is advanced or the existing credit line increased, unless the origination fee on the existing loan is refunded.

(8) A licensee may not collect a prepayment penalty except as preempted by federal law.

~~((9) A licensee may not collect fees related to foreclosure or repossession except for reasonable costs incurred relating to post judgment collections or as preempted under federal law.))~~

WSR 93-16-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3595—Filed July 28, 1993, 10:49 a.m., effective September 1, 1993]

Date of Adoption: July 28, 1993.

Purpose: HB 1408 extended family planning to twelve months for medical care eligible clients after the end of the pregnancy. New rule WAC 388-83-03101 Postpregnancy family planning extension.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-035 Family planning.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-069 on June 17, 1993.

Effective Date of Rule: September 1, 1993.

July 28, 1993
Rosemary Carr
Acting Director
Administrative Services

NEW SECTION

WAC 388-83-03101 Postpregnancy family planning extension. A woman eligible for medical care from the department during her pregnancy shall continue to be eligible for family planning services until the end of the twelfth month following the date the pregnancy ends.

AMENDATORY SECTION (Amending Order 1685, filed 7/29/81)

WAC 388-86-035 Family planning. (1) The department shall ~~((make known to))~~ inform clients of the availability of family planning services including information about the synthetic progestin capsule implant form of contraception.

(2) For the purpose of this section, "family planning services" mean services to plan the number of one's children by use of contraceptive techniques.

(3) For eligible clients, the department shall provide ~~((to eligible categorically needy recipients necessary))~~ physicians' services, advanced registered nurse practitioners' services, clinic or hospital services, laboratory services, supplies and drugs needed in conjunction with family planning.

~~((2) Under the limited casualty program medically needy only physicians' services and supplies will be provided.))~~

WSR 93-16-036
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3596—Filed July 28, 1993, 10:52 a.m., effective September 1, 1993]

Date of Adoption: July 28, 1993.

Purpose: WAC 388-81-065 Medical care client copayment. SB 5304, section 231 authorizes the department to establish copayments for medical clients. 42 CFR 447.53 allows certain clients to pay a copayment. This new rule establishes copayments for medical clients and states the limitations and exceptions to copayments.

Statutory Authority for Adoption: RCW 74.08.090. SB 5304, section 231.

Pursuant to notice filed as WSR 93-13-123 on June 22, 1993.

Changes Other than Editing from Proposed to Adopted Version: Spelling of "lens" changed to "lenses." Subsection (1)(d) added wording "Health departments" and (3) added to clarify that a copay only applies to dental services for managed care clients. Subsections (3) and (4) renumbered to (4) and (5).

Effective Date of Rule: September 1, 1993.

July 28, 1993
Rosemary Carr
Acting Director
Administrative Services

PERMANENT

NEW SECTION

July 28, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

WAC 388-81-065 Medical care client co-payment.

(1) The department shall require a client to pay one dollar for each office call, eyeglasses or contact lens fitting fee, and prescription drug dispensing fee to the following providers, unless the client meets an exemption in subsection (2) of this section:

- (a) Physicians and persons working under the physician's supervision, advanced registered nurse practitioners, podiatrists, and optometrists;
- (b) Dentists and hygienists;
- (c) Opticians, optometrists, and ophthalmologists when providing eyeglasses and contact lenses;
- (d) Health departments; and
- (e) Pharmacists.

(2) The following services do not require client copayments:

- (a) Family planning services;
- (b) Services provided to a client under twenty-one years of age;
- (c) Services provided to a client who resides in a medical institution;
- (d) Hospice services;
- (e) Services provided to a pregnant woman, including services during the sixty-day postpartum;
- (f) Emergency services as defined under WAC 388-80-005;
- (g) Services provided in a certified rural health clinic or Indian health clinic;
- (h) Services covered by private insurance or Medicare; and
- (i) Services provided by a community mental health or chemical dependency treatment center.

(3) For clients enrolled in a department managed care plan or the primary care case management program, under WAC 388-86-009, 388-86-00902, and Chapter 388-538 WAC, copayments only apply for dental services.

(4) The provider shall be responsible for determining when a client meets the criteria listed in subsection (2) of this section.

(5) The provider shall not deny services based on the client's inability to pay the copayment.

**WSR 93-16-037
 PERMANENT RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3599—Filed July 28, 1993, 10:53 a.m.]

Date of Adoption: July 28, 1993.

Purpose: To correct unsuitable wording and add an exception as to when the service may be a covered service.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-200 Limits on scope of medical program services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-080 on June 18, 1993.

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

AMENDATORY SECTION (Amending Order 3536, filed 5/19/93, effective 6/19/93)

WAC 388-86-200 Limits on scope of medical program services. (1) The medical assistance administration (MAA) shall pay only for equipment, supplies, and services that are listed as covered in MAA published issuances, including Washington Administrative Code (WAC), billing instructions, numbered memoranda, and bulletins, and when the items or services are:

- (a) Within the scope of an eligible client's medical care program;
- (b) Medically necessary;
- (c) Within accepted medical, dental, or psychiatric practice standards and are:
 - (i) Consistent with a diagnosis; and
 - (ii) Reasonable in amount and duration of care, treatment, or service.
- (d) Not listed under subsection (2) of this section; and
- (e) Billed according to the conditions of payment under WAC 388-87-010.

(2) Unless required under EPSDT/healthy kids program; included as part of a managed care plan service package; included in a waived program; or part of one of the Medicare programs for the qualified Medicare beneficiaries, the MAA shall specifically exclude from the scope of covered services:

- (a) Nonmedical equipment, supplies, personal or comfort items and/or services, including, but not limited to:
 - (i) Air conditioners or air cleaner devices, dehumidifiers, other environmental control devices, heating pads;
 - (ii) Enuresis (bed wetting) training equipment;
 - (iii) Recliner and/or geri-chairs;
 - (iv) Exercise equipment;
 - (v) Whirlpool baths;
 - (vi) Telephones, radio, television;
 - (vii) Any services connected to the telephone, television, or radio;
 - (viii) Homemaker services;
 - (ix) Utility bills; or
 - (x) Meals delivered to the home.
- (b) Services, procedures, treatment, devices, drugs, or application of associated services which the department or HCFA consider investigative or experimental on the date the services are provided;
- (c) Physical examinations or routine checkups;
- (d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness;
- (e) Routine foot care that includes, but not limited to:
 - (i) Medically unnecessary treatment of mycotic disease;
 - (ii) Removal of warts, corns, or calluses;
 - (iii) Trimming of nails and other hygiene care; or
 - (iv) Treatment of asymptomatic flat feet.
- (f) More costly services when less costly equally effective services as determined by the department are available;

PERMANENT

(g) Procedures, treatment, prosthetics, or supplies related to ~~((intersex surgery))~~ gender dysphoria surgery except when recommended after a multidisciplinary evaluation including but not limited to urology, endocrinology, and psychiatry;

(h) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for sterilization reversals and donor ovum, sperm, or womb;

(i) Acupuncture, massage, or massage therapy;

(j) Orthoptic eye training therapy;

(k) Weight reduction and control services not provided in conjunction with a MAA medically approved program. This includes food supplements and educational products;

(l) Parts of the body, including organs tissues, bones, and blood;

(m) Blood and eye bank charges;

(n) Domiciliary or custodial care, excluding nursing facility care;

(o) Hair pieces, wigs, or hair transplantation;

(p) Biofeedback or other self-help care;

(q) Home births;

(r) Marital counseling or sex therapy; and

(s) Any service specifically excluded by statute.

(3) Clients shall be responsible for payment as described under WAC 388-87-010 for services not covered under the client's medical care program.

**WSR 93-16-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3598—Filed July 28, 1993, 10:55 a.m.]

Date of Adoption: July 28, 1993.

Purpose: To establish consistency with law, RCW 74.09.035, on available services. This rule excludes outpatient chemical dependency treatment and Methadone treatment from medical care services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-120 Medical care services.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.035.

Pursuant to notice filed as WSR 93-13-037 on June 14, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 28, 1993

Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3477, filed 10/28/92, effective 11/28/92)

WAC 388-86-120 Medical care services. (1) A medical care services client shall be eligible to receive the same scope of care (WAC 388-86-005) as ~~((available under))~~ a Medicaid client, except that the department shall not pay for the following services:

(a) Medical care outside the state of Washington other than in designated bordering cities as specified in chapter 388-82 WAC;

(b) Case management services;

(c) Dental services;

(d) Hospice services;

(e) Hospital inpatient and hospital outpatient services;

(f) Indian health center services; ~~((and))~~

(g) Personal care services;

(h) Outpatient chemical dependency treatment; and

(i) Chemical dependency Methadone services.

(2) The department shall only provide mental health services in community mental health centers and to the extent that the client meets the client definitions and priorities in the Community Mental Health Act.

(3) Eligibility for medical care services shall begin with the certification date under WAC 388-84-120. The department shall not retroactively certify for medical care services.

**WSR 93-16-039
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3600—Filed July 28, 1993, 10:57 a.m.]

Date of Adoption: July 28, 1993.

Purpose: Establish a new Washington Administrative Code chapter to transfer the administration of kidney centers to the Department of Social and Health Services from the Department of Health. New chapter 388-540 WAC, Kidney centers.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-001 on June 2, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 28, 1993

Rosemary Carr
Acting Director
Administrative Services

**Chapter 388-540 WAC
KIDNEY CENTERS**

NEW SECTION

WAC 388-540-001 Purpose. The department shall administer state funds appropriated to assist people with end stage renal disease to meet the costs of their medical care.

NEW SECTION

WAC 388-540-005 Definitions. For the purpose of administering the state kidney disease program, the following shall apply:

(1) "End stage renal disease (ESRD)" means that stage of renal impairment which is irreversible and permanent, and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life;

(2) "ESRD Client" means resident of the state with a diagnosis of ESRD;

(3) "Kidney center" means those facilities as defined and certified by the federal government to provide ESRD services and which provide the services specified in this

PERMANENT

chapter and which promote and encourage home dialysis for a client when medically indicated;

(4) "Affiliate" means a facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to ESRD patients;

(5) "State kidney disease program" means state general funds appropriated to the department to assist clients with ESRD in meeting the cost of medical care;

(6) "Application for ESRD eligibility" means the form provided by the department which the client completes and submits to determine ESRD eligibility;

(7) "Certification" or "certified" means the department has approved a client for the state kidney disease program under this chapter;

(8) "ESRD application period" means the time between the date of application and certification;

(9) "Resources" means income or assets or any real or personal property that a person or the person's spouse owns and could convert to cash to be used for support or maintenance;

(10) "Fair market value" means the current worth of a resource at the time of transfer or, if earlier contract for sale, or date of application;

(11) "Adequate consideration" means that the reasonable value of goods or services received in exchange for transferred property approximates the reasonable value of the property transferred;

(12) "Transfer" means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person;

(13) "Reasonable value" means the amount that the property is worth on the open market;

(14) A "substantial reduction" means:

(a) The elimination of a client's required annual deductible amount; or

(b) The reduction of resources to below fifteen hundred dollars.

NEW SECTION

WAC 388-540-010 Services. Generally, the kidney center shall provide, directly or through an affiliate, all physical facilities, professional consultation, personal instructions, medical treatment and care, drugs, dialysis equipment, and supplies necessary for carrying out a medically-sound ESRD treatment program. The kidney center shall provide:

(1) Dialysis for clients with ESRD when medically indicated;

(2) Kidney transplantation treatment for clients with ESRD either directly or by referral, when medically indicated;

(3) Treatment for conditions directly related to ESRD;

(4) Training and supervision of medical, supporting personnel and of clients who are eligible for home dialysis; and

(5) Supplies and equipment for home dialysis.

NEW SECTION

WAC 388-540-020 Reimbursement. The department shall reimburse kidney centers for services described in this chapter to the extent the legislature has appropriated funds and when the center submits documented evidence, satisfactory to the department, showing:

(1) Services for which reimbursement is requested;

(2) Client's financial eligibility for the state kidney disease program under this chapter except reimbursement for services:

(a) Provided to a client location outside the state shall be limited to a period of two weeks per calendar year per client; and

(b) Described under this chapter shall be determined on a case-by-case basis by the department.

NEW SECTION

WAC 388-540-030 ESRD eligibility. The kidney center shall review at least annually the client's ESRD eligibility for the state kidney disease program according to procedures outlined in this chapter. A client shall be considered eligible when the client exhausts or is ineligible for all other resources providing similar benefits to meet the costs of ESRD-related medical care. Resources shall include:

(1) Income in excess of a level necessary to maintain a moderate standard of living, as defined by the department, using accepted national standards;

(2) Savings, property, and other assets;

(3) Government and private medical insurance programs;

(4) Government or private disability programs;

(5) Local funds raised for the purpose of providing financial support for a specified ESRD client: PROVIDED, that in determining eligibility the following resources shall be exempt:

(a) A home, defined as real property owned by a client as a principal place of residence, together with the property surrounding and contiguous thereto, not to exceed five acres. Commercial property or property used for the purpose of producing income shall be considered excess property and shall be subject to the limitations of subsection (5)(d) of this section;

(b) Household furnishings;

(c) An automobile; and

(d) Savings, property or other assets, the value not to exceed the sum of five thousand dollars.

NEW SECTION

WAC 388-540-040 Transfer of resources without adequate consideration. A person may be ineligible for the program if the person knowingly and willfully assigns or transfers nonexempt resources at less than fair market value for the purpose of qualifying or continuing to qualify for the program within two years preceding the date of application.

NEW SECTION

WAC 388-540-050 Fiscal information. The kidney center shall provide fiscal information on the department's request. The information shall include:

- (1) Accounting information and documentation sufficient to establish the basis for fees for services and/or charges;
- (2) Sources and amounts of resources allowing an individual client to verify financial eligibility;
- (3) Evidence that all other available resources have been depleted before requests for reimbursement from the state kidney disease program are submitted to the department; and
- (4) Other information as the department may require.

NEW SECTION

WAC 388-540-060 Procedures for ESRD eligibility determination. The department, kidney center and client shall comply with the following procedures to determine ESRD eligibility:

- (1) The department shall provide the kidney center with the necessary forms and instructions;
- (2) The kidney center shall inform the client of the requirements for ESRD eligibility as defined in this chapter;
- (3) The kidney center shall provide the client with necessary forms and instructions in a timely manner;
- (4) The client shall complete and submit the ESRD application for eligibility and any necessary documentation to the kidney center in the manner and form the department prescribes;
- (5) A new client shall apply for Medicaid, obtain and send to the kidney center written documentation of Medicaid eligibility or denial;
- (6) The kidney center shall review the ESRD application and documentation for completeness and accuracy according to instructions provided by the department;
- (7) The kidney center shall forward to the medical assistance administration (MAA) the ESRD application and any documentation needed to approve or deny eligibility. The MAA shall review the ESRD application and documentation and notify the kidney center that the client has been certified, or request additional information as needed;
- (8) The ESRD application period shall be limited to one hundred and twenty days. The kidney center may request an extension when extenuating circumstances prohibit the client from completing the application process within the allowed time. The department, at its discretion, may grant and specify the limits of the extension;
- (9) The ESRD client shall be eligible for a period of one year from the first day of the month of application unless the client's resources or income increase or decrease substantially, in which case the client must complete a new application for ESRD eligibility;
- (10) ESRD eligibility effective date is the first day of the month of ESRD application if the person was eligible at any time during that month. The effective date of ESRD eligibility shall be no earlier than four months before the month of ESRD application provided the:
 - (a) Medical services received were covered; and
 - (b) Person would have been eligible had the person applied.
- (11) A client currently eligible shall be recertified before the end of the respective eligibility periods.

(12) A client who seeks continued program services does not need to reapply for Medicaid unless the client has a substantial reduction in resources during the year.

WSR 93-16-040
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Order 3601—Filed July 28, 1993, 10:58 a.m.]

Date of Adoption: July 28, 1993.

Purpose: Amended to include medically needy clients as eligible for hospice services. As an administrative change, hospice care center is added as a hospice agency.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-047 Hospice services, and 388-99-060 Scope of care for medically needy.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-024 on June 9, 1993.

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

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3402, filed 6/9/92, effective 8/1/92)

WAC 388-86-047 Hospice services. (1) For the purposes of this section, hospice services means a medically-directed, interdisciplinary program of palliative services for a terminally ill client and the client's family.

(2) A Medicare Title XVIII certified hospice agency shall furnish hospice services.

(3) To be eligible for hospice services, a client shall:

- (a) Be ~~((categorically needy))~~ eligible under the Medicaid program;
 - (b) Be terminally ill, with a life expectancy of six months or less;
 - (c) Voluntarily request, in writing, to receive hospice services in place of other medical services for the terminal condition; and
 - (d) Be accepted by the designated hospice agency.
- (4) While receiving hospice care, a client shall designate a hospice agency, and waive all rights to Medicaid payments for:

- (a) Hospice care provided by a hospice other than the hospice designated or arranged by the designated hospice; and
- (b) Medicaid services for treatment of the terminal or related condition for:
 - (i) Which hospice care is received; or
 - (ii) Services equivalent to the hospice care received; or
 - (iii) Services equivalent to the hospice care, except services of or arranged by the designated hospice.

(5) The client's hospice services shall include:

- (a) Nursing care by or under the supervision of a registered nurse;

(b) Medical social services under the direction of a physician;

(c) Physician services provided by a doctor of medicine or osteopathy;

(d) Counseling services;

(e) Short-term inpatient care:

(i) Provided in a participating hospice inpatient unit, participating hospital, ~~((o))~~ nursing facility or hospice care center, licensed under chapter 246-321 WAC; or

(ii) Provided in a nursing facility limited to respite care;

(iii) When the services conform to a written plan of care; and

(iv) When the unit, hospital, ~~((o))~~ nursing facility or hospice care center meets the hospice staff and patient area standards.

(f) Medical appliances and supplies, including drugs and biologicals;

(g) Home health aide services, under the direction of a registered nurse; and

(h) Physical therapy, occupational therapy, and speech-language pathology services.

(6) Hospice coverage shall be available to a person for at least two hundred ten days. The department may subdivide the person's hospice coverage time into two or more periods.

(7) The department shall pay the Medicaid hospice rate for daily care as:

(a) Routine home;

(b) Continuous home;

(c) Inpatient respite; or

(d) General inpatient.

(8) A client may request voluntarily, in writing, to cancel hospice services.

AMENDATORY SECTION (Amending Order 3489, filed 12/10/92, effective 1/10/93)

WAC 388-99-060 Scope of care for medically needy.

(1) The medical coverage under the limited casualty-medical-needy program shall include:

(a) Blood administration and processing;

(b) Case management services;

(c) Dental services;

(d) Dentures;

(e) Early and periodic screening, diagnosis and treatment (EPSDT) services;

(f) Enteral/parenteral nutrition;

(g) Eyeglasses;

(h) Family planning clinic services;

(i) Home health services;

(j) Hospice services;

(k) Inpatient hospital services;

~~((k))~~ (l) Intermediate care facility services for the mentally retarded;

~~((l))~~ (m) Laboratory and x-ray services;

~~((m))~~ (n) Nursing facility services;

~~((n))~~ (o) Outpatient hospital;

~~((o))~~ (p) Oxygen and respiratory therapy;

~~((p))~~ (q) Physical medicine and rehabilitation services;

~~((q))~~ (r) Physician, ARNP, and clinic services;

~~((r))~~ (s) Podiatric services;

~~((s))~~ (t) Prescribed drugs;

~~((t))~~ (u) Prosthetic devices;

~~((u))~~ (v) Rural health services;

~~((v))~~ (w) School medical services for special education students; and

~~((w))~~ (x) Medically necessary transportation.

(2) The department shall apply conditions and limitations in chapter 388-86 WAC ~~((shall apply))~~ to the limited casualty-medically needy program.

(3) A request for an exception to policy shall require a review by the medical assistance administration.

WSR 93-16-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3602—Filed July 28, 1993, 11:00 a.m.]

Date of Adoption: July 28, 1993.

Purpose: This amendment clarifies the effective date of eligibility for categorically needy, and clarifies technical language and the addition of appropriate cross-references.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-84-115 Effective date of eligibility.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-122 on June 22, 1993.

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

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2791, filed 5/4/89)

WAC 388-84-115 Effective date of eligibility. (1)

The effective date of eligibility for medical assistance shall be no earlier than the third month before the month of application provided:

(a) The medical services received were covered~~((:))~~; and

(b) ~~((Individual))~~ The client would have been eligible had ~~((he/she))~~ the client applied~~((:))~~; and

(c) The ~~((applicant))~~ client ~~((met))~~ meets all categorically needy eligibility factors ~~((in either chapter 388-83, 388-92, or 388-99 WAC)).~~

(2) The effective date of eligibility for categorically needy medical assistance ~~((s))~~ shall be the first day of the month ~~((if))~~ when the ~~((individual))~~ client is eligible at any time during that month.

(3) The ~~((month of application))~~ effective date of eligibility for medical assistance for an SSI ~~((beneficiaries))~~ beneficiary shall be the first day of the month ~~((they apply))~~ the beneficiary applies for SSI.

(4) See WAC 388-99-055 for effective date of eligibility for the medically needy program.

(5) See WAC 388-100-020 for effective date of eligibility for the medically indigent program.

WSR 93-16-042
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3603—Filed July 28, 1993, 11:01 a.m.]

Date of Adoption: July 28, 1993.

Purpose: This amendment provides for full scope CN or MN medical coverage for pregnant undocumented alien women instead of emergency/labor and delivery only.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-015 Citizenship and alien status.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-13-079 on June 18, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 28, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3532, filed 4/7/93, effective 5/8/93)

WAC 388-83-015 Citizenship and alien status. (1)

The department shall provide Medicaid to an otherwise eligible person who is:

- (a) A citizen of the United States; or
- (b) A North American Indian born in Canada:
 - (i) Claiming fifty percent Indian blood; or
 - (ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or
- (c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or
- (d) An alien who is lawfully present in the United States according to provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or
- (e) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245(a), 210, 210(f) and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA) unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or
- (f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.

(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when ~~((an))~~ the alien is:

- (a) Aged, blind, or disabled;
- (b) Seventeen years of age or under;
- (c) Pregnant; or
- (d) A Cuban/Haitian entrant as defined under sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(3) ~~((All other aliens, including))~~ When an alien as described ~~((in))~~ under subsection (1)(e) or (f) of this section

~~((who))~~ is still under the five-year disqualification period, and is not described under subsection (2) of this section ~~((and who is not lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law, or described in subsection (2) of this section, shall be eligible for Medicaid as follows:~~

~~((a)),~~ the department shall provide medical care and services ~~((are))~~ as necessary for treatment of the alien's emergency medical condition ~~((For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:~~

- ~~((i) Placing the alien's health in serious jeopardy;~~
- ~~((ii) Serious impairment to bodily functions; or~~
- ~~((iii) Serious dysfunction of any bodily organ or part;~~

and
~~((b) Such alien meets the eligibility requirements of a medical assistance program as described under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC))~~ as defined under WAC 388-80-005(22).

(4) For all other aliens, when such alien meets the eligibility requirements of a medical assistance program as described under chapters 388-82, 388-83, 388-92, 388-95, or 388-99 WAC, the department shall provide Medicaid as follows:

- (a) Full scope medical services for a pregnant woman;
- or
- (b) Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-80-005(22).

WSR 93-16-043
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3604—Filed July 28, 1993, 11:03 a.m.]

Date of Adoption: July 28, 1993.

Purpose: This amendment limits the time for a telephone company to bill the Washington telephone assistance program fund.

Citation of Existing Rules Affected by this Order: Amending WAC 388-31-035 WTAP fund.

Statutory Authority for Adoption: RCW 80.36.440.

Pursuant to notice filed as WSR 93-13-018 on June 8, 1993.

Effective Date of Rule: Thirty-one days after filing.
July 28, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3063, filed 8/23/90, effective 9/23/90)

WAC 388-31-035 WTAP fund. (1) Limited to funds available in the WTAP fund, the department shall reimburse

PERMANENT

local exchange companies for administrative and program expenses associated with the WTAP. The department shall:

(a) ~~((The)) Reduce payment amount ((the department pays shall be reduced))~~ to the maximum extent possible by a waiver of all or part of the federal end user access charge;

(b) ~~((Reimbursement shall be)) Reimburse~~ from the WTAP fund; ~~((and))~~

(c) Limit payments ~~((shall be limited))~~ to services provided after the household's eligibility for the WTAP is established; and

(d) Ensure local exchange companies ~~((shall))~~ fully document and support in detail all administrative and program expenses billed to the department in the required monthly invoices. The department shall limit reimbursable administrative expenses ~~((are limited))~~ to:

(i) Salaries and benefits for documented time required for implementing and maintaining the WTAP, with the exception that time required for the correction of case number errors is not an allowable expense;

(ii) Documented travel expenses incurred for attending hearings, meetings, or training pertaining to the WTAP;

(iii) Documented expenses incurred for supplies and materials required to implement and maintain the WTAP;

(iv) Documented postage and handling for delivery of WTAP material;

(v) Change of service charges from a private line to a party line in order to participate in WTAP, not to exceed the amount tariffed, as necessary to meet the requirements of WAC 480-122-010 (3)(c);

(vi) Administrative charge for change of service orders specified by tariffs; and

(vii) Documented indirect costs associated with implementing and maintaining WTAP.

(2) The department shall recover its administrative costs from the WTAP fund.

(3) The department shall establish procedures for reimbursement from the WTAP fund ~~((shall be by such procedure as established by the department))~~ and shall only reimburse for:

(a) Invoices submitted within ninety days following the month the expense occurred;

(b) Correct, verifiable, billing items; and

(c) Erroneous items which have been corrected within sixty days from the date the department returns the report of invoicing error to the local exchange company.

~~((4) The department shall not be required to conclude a contract with local exchange companies to reimburse costs incurred after June 30, 1990.))~~

WSR 93-16-044
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3605—Filed July 28, 1993, 11:05 a.m.]

Date of Adoption: July 28, 1993.

Purpose: Amendment to WAC 388-49-430 clarifies that the department is to consider as a resource the greater amount of either a vehicle's countable fair market value or equity value when the vehicle is not otherwise excluded.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-49-430 Resources—Vehicles.

Statutory Authority for Adoption: RCW 74.04.050 and 7 CFR 273.8(h).

Pursuant to notice filed as WSR 93-13-053 on June 16, 1993.

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

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3226, filed 8/1/91, effective 9/1/91)

WAC 388-49-430 Resources—Vehicles. (1) The department shall exclude the entire value of a licensed vehicle if it is:

(a) Used for income-producing purposes over fifty percent of the time it is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(b) Annually producing income consistent with its fair market value;

(c) Essential to the employment of a household member, an ineligible alien~~((s))~~, or a disqualified person~~((s))~~ whose resources are considered available to the household. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home; or

(f) Necessary to transport one of the following persons who has a temporary or permanent physical disability:

(i) Household member;

(ii) Ineligible alien whose resources are available to the household; or

(iii) Disqualified person whose resources are available to the household.

The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall exclude the entire value of unlicensed vehicles:

(a) Driven by an Indian tribal member~~((s))~~ on those reservations not requiring vehicle licensing; and

(b) Meeting one of the provisions in subsection (1) of this section.

(3) The department shall continue the exclusions described in subsections (1) and (2) of this section when the vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section ~~((Fair market value will be determined))~~ by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum.

(5) The department shall determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section;

(b) One licensed vehicle per household regardless of the use of the vehicle; and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and (5) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider ~~((only))~~ the ~~((greater amount as a resource if the))~~ value of a countable vehicle ~~((has))~~ to be the greater amount of either:

(a) ~~((A countable))~~ Fair market value in excess of four thousand five hundred dollars; ~~((and))~~ or

(b) ~~((A countable))~~ Equity value.

(i) Twenty years of age and under; or

(ii) Blind or disabled as defined ~~((in))~~ under chapter 388-92 WAC; or

(c) ~~((Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include:~~

~~((i) The first fifty thousand dollars of the estate value at the time of death; and~~

~~((ii) Sixty-five percent of the remainder))~~ For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

(2) The department shall assert and enforce a claim against the estate of the deceased ~~((recipient))~~ client for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the ~~((recipient))~~ client just ~~((prior to))~~ before the client's death.

(a) The department shall file the lien ~~((shall be filed))~~ with the county auditor of the county in which the property is located; and

(b) The department shall deem the lien ~~((shall be deemed))~~ effective as of the date of the ~~((recipient's))~~ client's death; and

(c) The department's recovery of property shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined ~~((in))~~ under subsection (1)(b) of this section, is discovered or contacts the department ~~((prior to))~~ before recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death.

**WSR 93-16-045
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3606—Filed July 28, 1993, 11:07 a.m.]

Date of Adoption: July 28, 1993.

Purpose: State law (SB 5723) changed the amount that can be recovered from the estate of a deceased person for the cost of medical care. The department may recovery [recover] the medical care costs except when there is a surviving spouse or minor or disabled child, or for heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects not to exceed \$2000.

Citation of Existing Rules Affected by this Order: Amending WAC 388-81-047 Recovery from estates.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: SB 5723.

Pursuant to notice filed as WSR 93-13-120 on June 22, 1993.

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

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3338, filed 3/10/92, effective 4/10/92)

WAC 388-81-047 Recovery from estates. (1) The department shall recover the cost of ~~((medical care))~~ public assistance benefits provided under a program under chapter 74.09 RCW provided to a ~~((recipient))~~ client, who was sixty-five years ~~((old))~~ of age or older, upon the ~~((recipient's))~~ client's death, except:

(a) ~~((Where))~~ When there is a surviving spouse; or

(b) ~~((Where))~~ When there is a surviving child ~~((who is))~~:

**WSR 93-16-050
PERMANENT RULES
BELLEVUE COMMUNITY COLLEGE**

[Filed July 28, 1993, 2:11 p.m.]

Date of Adoption: July 20, 1993.

Purpose: Refer Title IV financial aid recipients to refund policy regarding withdrawal from a course(s). Remove outdated portions of rule and make rule easier to read.

Citation of Existing Rules Affected by this Order: Amending WAC 132H-160-180.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-12-098 on June 1, 1993.

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

July 22, 1993

Elise J. Erickson

Executive Assistant

AMENDATORY SECTION (Amending Order 56 [88], filed 7/13/84)

WAC 132H-160-180 Refund policy. Community College District VIII board of trustees has authorized the registrar to refund fees when a student withdraws from college or a course(s). A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. Refund provisions for students receiving Title IV Federal aid are described in WAC 132H-160-185, Refund for Title IV Federal Aid Recipients.

- (+) Tuition and related fees are refunded upon withdrawal from college or a course(s) as follows:
 - (+) (1) Prior to the first day of the quarter:
 - (+) (a) Complete withdrawal from college - 100% refund
 - (+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - 100% refund
 - (+) (2) Cancellation of a course - permission to transfer to another course or full refund upon request:
 - (+) (3) Through fourth week of the quarter:
 - (+) (a) Complete withdrawal from college - 50% refund
 - (+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - 50% refund
 - (+) (4) After fourth week of the quarter:
 - (+) (a) Complete withdrawal from college - no refund
 - (+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - no refund
 - (+) (5) Lab fees (includes health service fee):
 - (+) (a) Prior to first week of quarter - 100% refund
 - (+) (b) Through the fourth week of the quarter - 50% refund
 - (+) (c) After the fourth week of the quarter - no refund
 - (+) (6) Insurance fees:
 - (+) (a) Through the first week of the quarter only - 100% refund
 - (+) (b) After the first week of the quarter - no refund
 - (+) (c) If insurance claim has been filed - no refund
 - (+) (7) Continuing education classes (state and student supported):
 - (+) (a) Prior to the first class session - 100% refund (less a \$5.00 administration fee)
 - (+) (b) Prior to the second class session - 100% refund (less a \$15.00 administration fee)
 - (+) (c) After the second class session - no refund
 - (+) (8) Continuing education workshops (self-supported):
 - (+) (a) Cancellations received up through four working days prior to the first session - 100% refund (less a \$5.00 administration fee)
 - (+) (b) After fourth working day prior to the first session - no refund.

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

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

WSR 93-16-051
PERMANENT RULES
BELLEVUE COMMUNITY COLLEGE
 [Filed July 28, 1993, 2:13 p.m.]

Date of Adoption: July 20, 1993.

Purpose: Create rule authorizing registrar to refund fees to federal accounts when a Title IV recipient withdraws from a course(s).

Statutory Authority for Adoption: Chapter 34.05 RCW.
 Other Authority: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-12-097 on June 1, 1993.

Effective Date of Rule: Thirty-one days after filing.
 July 22, 1993

Elise J. Erickson
 Executive Assistant

NEW SECTION

WAC 132H-160-185 Refund for Title IV federal aid recipients. Community College District VIII Board of Trustees has authorized the Registrar to refund fees to the appropriate Federal account(s), in concurrence with rules governing financial assistance from the Federal government, for students receiving Federal Title IV assistance in the amounts mandated by current Federal regulation when the student withdraws, or the college withdraws the student, from the college or a course(s).

WSR 93-16-053
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT
 [Filed July 29, 1993, 9:00 a.m.]

Date of Adoption: July 29, 1993.

Purpose: To amend WAC 192-12-180, 192-12-182, 192-12-184, and 192-12-186. The amendments are to clarify the policy of the department regarding commissioner approved training.

Citation of Existing Rules Affected by this Order: Amending WAC 192-12-180, 192-12-182, 192-12-184, and 192-12-186.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Pursuant to notice filed as WSR 93-13-137 on June 23, 1993.

Changes Other than Editing from Proposed to Adopted Version: The amendment to WAC 192-12-180(2) added the word "beginning" in front of the phrase "a course of education" and changed "any degree from a college, community college, or university" to "a baccalaureate or higher degree."

Effective Date of Rule: Thirty-one days after filing.
 July 29, 1993

K. Wendy Holden
 Deputy Commissioner

AMENDATORY SECTION (Amending Order 2-89, filed 1/28/89 [1/18/89])

WAC 192-12-180 Training defined. (1) As used in RCW 50.20.043 the term "training" means ~~((vocational or technical training or retraining (including but not limited to~~

PERMANENT

~~field or laboratory work and remedial or related academic and technical instruction incident thereto) which is being conducted as a program designed to prepare individuals for gainful employment in recognized occupations and in new and emerging occupations;)) a course of education with the primary purpose of training the applicant in skills that will allow him or her to obtain employment.~~

~~((2) The term "training" does not include basic education or training that has for its purpose the preparation of individuals for employment in occupations generally classified as professional or which require a baccalaureate or higher degree from institutions of higher education.))~~

(2) The term "training" does not include beginning a course of education primarily intended to meet the requirements of a baccalaureate or higher degree.

~~((3) The assistant commissioner for unemployment insurance may determine that a course of education or training is "training" for the purposes of RCW 50.20.043, notwithstanding subsections (1) and (2) of this section. Any determination made under this subsection (3) must be made in writing.))~~

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

AMENDATORY SECTION (Amending Order 2-89, filed 1/28/89 [1/18/89])

WAC 192-12-182 Training—Approval by commissioner. Conditions for approval of training by the commissioner are as follows:

(1) ~~((No vocational training course, or courses in basic educational skills as a prerequisite for such vocational training.))~~ No training shall be considered for approval by the commissioner or his or her authorized representative unless:

An application to take such training ~~((course))~~ is made in writing and ~~((filed with))~~ submitted to the commissioner at any local office of the Washington employment security department, or in the case of an individual in another state, ~~((with))~~ to the local office of such state through which the individual is filing his or her claim for unemployment compensation against the state of Washington. ~~((Such application must be filed prior to payment.))~~

(2) In the approval of any ~~((program of))~~ training, the commissioner shall ~~((consider))~~ assess, among other factors, the following:

(a) The applicant's plan for completion of the training, and

~~((a))~~ (b) The nature of the facility and the quality of the ~~((program of instruction))~~ training, and

~~((b))~~ (c) Whether ~~((such program of instruction))~~ the training relates to an occupation or skill for which there are, or are expected to be, reasonable employment opportunities in the ~~((state))~~ labor markets in which the individual intends to seek work, and

~~((c))~~ (d) Whether an oversupply of qualified workers exists, and

~~((e))~~ (e) Whether the individual has the qualifications and aptitudes to successfully complete such ~~((program of instruction))~~ training; and further

~~((d))~~ (f) Whether employment opportunities for which the individual is fitted by past training and experience do not exist or have substantially diminished in the labor market due to business or economic conditions in the area, or because of conditions peculiar to the individual such as health, physical stature, criminal background, or other circumstances of a similar nature, to the extent that in the judgment of the commissioner the individual will experience an extended period of unemployment and dependence upon the unemployment compensation program.

(3) Any training ~~((program))~~ required ~~((as a condition of continued employment))~~ within ~~((the))~~ an occupation shall be approved by the commissioner: *PROVIDED*, That:

(a) The training ~~((program is vocational training, or basic education that is a prerequisite for vocational training))~~ is a condition of continued employment, and

(b) The scheduling of the training is determined by a work related entity ~~((other than))~~, and not by the claimant, and

(c) The training ~~((program))~~ meets the requirements of subsections (2)(a), (b), ~~((and))~~ (c), (d), and (e) of this section. ~~((Requirements of subsection (2)(d) of this section do not apply to training programs which meet the requirement of this subsection.))~~

(4) An academic training course may be approved if the conditions of subsections (1) and (2) of this section are met, and the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

~~((a) The duration of the course of study is less than six months, and~~

~~((b) The course meets specific requirements for certification, licensing, or specific skills necessary for the occupation, and~~

~~((c) The assistant commissioner for unemployment insurance reviews and approves, in writing, the application for approval of training.))~~

(5) In the case of individuals with physical or sensory handicaps or other unusual individual circumstances, a written decision of the ~~((assistant))~~ commissioner ~~((for unemployment))~~ may waive any of the requirements of this section on an individual basis.

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.

AMENDATORY SECTION (Amending Order 4-80, filed 8/6/80)

WAC 192-12-184 Training—Unemployment benefits while pursuing ~~((a course))~~ training. The commissioner prescribes the following requisites:

~~((1) Individuals eligible for unemployment compensation under the provisions of RCW 50.20.010 shall not be ineligible for such benefits because of enrollment and attendance in a vocational training course, or a course in basic educational skills as a prerequisite for such vocational training, that is approved by the commissioner provided that an application to take such training course therefor is made~~

~~in writing and filed with the commissioner at any local office of the Washington employment security department, or in the case of an individual in another state, with the local office of such state through which the individual is filing his claim for unemployment compensation against the state of Washington.~~

~~(2) Any claimant who, during a week, fails to attend half or more of the scheduled class days of the approved training, or a course in basic educational skills as a prerequisite for such training, will not be excused from meeting the availability for work and active search for work requirements of RCW 50.20.010(3) and the provisions of RCW 50.20.080 relating to failure to apply for, or refusal to accept suitable work, unless the training facility or organization certifies that such absence will not cause the claimant to be unsuccessful in completing the course.~~

~~(3) The claimant will certify his/her record of attendance each week, subject to verification by the Washington employment security department. Such certification shall include the claimant's attendance and a supporting statement explaining any absences. The department may contact the school regarding any absence to determine whether or not such absence will cause the claimant to be unsuccessful in completing the course.~~

~~(4) A claimant making application for unemployment compensation pursuant to the Employment Security Act and these regulations must comply with all other requirements of the Employment Security Act and commissioner's regulations.)~~

(1) Training shall be full-time and the training facility will determine whether the claimant is enrolled in training on a full-time basis and whether he or she is making satisfactory progress.

(2) The claimant shall notify the department if he or she discontinues or suspends the training, or reduces enrollment to less than full-time.

(3) If enrollment drops below full-time or satisfactory progress is not being made, the claimant may be required to show that he or she is meeting the availability for work and active search for work requirements of RCW 50.20.010(3) and the provisions of RCW 50.20.080 relating to failure to apply for, or refusal to accept suitable work.

(4) For the purposes of RCW 50.20.050(3), participation in training previously approved by the commissioner works and unreasonable hardship on the individual when he or she would be required to continue in employment beyond the start or resumption date of the training.

AMENDATORY SECTION (Amending Order 2-73, filed 11/15/73)

WAC 192-12-186 Training—Commissioner approval or denial of training ((Denial of commissioner approval or continued approval of claim for unemployment benefits while pursuing a training course)). The decision of the commissioner ((or his authorized representative)) to approve or disapprove an application ((of an individual or deny continued approval of an individual's claim for unemployment benefits under the provisions of the Employment Security Act and these regulations)) for training shall be in writing and shall set forth the reasons therefor. Decisions of the commissioner pursuant to these regulations

shall be served upon ~~((the individual by personal delivery or by mailing to the individual's last known address of record with the employment security department))~~ all interested parties and shall be subject to appeal and review as provided under RCW 50.32.020, 50.32.070, and these regulations.

WSR 93-16-058
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3559—Filed July 29, 1993, 11:02 a.m.]

Date of Adoption: July 29, 1993.

Purpose: New chapter 388-235 WAC facilitates on-line computer access by eligibility staff in our field offices and makes the policies easier to understand. Policies contained in chapter 388-37 WAC relating to general assistance for pregnancy (GAS) program are recodified under a separate chapter named chapter 388-230 WAC. Chapter 388-235 WAC relates to financial and medical assistance programs.

Citation of Existing Rules Affected by this Order:
Repealing chapter 388-37 WAC.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-14-085 on June 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: As required in RCW 34.05.340(3) and in no particular order, changes in content from the proposed chapter 388-235 WAC and the adopted rules are as follows:

(1) Proposed WAC 388-235-5040, 388-235-9500, 388-235-9520, 388-235-9530, 388-235-9540, 388-235-9550, 388-235-9560, 388-235-9570, 388-235-9580, 388-235-9600 have been deleted from the adopted rule. WAC 388-235-5040 was deleted as part of a renumbering of WAC 388-235-5000 through 388-235-5080, i.e., proposed WAC 388-235-5040 is now WAC 388-235-5050. WAC 388-235-9500 through WAC 388-235-9600 were deleted because the GA-U community work experience project (CWEP) ended on June 30, 1993. The ending date for the project is included in current WAC.

(2) Proposed WAC 388-235-0010 was reworded for clarity.

(3) Proposed WAC 388-235-0020 (4)(a) was reworded for clarity. This subsection was also renumbered to reflect the deletion of subsection (4)(b).

(4) Proposed WAC 388-235-0020 (4)(b) was deleted because it was repeated elsewhere.

(5) Proposed WAC 388-235-1500(1) was clarified to include patients in a medical institution as eligible persons. These persons were omitted in the proposed WAC. Proposed WAC 388-235-1500(2) was rewritten to clarify the meaning of "under the control of." WAC 388-235-1500(2) has also been reformatted for readability.

(6) Proposed WAC 388-235-5000 was deleted as redundant. Proposed WAC 388-235-5050 was renumbered to be WAC 388-235-5000.

(7) With the deletion of proposed WAC 388-235-5000, several sections were renumbered. Specifically, proposed WAC 388-235-5050 is now WAC 388-235-5000; proposed WAC 388-235-5040 is now WAC 388-235-5050; proposed

WAC 388-235-5070 is now WAC 388-235-5060; proposed WAC 388-235-5080 is now split into two sections, WAC 388-235-5070 and WAC 388-235-5080. Proposed WAC 388-235-5080 was split into "Sources of medical evidence" and "Medical evidence requirements." This splitting was made to improve readability and clarity.

(8) Proposed WAC 388-235-5050(1) was reworded for clarity and renumbered as WAC 388-235-5000(1).

(9) Proposed WAC 388-235-5080(1) was reworded for clarity and renumbered as WAC 388-235-5070(1).

(10) Proposed WAC 388-235-5080(2) was clarified to include [include] current language and relocated to new WAC 388-135-5080(4). This change was made for consistency with current WAC.

(11) Proposed WAC 388-235-5080 (3) and (5) have been clarified to include [include] current language on objective medical evidence. This language is included in WAC 388-235-5080

(12) Proposed WAC 388-235-5080 (8)(e) has been clarified to delete the phrase "treating the impairment." This change was made for consistency with current WAC. This subsection has also been renumbered to WAC 388-235-5070 (3)(e).

(13) Proposed WAC 388-235-5080(7) has been deleted. We deleted this subsection because it contained new documentation requirements.

(14) Proposed WAC 388-235-5200 (6)(c) was rewritten for clarity.

(15) Proposed WAC 388-235-5300 (3)(c) was rewritten for clarity.

(16) Proposed WAC 388-235-5600(2) was modified to clarify that "all available" medical evidence would be used when determining exertionally-related limitations.

(17) Proposed WAC 388-235-5600(3) has been clarified to include current language on various exertional levels.

(18) Proposed WAC 388-235-5700 (2)(b) has been clarified to include current language. Additionally, a new term, compensatory training has been eliminated.

(19) Proposed WAC 388-235-5800 (3)(b)(ii) has been modified to clarify that persons with a rating of "four" are included.

(20) Proposed WAC 388-235-5900 (1)(a) was deleted as redundant.

(21) Proposed WAC 388-235-5900 (1)(b) was reworded for clarity and renumbered to reflect the deletion of WAC 388-235-5900 (1)(a).

(22) Proposed WAC 388-235-5900(5) was clarified to add the term "transferrable skills." This term was omitted in the proposed subsection.

(23) Proposed WAC 388-235-8100 (2)(b) was rewritten and split into two subsections, (2) and (3). These changes were made for clarity.

(24) Proposed WAC 388-235-8130 (2)(b) was modified to delete "or capable of." This clarifies when the clear improvement or previous error criteria are to be applied. WAC 388-235-8130 was also renumbered to improve readability.

(25) Proposed WAC 388-235-0070 was simplified and clarified to apply to recipients only.

(26) Proposed WAC 388-235-0100 (2)(b) contained an error which has been corrected. The proposed rule indicated

"more than 50 percent Indian blood." It has been changed to read "less than."

(27) Proposed WAC 388-235-4000 has been modified to clarify eligibility and payment standards for a married couple where the husband is eligible for GA-U and the wife is eligible for general assistance for pregnant women. This is consistent with current WAC.

(28) Proposed WAC 388-235-9200(4) was modified to clarify that the department will provide up to twenty-five percent of the interim assistance reimbursement. The proposed WAC indicated the department would provide twenty-five percent. The change was made for consistency with current WAC.

Effective Date of Rule: Thirty-one days after filing.
July 29, 1993
Rosemary Carr
Acting Director
Administrative Services

Chapter 388-235 WAC GENERAL ASSISTANCE UNEMPLOYABLE

NEW SECTION

WAC 388-235-0010 Purpose of program. General assistance unemployable (GAU) is a state-funded financial assistance program for needy adults incapacitated from gainful employment.

NEW SECTION

WAC 388-235-0020 Definitions. (1) "Available medical treatment" means medical, surgical, alcoholism, drug, or mental health services, or any combination thereof.

(2) "Basic work activities" means the following activities:

- (a) Sitting;
- (b) Standing;
- (c) Walking;
- (d) Lifting;
- (e) Carrying;
- (f) Handling;
- (g) Seeing;
- (h) Hearing;
- (i) Communicating; and
- (j) Understanding and following instructions.

(3) "Exertion levels" means the degree of strength required to perform certain job functions. Exertional levels are used at progressive evaluation process (PEP) step V and are ranked from "sedentary" to "heavy."

(4) "Incapacitated person" means a person incapable of gainful employment as a result of a physical, emotional, or mental condition expected to continue for ninety days or more from date of application. A person incapacitated solely by alcoholism or drug addiction is not included in this definition. However an otherwise incapacitated person who is also impaired by alcohol or drug addiction may be eligible for general assistance.

(5) "Institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

(6) "Medical impairment" means, for purposes of this chapter, any diagnosable physical, mental, or emotional condition except alcoholism or drug addiction.

(7) "Physical functional capacity" means the degree of strength, agility, flexibility, and mobility a person can apply to work-related activities. This capacity is evaluated at PEP Step V.

(8) "Progressive evaluation process (PEP)" is a seven-step process applied sequentially by the department to decide the existence, severity, and duration of incapacity.

(9) "Public institution" means an institution supported in whole or in part from public funds, and is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(10) "Reasonably be expected to render client able to work" means, in the opinion of the department, the required treatment will restore or substantially improve the person's ability to engage in gainful employment.

(11) "Severity of a medical impairment" means the degree to which an impairment restricts a person from performing basic work-related activities.

(12) "Transferrable skills" means work skills a person acquires through relevant semi-skilled or skilled work, that can be used in a variety of jobs within the same or different occupational areas. The department considers a person to have transferrable skills when the job requirements for work the person is able to do are essentially comparable to the job requirements of relevant work, including:

- (a) Having one or more skills in common; and
- (b) The necessary skill level is the same or lower; and
- (c) Using the same or similar equipment; or
- (d) The same or similar materials, products, processes, or services.

(13) "Vocational factors" means age, education, work experience, and transferrable skills.

NEW SECTION

WAC 388-235-0030 Summary of eligibility conditions. The department shall authorize GAU to a client who:

- (1) Meets categorical requirements as follows:
 - (a) Be incapacitated as provided under WAC 388-235-5000 through 388-235-6000;
 - (b) Meet age limitations as specified under WAC 388-235-0050;
 - (c) Be a resident of the state of Washington as provided under WAC 388-235-0060 through 388-235-0090;
 - (d) Be a citizen or alien as provided under WAC 388-235-0100;
 - (e) Furnish a social security number as provided under WAC 388-235-0110.
- (2) Meets financial eligibility requirements as specified under WAC 388-235-2000 through 388-235-4000;
- (3) Undergoes a treatment and referral assessment as provided under WAC 388-235-7000 through 388-235-7600;
- (4) Assigns interim assistance as provided under WAC 388-235-9200 and 388-235-9300;
- (5) Is not eligible for or receiving benefits from other programs as specified under WAC 388-235-9000; and
- (6) Meets requirements, if living in an institution, as required under WAC 388-235-1500.

NEW SECTION

WAC 388-235-0040 Assistance unit. The department shall include the following persons in a single GAU assistance unit:

- (1) An incapacitated single adult;
- (2) A married couple if both persons are incapacitated;
- (3) The incapacitated spouse of a married couple when only one person is incapacitated;
- (4) Only the incapacitated person of a married couple or family when:
 - (a) The spouse or child with whom the person lives is eligible for aid to families with dependent children (AFDC);
 - (b) The incapacitated person is not eligible for an AFDC grant; and
 - (c) The incapacitated person is not under an AFDC sanction.
- (5) A married couple when the husband is incapacitated and the wife is eligible for general assistance under the pregnant woman provisions in chapter 388-230 WAC.

NEW SECTION

WAC 388-235-0050 Age requirements. For GAU eligibility, a person shall be eighteen years of age or older unless the person is part of a married couple. In a married couple, one or both spouses may be seventeen years of age or younger.

NEW SECTION

WAC 388-235-0060 Residence—Establishing. For GAU eligibility, a person shall be:

- (1) A resident who:
 - (a) Voluntarily lives in the state of Washington; and
 - (b) Intends to maintain a home in the state.
- (2) Living in an identifiable residence within the department's community services office catchment area.

NEW SECTION

WAC 388-235-0070 Residence—Temporary absences. The department shall find that a recipient is maintaining residence in Washington state when the:

- (1) Person's absences of more than one month were for:
 - (a) A visit as specified under chapter 388-26 WAC; or
 - (b) Reasons other than a visit, and the person provides adequate information to establish a continuing residence in the state.
- (2) The department shall determine the adequacy of the information on a person's absence of more than one month. In such cases, the department shall assume the person is no longer a resident unless the person provides evidence to the contrary.

NEW SECTION

WAC 388-235-0080 Residence—Applicant living in another state. The department shall find that a person applying for GAU while living out of the state meets the residence requirement when the person:

- (1) Offers acceptable proof of maintaining residence in this state since leaving. A person's acceptable proof shall:
 - (a) Be determined by the department; and

(b) Include return trips to this state, written statements to other persons, maintenance of a home in this state, or other similar actions.

(2) Once lived and acquired residence in this state and:

(a) Still intends to maintain residence in Washington state;

(b) Has a plan to return to the state; and

(c) A person's absence is:

(i) Enforced and beyond the person's control; or

(ii) Essential to the person's welfare and due to physical or social needs.

(3) Lives in the United States at the time of GAU application; and

(4) Arranges to have the GAU application taken by a public assistance agency and the agency completes the necessary investigation to process the application in accordance with Washington rules.

NEW SECTION

WAC 388-235-0090 Residence—Applicant receiving assistance from another state. The department shall not authorize GAU until the person's:

(1) Eligibility for assistance from another state ceases; and

(2) The grant from another state is terminated.

NEW SECTION

WAC 388-235-0100 Citizenship and alien status.

For GAU eligibility, a person shall be:

(1) A United States citizen; or

(2) A Canadian Indian (a North American Indian born in Canada) considered the same as a United States citizen because the Canadian Indian has:

(a) Fifty percent or more Indian blood; or

(b) Less than fifty percent Indian blood and entered the United States prior to December 24, 1952; and

(c) Maintained residence since entry.

(3) An alien:

(a) Lawfully admitted for permanent residence;

(b) Otherwise permanently residing in the United States under color of law; or

(c) Granted temporary residency status under the Immigration Reform and Control Act.

NEW SECTION

WAC 388-235-0110 Social security number. (1) For GAU eligibility, a person shall:

(a) Furnish a social security number; or

(b) Apply for a social security number if it is unknown or has not been issued.

(2) The department shall not deny, delay, or terminate assistance pending issuance of social security numbers if the client provides verification that meets the requirement under subsection (1)(b) of this section.

(3) The department shall exclude from the assistance unit any person failing to comply with the requirement to furnish or apply for a social security number.

(4) The department shall assist an applicant in obtaining a social security number by:

(a) Referring the person to the nearest social security office; and

(b) Furnishing to the client information available from department records if requested by the social security administration.

(5) The client shall report a new social security number within twenty days of its receipt.

NEW SECTION

WAC 388-235-1500 Persons in institutions. (1) If otherwise eligible for GAU, a person in an institution may be granted general assistance if the person is not:

(a) An inmate of a public institution; or

(b) A patient of a public institution unless in a medical institution; or

(c) A patient of a public institution unless in an institution for mental disease and is:

(i) Sixty-five years of age or over; or

(ii) Twenty years of age or younger.

(2) If a person has been committed to the confinement and custody of a public institution such as a state penitentiary or county jail, the department shall consider the person an inmate of the public institution if he or she is:

(a) On a work release program; or

(b) Confined to a place of residence other than the institution.

NEW SECTION

WAC 388-235-2000 Resources. The department shall treat resources for GAU the same as for AFDC under chapter 388-28 WAC.

NEW SECTION

WAC 388-235-3000 Income. In determining a person's financial eligibility and assistance amount, the department shall:

(1) Follow income, resource, and payment rules applicable to GAU as required under chapters 388-28 WAC and 388-33 WAC; and

(2) Exempt the first eighty-five dollars plus one-half the remainder of the applicant's/recipient's total gross monthly earned income.

NEW SECTION

WAC 388-235-4000 GAU payment and need standards. (1) In determining a person's need and payment amounts, the department shall use the grant standards applicable to the GAU program.

(2) In the case of a married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women:

(a) Eligibility and payment will be based on the two-person need and payment standard; and

(b) The husband is the only person who can receive grant assistance under the GA-U program.

NEW SECTION**WAC 388-235-5000 Incapacity determination—**

Process. (1) When determining whether incapacity exists, the department shall consider only the person's ability to obtain and perform work-related activity.

(2) Unless medical documentation requirements are waived under WAC 388-235-5050, the department shall:

- (a) Determine the existence, severity, and duration of a person's incapacity for the GAU program using PEP; and
- (b) Apply each step of this process sequentially, using as many steps as necessary to reach a decision as to whether incapacity exists.

NEW SECTION

WAC 388-235-5050 Waiver of medical documentation and progressive evaluation process (PEP). The department shall consider incapacity established without medical documentation and a progressive evaluation process (PEP) when a person is:

- (1) Eligible for a financial benefit based on Social Security Administration disability criteria;
- (2) Eligible for services from the division of developmental disabilities;
- (3) Sixty-five years of age or older; or
- (4) Released from inpatient psychiatric treatment and is participating in direct treatment services to meet the client's mental health needs. In such cases:
 - (a) The department shall establish a person's incapacity for ninety days without a psychiatric/psychological evaluation; or
 - (b) The department shall not establish a person's incapacity if the client leaves ongoing inpatient psychiatric treatment against medical advice.

NEW SECTION

WAC 388-235-5060 Determination of capacity to engage in gainful employment. (1) The department shall determine a person's ability to perform gainful employment when:

- (a) Determining eligibility. The department may waive the determination of gainful employment if medical documentation requirements are waived under WAC 388-235-5050;
 - (b) The person is employed; or
 - (c) New information is received which may indicate employability.
- (2) The department shall consider the ability to perform gainful employment as the capacity to perform, in a regular and predictable manner, an activity usually done for pay or profit. Gainful employment does not include:
 - (a) Working under special conditions, such as in a department-approved sheltered workshop; or
 - (b) Working sporadically or part-time if, due to the incapacity, the person is unable to compete with unimpaired workers in the same job.
- (3) The department shall deny or terminate general assistance to a person capable of or engaged in gainful employment.

NEW SECTION**WAC 388-235-5070 Sources of medical evidence.** (1)

The department shall pay the cost of necessary medical reports to determine incapacity except when the reports are provided by DSHS personnel.

(2) For a physiological impairment, the department shall only accept as primary evidence reports from the following medical professionals:

- (a) A physician;
 - (b) An advanced registered nurse practitioner (ARNP) in the ARNP's area of certification; or
 - (c) The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law.
- (3) For an emotional or mental impairment, the department shall only accept as primary evidence reports from:
- (a) A psychiatrist;
 - (b) A licensed clinical psychologist;
 - (c) An advanced registered nurse practitioner when certified in psychiatric nursing;
 - (d) A mental health professional designated by the local community mental health agency, as defined under RCW 71.05.020; or
 - (e) A physician, at the department's discretion.

(4) For a claimed or apparent developmental disability, the department may accept as primary evidence reports from a medical professional skilled in identifying developmental disabilities.

(5) The department shall accept as supplemental medical evidence reports from:

- (a) Treating practitioners, such as a chiropractor, nurse, or physician's assistant; or
- (b) DSHS institutions and agencies which are providing or have provided services to the person.

NEW SECTION**WAC 388-235-5080 Medical evidence requirements.**

(1) The department shall only accept written medical evidence containing clear, objective medical documentation which includes:

- (a) A diagnosis for the incapacitating conditions;
 - (b) The effect of the condition on the individual's ability to perform work-related activities; and
 - (c) Relevant medical history and sufficient medical documentation to support any conclusions of incapacity.
- (2) When making an incapacity decision, the department shall not place significant weight on an individual's report of symptoms unless medical findings show that a medical condition is present that could reasonably be expected to produce the symptoms which are reported. In such cases, clear, objective medical information must be present, including professional observation and relevant medical history, which supports conclusions about:
- (a) The existence and persistence of the symptom(s); and
 - (b) Its effect on the individual's ability to function.

(3) The department shall consider the opinion of the treating or consulting physicians or health care professionals when determining a person's incapacity. The department shall set forth clear and convincing reasons for rejecting

uncontradicted medical opinion in making an incapacity decision.

(4) The determination of incapacity shall be made solely by the department based on the medical information received. The department shall not be bound by decisions of incapacity or unemployment made by another agency or person.

NEW SECTION

WAC 388-235-5090 Assigning severity ratings. The department shall assign severity ratings on a scale of one to five including a severity rating of:

- (1) "One" when a person's impairment has no effect on the performance of basic work-related activities;
- (2) "Two" when a person's impairment has no significant effect on performance of basic work-related activities;
- (3) "Three" when a person's impairment significantly limits performance of at least one basic work-related activity;
- (4) "Four" when a person's impairment very significantly limits performance of at least one basic work-related activity; and
- (5) "Five" when a person's impairment prevents the performance of at least one basic work-related activity.

NEW SECTION

WAC 388-235-5100 PEP step I—Review of medical documentation. (1) The department shall review a person's medical documentation to ensure the following requirements are met:

- (a) The medical report contains sufficient information as described under WAC 388-235-5070;
- (b) An authorized medical professional wrote the medical report;
- (c) The medical report documents the existence of a potentially incapacitating condition; and
- (d) The medical report indicates an impairment is expected to last ninety days or more from the application date.

(2) The department may require additional medical information when the information received is insufficient to decide incapacity.

(3) The department shall deny a person's application when:

- (a) There is a single impairment with objective findings consistent with a severity rating less than "three"; or
- (b) A reported impairment is not expected to last ninety days or more (or twelve weeks) from the date of application.

NEW SECTION

WAC 388-235-5200 PEP step II—Severity of mental impairments. (1) If a mental impairment is claimed, the department shall determine severity of the person's mental or emotional disorder based on:

- (a) Psychosocial and treatment history;
- (b) Clinical findings;
- (c) Results of special tests; and
- (d) Professionally observed symptomatology that indicates impairment of the person's ability to perform basic work-related activities.

(2) For a person diagnosed as mentally retarded, the department shall assign a person's severity rating based on:

(a) A full test intelligence quotient (IQ) score. The department shall consider a person's IQ score of:

- (i) Eighty-five or above within normal limits and is rated "one";
- (ii) Seventy to eighty-four as borderline intellectual functioning and is rated "three";
- (iii) Sixty-nine or below as mental retardation and is rated "five"; or

(b) The lowest IQ subscale score, for example, verbal or performance, rated as described under subsection (2)(a) of this section when:

- (i) The full IQ test could not be given; and
- (ii) At least two subscale scores are provided.

(3) For a person diagnosed as having an organic mental disorder, the department shall assign a severity rating based on the most severe of the following three areas of a person's impairment:

- (a) Marked memory defect for recent events;
- (b) Impoverished, slowed, perseverative thinking, with confusion or disorientation; or
- (c) Labile, shallow, or coarse affect.

(4) The department shall base the severity of a person's functional psychotic or nonpsychotic disorder, excluding alcoholism or drug addiction, on:

(a) Clinical assessment of these twelve symptoms: Depressed mood, suicidal trends, verbal expression of anxiety or fear, expression of anger, social withdrawal, motor agitation, motor retardation, paranoid behavior, hallucinations, thought disorder, hyperactivity, preoccupation with physical complaints; and

(b) An overall assessment of:

- (i) Intensity and pervasiveness of the symptoms as described under subsection (4)(a) of this section; and
- (ii) Effect on the client's ability to perform work-related activities.

(c) The department shall assign a minimum severity rating of "three" when one or more of the person's symptoms, as described under subsection (4)(a) of this section is present and one or more of the following conditions are met:

- (i) A diagnosis of psychotic disorder has been made;
- (ii) The person has been hospitalized for psychiatric reasons two or more times within the preceding two years;
- (iii) The person has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding two years;

(iv) The person is considered at least moderately impaired by at least three of the above-listed symptoms; or

(v) The person is considered as at least moderately impaired in the overall assessment of intensity and pervasiveness of these symptoms.

(d) The department shall assign a minimum rating of "four" when the overall assessment of the intensity and pervasiveness of these symptoms is:

(i) Marked; or

(ii) Moderate and three or more of the above symptoms are present to at least a marked degree.

(e) The department shall assign a rating of "five" when the overall assessment of the intensity and pervasiveness of these symptoms is:

(i) Severe; or

(ii) Marked and three or more of the above symptoms are present to a severe degree.

(5) When a person is diagnosed as being impaired in more than one area, the department shall assign one mental rating based on ratings in each of the three areas:

(a) A person with two or more moderate impairments or one or more moderate and one marked impairment is considered to have an overall mental severity rating of "four";

(b) A person with two or more marked impairments is considered to have an overall mental severity rating of "five."

(6) When the overall functioning level appears consistent with the person's overall mental severity rating, the department shall:

(a) Deny GAU when the person does not have a significant claimed physical impairment and an overall mental severity rating of "one" or "two";

(b) Approve GAU when the person has an overall mental severity rating of "five," regardless of whether a significant claimed physical impairment exists; or

(c) Evaluate the person at the next applicable step, when the person:

(i) Has an overall mental severity rating of "three" or "four"; or

(ii) Has a mental severity rating of "two" and also has a physical impairment.

NEW SECTION

WAC 388-235-5300 PEP step III—Severity of physical impairments. (1) When a person claims a physical impairment, the department shall determine the severity rating of the person's physical impairment based on current medical evidence that provides an objective description of the impairment.

(2) The department shall assign a severity rating for each diagnosed physical impairment:

(a) The department shall use the examining medical evidence provider's given severity rating when:

(i) The given rating is substantiated by and consistent with the medical evidence provided;

(ii) The medical evidence provider's assessment of functional capacities is consistent with the department's definition of the given severity rating; and

(iii) The medical evidence provider's given severity rating is not contradicted by:

(A) Other evidence from the same evaluation; or

(B) By evidence from a separate, current evaluation of the client.

(b) The department shall assign a severity rating by comparing the medical findings of the client's functional capacities with the severity rating definitions when:

(i) The medical evidence provider fails to assign a severity rating; or

(ii) The rating does not meet the conditions under subsection (2)(a) of this section.

(3) After assigning a severity rating to each physical impairment, the department shall:

(a) Deny GAU when the person does not have a diagnosed mental impairment rated "two" or more and only

one physical impairment consistent with a severity rating of "two";

(b) Approve GAU if the person's physical impairment is consistent with a severity rating of "five"; or

(c) Evaluate the person at "step 4" when the person

(i) Has a multiple physical impairment rated "two," "three," or "four"; or

(ii) Has both physical and mental impairment ratings of at least "two."

NEW SECTION

WAC 388-235-5400 Progressive evaluation process—Step IV—Multiple impairments. (1) When a person has two or more diagnosed impairments and each impairment is consistent with a severity rating of "two" or more but none are consistent with a severity rating of "five," the department shall:

(a) Assign an overall severity rating; and

(b) Classify each diagnosis according to body system based upon the International Classification of Diseases (ICD), 9th revision.

(2) The department shall disregard severity ratings assigned to a person's alcoholism or drug addiction in this process.

(3) When a person's diagnosed impairments are all classified under the same body system, the department shall assign an overall severity rating for the person by:

(a) Using the highest rating given by the medical evidence provider to an impairment within that system; or

(b) When all impairments are rated "two," raising the severity rating to "three" when the impairments have the cumulative effect of significantly interfering with one or more basic work-related activity.

(4) When all diagnosed impairments, including mental disorders, are classified under at least two body systems, the department shall assign an overall severity rating by combining the highest rating from each body system. The department shall:

(a) Assign an overall severity rating of "four" when there are two or more impairments with severity ratings of "three" or one or more impairment has a severity rating of "three" and one impairment has a severity rating of "four";

(b) Assign an overall severity rating of "five" when there are two or more impairments with severity ratings of "four";

(c) Assign an overall severity rating of "three" only when:

(i) There are two or more impairments;

(ii) No impairments are rated higher than "two"; and

(iii) The impairments have the cumulative effect of significantly interfering with one or more basic work-related activities.

(5) When an overall severity rating is assigned, the department shall:

(a) Deny GAU if the impairments are consistent with an overall severity rating of "two"; or

(b) Approve GAU if the impairments have an overall severity rating of "five"; or

(c) Evaluate the person at the next step.

NEW SECTION

WAC 388-235-5500 Progressive evaluation process—Step V—Functional mental capacity. (1) The department shall evaluate the functional capacity of a person with mental impairments assigned an overall severity rating of "three" or "four" by assessing the person's specific cognitive and social factors.

(2) The department shall evaluate cognitive factors by assessing a person's abilities to:

- (a) Understand, remember, and follow simple, one-or-two step instructions;
- (b) Understand, remember, and follow complex instructions, with three or more steps;
- (c) Learn new tasks;
- (d) Exercise judgment and make decisions; and
- (e) Perform routine tasks without undue supervision.

(3) The department shall approve GAU when the clinical assessment indicates the person:

(a) Is at least moderately impaired in their ability to understand, remember, and follow simple, one-or-two step instructions and is at least moderately limited in their ability to:

- (i) Learn new tasks, exercise judgment, and make decisions; and
- (ii) Perform routine tasks without undue supervision; or
- (b) Can understand, remember, and follow simple instructions, but is:

(i) At least moderately impaired in their ability to understand, remember, and follow complex instructions, with three or more steps; and

(ii) Markedly limited in the ability to learn new tasks, exercise judgment and make decisions, and perform routine tasks without undue supervision.

(4) The department shall evaluate a person's social factors by assessing the person's abilities to:

- (a) Relate appropriately to coworkers and supervisors;
- (b) Interact appropriately in public contacts;
- (c) Tolerate the pressures of a work setting;
- (d) Care for self, including personal hygiene; and
- (e) Maintain appropriate behavior in a work setting.

(5) The department shall:

- (a) Assess the limitations on the person's social functioning indicated by the medical evidence provider; and
- (b) Approve GAU if a combination of significant limitations exists in the area of social functioning that precludes gainful employment.

NEW SECTION

WAC 388-235-5600 Progressive evaluation process—Step V—Functional physical capacity. (1) The department shall consider the effect of a person's physical impairment on the ability to perform work-related activities when a person's physical impairments are assigned an overall severity rating of "three" or "four."

(a) The department shall assess physical functional capacity based on the person's exertional, exertionally-related and nonexertional limitations.

(b) For the department to consider a limitation, the limitation must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(2) The department shall assign an exertion level and determine a person's exertionally-related limitations by comparing all available medical evidence to the definitions of exertional levels, exertionally-related limitations and nonexertional limitations under WAC 388-235-5020 when:

(a) The medical evidence provider does not document that a person's diagnosed impairment causes a limitation on work-related activities; or

(b) A given limitation is not consistent with objective medical evidence.

(3) "Exertion level" means a comparison of a person's capacity to lift, carry, stand and walk with the strength needed to fulfill job duties in the following work categories. For this subsection, occasionally means less than one-third of the time and frequently means one-third to two-thirds of the time:

(a) Sedentary: A person is in this category when capable of lifting ten pounds maximum and occasionally lifting and/or carrying such articles as dockets, ledgers, and small tools. Although a sedentary job is one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are only required occasionally and other sedentary criteria are met.

(b) Light: A person is in this category when capable of lifting twenty pounds maximum with frequent lifting and/or carrying of objects weighing up to ten pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls.

(c) Medium: A person is in this category when capable of lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds.

(d) Heavy: A person is in this category when capable of lifting one hundred pounds maximum with frequent lifting and/or carrying of objects weighing up to fifty pounds.

(4) "Exertionally-related limitations" means a restriction in mobility, agility or flexibility in the following twelve activities: Balancing, bending, climbing, crawling, crouching, handling, kneeling, pulling, pushing, reaching, sitting, and stooping.

(5) "Nonexertional physical limitations" means restrictions on work activities that do not affect strength, mobility, agility, or flexation.

NEW SECTION

WAC 388-235-5700 Evaluating vocational factors for progressive evaluation process—Steps VI and VII. (1) The department shall consider vocational factors of age, education, and work experience only when a person's impairment(s) have been assigned an overall severity rating of an "three" or "four."

(2) The department shall evaluate education in terms of formal schooling or other training which enables a person to meet job requirements. The department shall classify a person's education as:

(a) "Illiterate" when a person is able to sign their name, but cannot read or write a simple communication, such as instructions, or inventory lists;

PERMANENT

(b) "Limited education" when a person has completed formal education of the eleventh grade level or less or special education, unless there is evidence to the contrary; or

(c) "High school education and above" when a person has completed high school or obtained a general education equivalency degree (GED) and is capable of work at a semi-skilled through skilled job level, unless there is evidence to the contrary.

(3) The department shall evaluate a person's work experience to determine if it constitutes relevant past work. Relevant past work is defined as work:

(a) Normally done for pay or profit. Noncompetitive work, like working in a sheltered workshop, jobs where the impaired worker was given special consideration, or the regular activities of a student or homemaker, is excluded;

(b) Performed in the past five years; and

(c) Done long enough for the person to acquire the skills to continue doing the job, considering the reasons for losing or frequently changing jobs or the specific skills or nature of the job. If the job is not excluded based on such considerations, the department shall consider the person to have the necessary work skills when the following minimum cumulative time periods are met:

(i) Thirty days for unskilled work;

(ii) Three months for semi-skilled work; and

(iii) Six months for skilled work.

(4) The department shall evaluate a person with relevant work experience and determine whether the person has transferrable skills. The department shall compare the person's description of the relevant work with the general work requirements for jobs in the following occupational areas:

(a) Managerial and administrative;

(b) Professional, paraprofessional, and technical;

(c) Sales;

(d) Clerical and administrative support;

(e) Service;

(f) Agriculture, forestry, and fishing; and

(g) Production, construction, maintenance, and material moving.

NEW SECTION

WAC 388-235-5800 Progressive evaluation process—Step VI—Evaluate capacity to perform past work. (1) The department shall evaluate a person's ability to perform relevant past work in relation to current functional capacities before considering the person's age and educational factors.

(2) For each job the department considers part of the person's relevant work experience, the department shall determine:

(a) The exertional or skill requirements of the job; and

(b) Current cognitive, social, or nonexertional factors that significantly limit the person's ability to perform relevant past work.

(3) After evaluating a person's relevant past work experience, the department shall:

(a) Deny GAU when a person has:

(i) The physical or mental ability to perform past relevant work and a significant cognitive, social or nonexertional limitation does not exist; or

(ii) Recently acquired specific work skills through successful completion of vocational training enabling the person to work within current physical or mental capacities;

(b) Approve GAU when the person:

(i) Is fifty-five years of age or older; and

(ii) Has an impairment that is assigned an overall severity rating of at least "three"; and

(iii) Does not have the physical or mental ability to perform relevant past work or does not have relevant past work; or

(c) Evaluate the person at the next step.

NEW SECTION

WAC 388-235-5900 Progressive evaluation process—Step VII—Evaluating capacity to perform other work.

(1) If a person is unable to perform past work, the department shall evaluate a person's ability to perform other work.

(2) The department shall approve GAU for a person who has a significant physical limitation and is limited to:

(a) Sedentary work; or

(b) Light work, and the person is:

(i) Fifty years of age or older;

(ii) Thirty-five years of age or older and cannot speak, read, or write English; or

(iii) Eighteen years of age or older and has a limited education or less and no relevant past work.

(c) Medium work, and the person is:

(i) Fifty years of age or older and has a limited education or less and no relevant past work; or

(ii) Fifty-five years of age or older without consideration of educational level or other work limitations.

(d) Heavy work with only nonexertional limitations and fifty-five years of age or older.

(3) The department shall approve GAU when a person is in the following age ranges and has the described cognitive or social limitations on a functional mental capacity:

(a) Fifty years of age or older with a:

(i) Moderate limitation on the ability to relate appropriately to coworkers and supervisors; and

(ii) Marked limitation on the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting.

(b) Eighteen to fifty-four years of age with a severe limitation on the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting; or

(c) Eighteen to forty-nine years of age and has:

(i) A severity rating of "four" and one or more of the twelve symptoms identified in WAC 388-235-5200 (4)(a) listed as "severe"; and

(ii) "Moderate" limitation in the ability to relate appropriately to coworkers and supervisors; and

(iii) "Marked" limitation in the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting.

(4) The department shall approve GAU when a person has both a significant mental impairment and a significant physical impairment and:

(a) Either impairment meets the criteria in subsection (2) or (3) of this section; or

(b) The person meets the criteria in subsection (3)(a) of this section when age is disregarded; or

(c) After disregarding relevant past work experience, a person with limited education or less is:

(i) Fifty years of age or older and work activities are restricted to medium exertional level or less; or

(ii) Eighteen to forty-nine years of age and their work activities are restricted to light exertional level.

(5) The department shall approve or deny eligibility for GAU by administrative review for any person not eligible for GAU using the criteria in subsection (2), (3), or (4) of this section.

(a) A team of two or more department designees shall conduct the administrative review; and

(b) The administrative review team shall decide incapacity by assessing, independent of the progressive evaluation process, all available medical information and identified vocational factors, including transferable skills, for effects on the person's ability to do work-related activities.

NEW SECTION

WAC 388-235-6000 Duration of assistance based on incapacity. (1) The department shall determine the duration of a person's incapacity based on the department's evaluation of the medical evidence and other relevant information in the case record.

(2) The department shall establish the duration of assistance based on a person's incapacity. The duration shall not exceed twelve months without a redetermination of the incapacity.

NEW SECTION

WAC 388-235-7000 Purpose of referrals. The purpose of treatment or other agency referrals is to:

- (1) Restore or improve the person's ability to work for pay in a regular and predictable manner;
- (2) Reduce the person's need for general assistance.

NEW SECTION

WAC 388-235-7100 Treatment and referral requirements. (1) For GAU eligibility, an incapacitated person shall accept and follow through on required available medical treatment, which is reasonably expected to render the person able to work, unless there is good cause for failure to do so.

(2) The department shall provide written notification of a person's treatment requirements at the time of initial approval and at each redetermination.

(3) The department shall recommend available medical services, provided under the state-financed medical care services program.

(4) The department shall assess and decide if a person needs to be referred to treatment, referred to other agencies, or other social services. After the initial assessment, the department will assess the person's treatment and social services needs once a year or more often.

(5) When a client fails or refuses treatment, referral to other agencies, or other social services, the department shall make the "good cause" determination based on criteria in WAC 388-235-7500.

(6) Any recipient disagreeing with treatment requirements may request a fair hearing. Once a person's request is initiated, the department shall take no adverse action as a result of a person's failure to comply with the treatment at issue pending a decision.

NEW SECTION

WAC 388-235-7200 Other agency referral requirements. (1) The department shall screen each person to determine appropriateness of referral to other agencies which can reasonably be expected to reduce the need for assistance.

(2) For GAU eligibility, an incapacitated person shall accept and follow through on required referrals to other agencies, unless there is good cause for failure to do so as provided under WAC 388-235-7500.

NEW SECTION

WAC 388-235-7300 ADATSA referral requirements. (1) The department shall refer a person claiming incapacity based primarily on alcoholism or drug dependency for evaluation under the alcoholism and drug addiction treatment and support act (ADATSA).

(2) The department shall evaluate a person for general assistance who appears to have significant mental or physical impairments resulting from, or in addition to, alcoholism or drug addiction when the person:

- (a) Indicates upon application that other physical or mental impairments may be incapacitating in themselves; or
- (b) The person is rejected for the alcoholism and drug addiction treatment and support program, and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient shall be required to undergo an alcohol/drug assessment when the:

- (a) Person claims an alcohol or drug problem; or
- (b) Department obtains medical or clinical evidence indicating that within the last eighteen months, such a problem appears to exist; or

(c) Department receives information that the person has been arrested for an alcohol-or drug-related offense within the last ninety days; or

(d) Person meets one or more of the criteria in subsections (3)(a) through (c) of this section and the need for a protective payee must be established.

(4) Applicants whose mental, emotional, and/or physical condition is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition.

(a) The effects of the alcoholism or drug addiction must be differentiated from the other condition in order to determine incapacity.

(b) Unless it can be reasonably established that the other condition would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the person is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition cannot be clearly differentiated, the department shall refer the person to ADATSA for evaluation and/or treatment.

(6) The provisions under subsections (4) and (5) of this section apply to recipients as well, except that a person

PERMANENT

whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established under the ADATSA or GAU program will remain on GAU subject to WAC 388-235-8130 provisions.

(7) The department may require a person to undergo a period of alcohol or drug treatment before re-evaluating the person's eligibility for general assistance.

(8) The department shall determine program eligibility for a person impaired by chemical dependency, who also has mental or physical impairments, as follows:

(a) A person qualifying for both general assistance and ADATSA shelter program may choose either program;

(b) A persons qualifying for both general assistance and ADATSA treatment shall participate in ADATSA treatment when it can reasonably be expected to enable the person to work or reduce the need for assistance, unless the person has good cause to refuse; or

(c) An alcohol and drug addict qualifying for general assistance who has good cause to refuse or who does not qualify for ADATSA treatment, shall be required to cooperate with an alternative alcohol or drug treatment plan which can reasonably be expected to enable the person to work or to reduce the need for assistance, unless there is good cause to refuse.

(9) A person qualifying for general assistance and also determined by the assessment center to be actively addicted shall have a general assistance grant issued by protective payment.

NEW SECTION

WAC 388-235-7500 Good cause for refusing medical treatment or other agency referrals. The department shall find that a client has good cause for refusing required medical treatment when such client's refusal is based on any of the following conditions:

(1) The client is genuinely fearful of undergoing required treatment. Such fear may appear to be unrealistic or irrational; however, fear exists in such a degree that treatment would be adversely affected;

(2) The client could lose a faculty, or the remaining use of faculty, and refuses to accept the risk;

(3) Because of the client's definitely stated religious scruples, the client will not accept required medical treatment;

(4) The client is temporarily unable to participate in required medical treatment, due to an intervening incapacity. The temporary inability to participate must be documented by medical evidence. The requirement to participate is again imposed as soon as the client is able to participate;

(5) The client was not properly notified of the treatment required and/or the consequences for failure to comply with these requirements; or

(6) The client's treatment required by previous written notification is subsequently determined by the department to have been inappropriate or unavailable. The department shall consider treatment unavailable when the treatment includes copayments or service charges not covered by the department, and the client is denied access to the treatment due to an inability to pay.

NEW SECTION

WAC 388-235-7600 Sanction for refusing medical treatment or other agency referrals. The department shall terminate GAU to a person who has been referred to, but refuses to accept a referral to or pursue available required medical treatment or available services or benefits from other agencies without good cause until the person:

(1) Agrees to accept and/or pursue such treatment or service; and

(2) Is subject to the following maximum periods of ineligibility after reapplication:

(a) First refusal - one week;

(b) Second refusal within six months - one month; and

(c) Third and subsequent refusals within one year - two months.

NEW SECTION

WAC 388-235-8000 Redetermination of financial eligibility. The department shall redetermine financial eligibility for a GAU client every six months or more often of continuous receipt of assistance.

NEW SECTION

WAC 388-235-8100 Redetermination of incapacity.

(1) The department shall redetermine incapacity for a GAU recipient every twelve months or more often, but may redetermine a recipient's incapacity at any time based on new information.

(2) The department shall redetermine a recipient's eligibility due to incapacity based on current medical information.

(3) If a recipient's incapacity is not substantiated and the conditions in WAC 388-235-8130 are met, then the department shall deny continued eligibility.

NEW SECTION

WAC 388-235-8130 Determining a recipient is no longer incapacitated—Termination proviso. (1) The department shall demonstrate one or more of the following conditions exist before determining a recipient is not incapacitated:

(a) Clear improvement in the recipient's overall medical condition based on new medical evidence. "Clear improvement" means, since incapacity was established:

(i) The physical or mental impairment, on which incapacity was based, has decreased in severity to the point where the recipient is capable of gainful employment; or

(ii) The effect of that impairment on work-related activities has been significantly diminished through therapy, medication, or rehabilitation to the point where the recipient is capable of gainful employment; or

(b) A previous error in the eligibility decision. "Previous error" means a client's incapacity was previously established based on:

(i) Faulty or insufficient information; or

(ii) An erroneous procedure based on the rule in effect at the time.

(2) The department shall not apply the clear improvement or previous error criteria under subsection (1) of this section when:

(a) A person has a break in assistance of over thirty days and the person does not meet the criteria for retroactive reinstatement as required under WAC 388-235-8200;

(b) The department determines the recipient is engaged in gainful employment;

(c) The department determines a recipient receiving services through the division of vocation rehabilitation (DVR) is not incapacitated, but assistance has been extended through the completion of the training program by an exception to policy; or

(d) The recipient does not meet the categorical eligibility requirements for the GAU program.

NEW SECTION

WAC 388-235-8140 Redetermination of eligibility based on mental retardation. The department shall consider a person's incapacity established without medical documentation at the time of review when the person is currently receiving GAU based on mental retardation if the client:

(1) Has submitted current medical evidence documenting a diagnosis of mental retardation with a full scale score on the Wechsler Adult Intelligence Scale (WAIS) of seventy or lower; or

(2) Has submitted current medical evidence documenting a diagnosis of mental retardation or borderline intellectual functioning with a full scale score on the WAIS of seventy-one to seventy-five and meets the following criteria:

(a) Has submitted current medical evidence which documents another mental or physical impairment of marked severity; and

(b) The current medical evidence documents that medical treatment for the other mental or physical impairment is not likely to restore or substantially improve the person's ability to work.

(3) Cooperates with required referral to the division of developmental disabilities (DDD) and an application for SSI.

NEW SECTION

WAC 388-235-8150 Redetermination for a recipient appearing to meet federal disability criteria for SSI. The department may extend the incapacity period up to one year from the latest date of incapacity determination, without further medical documentation, when the department determines the client appears to meet federal disability criteria to receive SSI.

(1) At the end of the one-year period, the department shall redetermine the client's GAU eligibility based on current medical evidence.

(2) If the client is denied SSI after application and any administrative appeal before the end of the incapacity certification period, the department shall adjust the client's incapacity period to be the greater of:

(a) The end of the previously established incapacity period based on current medical evidence; or

(b) Sixty days after the SSI denial date.

NEW SECTION

WAC 388-235-8200 Reinstating eligibility after termination due to lack of medical evidence. (1) The department shall reinstate a client's eligibility the day following the date of termination if assistance was terminated due to lack or insufficiency of medical evidence to establish incapacity if:

(a) The lack or insufficiency of medical evidence is not due to the client's failure to cooperate in gathering said evidence; and

(b) The client provides the additional medical evidence subsequent to the termination, which establishes that the client has been, and continues to be, incapacitated since the date of termination; and

(c) The additional medical evidence substantiates incapacity.

NEW SECTION

WAC 388-235-9000 Benefits from other programs. The department shall deny requests for, or terminate, GAU to a person:

(1) Eligible for or receiving aid to families with dependent children (AFDC);

(2) Eligible for or whose needs are met by SSI, except as provided under WAC 388-235-9300;

(3) Under sanction for failure to comply with AFDC or supplemental security income (SSI) requirements;

(4) Failing or refusing to cooperate without good cause in obtaining AFDC or SSI;

(5) Unemployable due to alcohol or drug addiction. Such person shall be referred to the alcoholism and drug addiction treatment and support program.

NEW SECTION

WAC 388-235-9100 GAU pending SSI eligibility. The department shall authorize GAU to a client, who in the department's opinion, may become eligible for or is seeking SSI. Such assistance shall be authorized through the month SSI payments begin if the client:

(1) Applies for SSI and follows through with the application; and

(2) Assigns the initial or reinstated SSI payment to DSHS as provided under WAC 388-235-9200; and

(3) Is otherwise eligible.

NEW SECTION

WAC 388-235-9200 Assignment and recovery of interim assistance. (1) "Interim assistance" means the state funds the department provides to, or on behalf of, the client to meet basic needs during the:

(a) Interim period the client's initial application for SSI is pending and subsequently approved; or

(b) Period the client's SSI payments were suspended or terminated, and subsequently reinstated for that period; and

(c) The month recurring SSI payments begin.

(2) The department shall require a client, who in the department's opinion may become eligible for or is seeking SSI, to assign the initial or reinstated SSI payment to the department. The assignment shall be up to the amount of the interim assistance the department provides to the client.

(3) The department shall recover interim assistance from the client's initial or reinstated SSI payment when provided totally out of state funds.

(4) The department shall provide up to twenty-five percent of the interim assistance reimbursement on a case to the attorney who has successfully represented that client in the client's effort to receive SSI.

NEW SECTION

WAC 388-235-9300 GAU to an SSI recipient whose SSI check is lost, stolen, or missent. (1) The department may grant GAU to an SSI client whose SSI check has been lost, stolen, missent, or otherwise delayed when the client:

(a) Agrees, in writing, to repay the amount of the GAU issued; and

(b) Meets all other GAU eligibility requirements.

(2) When the client's SSI check is lost in the mail, the department shall:

(a) Delay the issuance of GAU for ten working days from the first of the month in which the SSI check was issued; or

(b) Waive the delay and issue the check immediately if the department determines the SSI client has an emergent need.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

388-37 General assistance—Eligibility—Standards of assistance—Payment.

**WSR 93-16-059
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Order 3556—Filed July 29, 1993, 11:03 a.m.]

Date of Adoption: July 29, 1993.

Purpose: The Department of Social and Health Services is currently rewriting, reorganizing, and recodifying WAC policies relating to financial and medical assistance programs. This will facilitate on-line (computer) access by eligibility staff in field offices and make the policies easier to understand. Chapter 388-37 WAC is recodified under chapter 388-230 WAC.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-14-086 on June 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-230-0010 added the words "grant assistance", WAC 388-230-0050 clarified to be consistent with current rule policy contained in chapters 388-37 and 388-235 WAC. WAC 388-230-0060 words "or alien status" was added. WAC 388-230-0080 adds subsection (1)(b) to include patients in medical institutions as eligible persons and subsection (2) clarified language. WAC 388-230-0110 clarifies language.

Changes in content from the proposed rule and the adopted version are as follows: WAC 388-230-0010, the term "grant assistance" was added to indicate which types of programs are referred to; WAC 388-230-0050, this section was totally rewritten to be consistent with current WAC policy contained in chapter 388-37 WAC and WAC policy as stated in the rewrite of the GAU chapter 388-235 WAC; WAC 388-230-0060, the phrase "or alien status" was added; WAC 388-230-0080, subsection (1)(b) has been added to include patients in medical institutions as eligible persons. Subsection (2) has been rewritten to change the words "under the control of" to "has been committed to the confinement and custody of" and to reformat the subsection; WAC 388-230-0110, the section was rewritten to state the same policy that was intended in the original proposal, but with more clarity and a less confusing manner. The policy stated is the current policy followed by the department, there is no change.

The principal reasons for adopting the changes are as follows: WAC 388-230-0010, comments were received from two sources that indicated the type of programs referred to needed to be specified for clarity. We want to ensure that: It is understood that this WAC chapter is intended for eligibility for the financial grant assistance program, and women are not denied eligibility for this program if they are receiving a federally-funded program such as food stamps or section 8 housing; WAC 388-230-0050, the initial version was written in an attempt to simplify policy. However, in doing so the department appeared to be making a policy change, which was not intended. The proposed rule has been rewritten to state the policy in the same format and wording as was previously stated in chapter 388-37 WAC; WAC 388-230-0060, based on a comment received, the phrase was added to ensure that this criteria be considered when applying program criteria for eligibility determination; WAC 388-230-0080, based on a comment received, realized that I overlooked the inclusion of patients in medical institutions as eligible clients. Corrected this oversight. Also changed the wording in subsection (2) to clarify what "under the control of" meant. Then changed the format of subsection (2) to an outline format for ease of reading; and WAC 388-230-0110, based on a comment received, realized that the policy was stated in a confusing manner and did not appear to be consistent with current policy. This is a new statement of policy not contained in current WAC and is needed due to the difference in grant payment standards between GA and GAS adopted by the 1993 legislature. It is intended to state that the higher AFDC payment standard is used for GAS clients and that eligibility for a couple is based on a two-person standard.

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

July 29, 1993

Rosemary Carr
Acting Director

Administrative Services

**Chapter 388-230 WAC
GENERAL ASSISTANCE FOR PREGNANT
WOMEN.**

PERMANENT

NEW SECTION

WAC 388-230-0010 Purpose of program. (1) General assistance for pregnant women (GA-S) is a state-funded grant assistance program providing for the needs of:

- (a) A pregnant woman; or
 - (b) A woman who has relinquished her newborn for adoption.
- (2) GA-S is used only when federally-funded grant assistance programs are not available.

NEW SECTION

WAC 388-230-0030 Definitions. (1) "Institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

(2) "Public institution" means an institution that is supported in whole or in part from public funds and is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

NEW SECTION

WAC 388-230-0040 Summary of eligibility conditions. (1) The department shall grant GA-S to a person who meets the eligibility conditions stated in this chapter and is:

- (a) A pregnant woman not eligible for AFDC or CEAP for reasons other than refusal or failure to cooperate without good cause in obtaining such assistance; or
- (b) A woman who relinquished a newborn for adoption if the woman was receiving:
 - (i) GA-S at the time of the birth of the child; or
 - (ii) AFDC at the time of the birth of the child and subsequently loses AFDC eligibility because an eligible child does not reside in the household.

(2) Assistance granted under subsection (1)(b) of this section shall be limited to the end of the month containing the last day of the six week period following the day the child is born.

NEW SECTION

WAC 388-230-0050 Assistance units. (1) The department shall include the following persons in single assistance unit:

- (a) A pregnant single person; or
- (b) A married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women; or
- (c) Only the pregnant woman in the case of a married couple when the other spouse is employable.

(2) The department shall include only the pregnant woman in the payment of the grant assistance under the GA-S program.

NEW SECTION

WAC 388-230-0060 Eligibility conditions—Program criteria. For GA-S, the department shall apply the general assistance unemployable (GAU) program criteria applicable to:

- (1) Citizenship or alien status;

- (2) Social security number; and
- (3) Residency.

NEW SECTION

WAC 388-230-0080 Persons in institutions. (1) If otherwise eligible for GA-S, the department may grant GA-S to a person in an institution if the person is not:

- (a) An inmate of a public institution;
- (b) A patient of a public institution unless in a medical institution; or
- (c) A patient of a public institution unless in an institution for mental disease and is:
 - (i) Sixty-five years of age or older; or
 - (ii) Twenty years of age or younger.

(2) If a person has been committed to the confinement and custody of a public institution such as a state penitentiary or county jail, the department shall consider the person an inmate of the public institution if he or she is:

- (a) On a work release program; or
- (b) Confined to a place of residence other than the institution.

NEW SECTION

WAC 388-230-0090 Eligibility conditions—Financial criteria. In determining financial eligibility and grant amounts, the department shall follow aid to families with dependent children income, resource, and payment rules.

NEW SECTION

WAC 388-230-0110 Need and payment standards. (1) In determining a persons's need and payment amounts, the department shall use the need and grant payment standards applicable to the aid to families with dependent children program.

(2) In the case of a married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women:

- (a) Eligibility and payment will be based on the two-person need and payment standard; and
- (b) The wife is the only person who can receive grant assistance under the GA-S program.

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.

NEW SECTION

WAC 388-230-0120 Protective payees. For a recipient unable to manage assistance funds, the department shall follow aid to families with dependent children protective payee rules.

NEW SECTION

WAC 388-230-0140 Ineligibility based on benefits from other programs. The department shall deny requests for or terminate GA-S to a person:

- (1) Eligible for or receiving CEAP or AFDC;
- (2) Eligible for or whose needs are being met by supplemental security income (SSI);

PERMANENT

- (3) Currently under sanction for failure to comply with AFDC or SSI requirements; or
- (4) Who fails or refuses to cooperate without good cause in obtaining AFDC, CEAP, or SSI.

WSR 93-16-060
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed July 29, 1993, 1:15 p.m.]

Date of Adoption: July 27, 1993.
 Purpose: Change in licensing fees.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 308-17-150.
 Statutory Authority for Adoption: RCW 18.165.170(1).
 Pursuant to notice filed as WSR 93-13-146 on June 23, 1993.
 Effective Date of Rule: Thirty-one days after filing.
 Note: Effective date with those licenses expiring on or after September 1, 1993.

July 28, 1993
 M. C. Collins
 Assistant Director
 Business and Professions Division

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-150 Private detective agency, private detective, and armed private detective fees. The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Private detective agency:	
Application/examination	((\$300.00)) <u>\$350.00</u>
Reexamination	25.00
License renewal	((200.00)) <u>275.00</u>
Late renewal with penalty	((300.00)) <u>350.00</u>
Certification	25.00
Private detective:	
Original license	(((50.00))) <u>75.00</u>
Certified trainer examination/ reexamination	25.00
License renewal	(((40.00))) <u>75.00</u>
Late renewal with penalty	(((50.00))) <u>100.00</u>
Certification	25.00
Armed private detective:	
Original license	(((25.00))) <u>50.00</u>
Certified trainer examination/ reexamination	25.00
License renewal	(((40.00))) <u>75.00</u>
Late renewal with penalty	(((50.00))) <u>100.00</u>
Certification	25.00

WSR 93-16-061
PERMANENT RULES
HIGHER EDUCATION
PERSONNEL BOARD

[Filed July 29, 1993, 2:19 p.m., effective August 5, 1993]

Date of Adoption: June 29, 1993.
 Purpose: To correct errors in sections WAC 251-22-167 and 251-22-195 in the rule-making order filed as WSR 93-14-115.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 251-22-167 and 251-22-195.
 Statutory Authority for Adoption: RCW 28B.16.100.
 Other Authority: Federal Family and Medical Leave Act of 1993.
 Pursuant to notice filed as WSR 93-11-103 on May 19, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 251-22-167 Disability leave, under subsection (1) a sentence has been added to clarify that serious health condition for an employee is included in the disability leave. We felt this was not clear. Subsection (2) is a cross reference and reminder that disability leave falls within the scope of the Family Medical and Leave Act of 1993 as provided in WAC 251-22-116 and there is a total of 12 weeks for the described leaves. In subsection (5)(a) the wording has been modified from "serious health condition" to "the condition." The current rules allow for up to four months of health care coverage during a leave for disability or parental reasons. The Family Medical and Leave Act of 1993 provides for 12 workweeks. Changes to subsection (10) and (11) is an effort to clarify that the employee may request continued disability leave up to four months and the institution will provide for continuation of benefits. The four months includes the initial 12 workweeks that are provided by the Family Medical and Leave Act of 1993. The institutions have the discretion to approve additional leave. It also clarifies that the institution may recover the premiums paid to maintain coverage during unpaid leave when the employee does not return to work. The state employees insurance board will change its name to the public employees benefits board on July 1 and that change is also reflected here; and WAC 251-22-195 Parental leave, the changes in subsection (2) are a cross reference and reminder of total time allowed for these leaves. Under subsection (2), (a) and (b) deal with the current benefit which allows employees to take up to four months of parental leave. (a) Restates that the four months includes the 12 workweeks provided in WAC 251-22-116 but more time may be granted. (b) Continues the current rules which allow parental leave to be denied on the basis of operational necessity. Only the time between the 12 weeks allowed by the Family and Medical Leave Act and the four months allowed by the HEPB can be denied. (c) The Family and Medical Leave Act requires that parental leave must be taken only during the first year following the child's birth or placement. Additional wording has been added to clarify that placement refers to adoption or foster care for a child. The current rules allow for up to four months of health care coverage during a parental leave. The Family Medical and Leave Act of 1993 provides for 12 workweeks. Changes to subsection (5) and (6) clarify that the employee may request continued parental leave up to four months and the institution will provide for continuation

PERMANENT

of benefits. The four months includes the initial 12 workweeks that are provided by the Family Medical and Leave Act of 1993. The institutions have the discretion to approve additional leave. It also clarifies that the institution may recover the premiums paid to maintain coverage during unpaid leave when the employee does not return to work. (On the proposal, subsection (4) which is now subsection (6) was deleted.) (In subsection (6) of the original filing of the rulemaking order an apostrophe was inadvertently placed on the end of the word hours, however, this corrected filing shows the apostrophe removed.)

Any Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rules: An earlier effective date of August 5, 1993, is necessary because the rules are related to the Federal Family and Medical Leave Act of 1993 which is effective August 5, 1993, as well.

Effective Date of Rule: August 5, 1993.

July 29, 1993

Dennis Karras, Director
Department of Personnel

AMENDATORY SECTION (Amending Order 161, filed 9/30/87)

WAC 251-22-167 Disability leave. (1) Disability leave shall be granted for a reasonable period to a permanent employee who is precluded from performing his/her job duties because of a disability (including those related to pregnancy or childbirth). ~~((The disability and recovery period shall be as defined and certified by a licensed health care provider, subject to a second opinion at the employer's expense.))~~ Disability leave includes a serious health condition of the employee as provided in the federal Family and Medical Leave Act of 1993.

(2) An employee is entitled to a total of twelve workweeks for disability leave, parental leave, and family medical leave-serious health condition during any twelve-month period as provided in WAC 251-22-116.

(3) In any case in which the necessity for leave is foreseeable based on planned medical treatment, the employee shall provide not less than thirty days' notice, except that if the treatment requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable.

(4) The disability and recovery period shall be as defined and certified by the employee's licensed health care provider. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(5) Certification provided under this section shall be sufficient if it states:

(a) The date on which the condition commenced;

(b) The probable duration of the condition;

(c) The appropriate medical facts within the knowledge of the health care provider regarding the condition;

(d) A statement that the employee is unable to perform the essential functions of his/her position.

(6) The employer may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer. The health care provider shall not be employed on a regular basis by the employer.

(7) In any case in which the second opinion differs from the original certification, the employer may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee. The opinion of the third health care provider shall be final and binding.

(8) The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

(9) Disability leave may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave of absence without pay and shall be granted at the written request of the employee. ~~((Except as described in subsection (3) of this section.))~~ The combination and use of paid and unpaid leave during a disability leave shall be per the choice of the employee.

~~((3) The employee shall be allowed to use eight hours of accrued paid leave per month for up to four months during a disability leave of absence without pay to provide for continuation of state employees insurance board benefits. The employer shall designate on which day of each month the eight hours paid leave will be used.))~~ (10) The institution shall maintain health care coverage during disability leave granted under the provisions of WAC 251-22-116, in accordance with the requirements of the public employees' benefits board. As specified in the federal Family and Medical Leave Act of 1993, the institution may recover the premium for maintaining coverage during the period of unpaid disability leave if the employee does not return to work.

(11) If necessary due to continued disability, the employee shall be allowed to use eight hours of accrued paid leave per month for up to four months, including the twelve workweeks provided in WAC 251-22-116, to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

AMENDATORY SECTION (Amending Order 161, filed 9/30/87)

WAC 251-22-195 Parental leave. (1) Parental leave ~~((may))~~ shall be granted to a permanent employee ~~((for the purpose of bonding with the employee's natural newborn or prekindergarten age adoptive child.~~

(2)) because of the birth of a child of the employee and in order to provide care, or because of the placement of a child with the employee for adoption or foster care.

(2) An employee is entitled to a total of twelve workweeks for disability leave, parental leave, and family medical leave-serious health condition during any twelve-month period as provided in WAC 251-22-116.

(a) Parental leave shall not total more than four months, including the twelve workweeks provided in WAC 251-22-116, unless additional time is granted by the personnel officer.

(b) Requests for up to four months of parental leave that exceed the provisions of WAC 251-22-116 may be denied on the basis of operational necessity.

(c) Parental leave must be taken during the first year following the child's birth or placement of the child with the employee for adoption or foster care.

PERMANENT

(3) The employee shall submit a written request for parental leave to the employing official or designee and must receive the approval of both the employing official and the personnel officer. ~~((Requests may be denied only on the basis of operational necessity.))~~

(a) The employee shall provide not less than thirty days' notice, except that if the child's birth or placement requires leave to begin in less than thirty days, the employee shall provide notice as is practicable.

(b) Within ten working days of the receipt of the request, the institution shall provide the employee with a written response and, if the leave is denied, rationale supporting the operational necessity and the notice of the employee's right to appeal per WAC 251-12-076.

~~((3))~~ (4) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay (and must immediately follow disability leave if taken. Except as described in subsection (4) of this section.)). The combination and use of paid and unpaid leave during a parental leave shall be per choice of the employee. ((Parental leave shall not extend beyond four months after the child's birth or placement, unless additional time is granted by the personnel officer.

~~(4) The employee shall be allowed to use eight hours per month of the accrued paid leave identified in subsection (3) of this section for up to four months during a parental leave of absence without pay to provide for continuation of state employees insurance board benefits. The employer shall designate on which day of each month the eight hours paid leave will be used.))~~

(5) The institution shall maintain health care coverage during parental leave granted under the provisions of WAC 251-22-116, in accordance with the requirements of the public employees' benefits board. As specified in the federal Family and Medical Leave Act of 1993, the institution may recover the premium for maintaining coverage during the period of unpaid parental leave if the employee does not return to work.

(6) If necessary due to continued approved parental leave, the employee shall be allowed to use eight hours per month of the accrued paid leave identified in subsection (4) of this section for up to four months, including the twelve workweeks provided in WAC 251-22-116, during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

In-kind contributions and expenditures—Reporting; 390-16-230 Surplus campaign funds—Use in future; 390-16-240 Earmarked contributions—Definition and use; 390-16-310 Limitations on contributions; 390-16-312 Handling contributions of uncertain origin; 390-18-010 Political advertising—Identification of sponsor; and 390-18-020 Political advertising—Political party identification.

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 93-12-018, 93-12-019, 93-12-020, 93-12-021, 93-12-022, 93-12-023, 93-12-026, 93-12-027, 93-12-028, 93-12-029, 93-12-030, 93-12-031, 93-12-032, 93-12-033, 93-12-034, and 93-12-035 on May 21, 1993.

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

July 29, 1993

Graham E. Johnson

Executive Director

NEW SECTION

WAC 390-05-190 Agent—Definition. "Agent", as that term is used in chapter 42.17 RCW, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

- (1) authorized by another to act on his or her behalf; or
- (2) who represents and acts for another with the authority or consent of the person represented; or
- (3) acts for or in place of another by authority from him or her.

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17.020(5) and RCW 42.17.630(3):

- (1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or
- (2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence((-); or
- (3) Meeting the requirements set forth in WAC 390-16-230 (1) or (2).

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 85-03, filed 7/9/85)

WAC 390-05-205 Definition of term "consumable." For the purpose of RCW 42.17.020(10) and RCW 42.17.630 (5)(d) the term "consumable" includes the amount paid for food, beverages, preparation, ~~((or))~~ catering or entertainment cost ~~((or fair market value of items sold, raffled, or given as prizes furnished at the event)).~~

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 93-16-064

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed July 30, 1993, 8:34 a.m.]

Date of Adoption: July 27, 1993.

Purpose: Adopt and amend rules pertaining to the recently passed Initiative 134.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-200 Definition—Candidates for public office—Time for filing; 390-05-205 Definition of term "consumable"; 390-05-210 Definition—Contribution; 390-05-215 Receipt of a campaign contribution; 390-16-207

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 91-14-041, filed 6/27/91)

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in RCW 42.17.020(10) and RCW 42.17.630(5) shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) The following activities are not considered to be contributions or independent campaign expenditures reportable under RCW 42.17.090 or 42.17.100:

(a) News, feature, or editorial comment in a broadcast media program or in a regularly scheduled issue of a printed periodical (~~((including periodicals published by businesses and organizations for their respective employees or members)))~~ to communicate ratings, evaluations, endorsements, or recommendations for or against a candidate or ballot proposition; PROVIDED, that the medium is controlled by a person whose primary business is broadcasting or publishing and this person is not a candidate or political committee;

(b) Internal (~~(political)~~) publications or other communications containing political comment ((from)) of (i) a corporation or similar enterprise ((to)) for its officers, management staff, and stockholders, (ii) ((or from)) of a union, association, or other membership organization ((to)) for its members, or (iii) of a political party organization or political committee for its contributors;

(c) Messages in the form of reader boards, banners, yard or window signs displayed on a person's own property or property occupied by ~~((the organization, business or union))~~ a person: PROVIDED, That any ((person, space, or property)) facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution and shall count towards the contribution limit of the person providing the facility.

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

AMENDATORY SECTION (Amending WSR 92-05-081, filed 2/18/92)

WAC 390-05-215 Receipt of a campaign contribution. "Receipt" of a campaign contribution, as that term is used in chapter 42.17 RCW, shall be deemed to occur at the earliest of the following:

(1) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly

situated campaign official obtains possession of the contribution, or

(2) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary or conduit, has possession of the contribution, or

(3) the date that the contribution becomes available for use by the candidate or committee.

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-207 In-kind contributions and expenditures—Reporting. (1) Whenever a candidate or a political committee makes one or more in-kind expenditures which (i) directly or indirectly, in whole or in part, benefit another identifiable candidate or political committee and (ii) in the aggregate amount to a value of fifty dollars or more in the reporting period, then, for the purpose of complying with the provisions of RCW 42.17.090 (1)(f);

(a) Such candidate or political committee shall identify the candidate or political committee benefitted by such expenditure and state the value thereof; and

(b) The candidate or political committee that receives benefit of such expenditure or expenditures shall report a corresponding amount as a contribution received and as an expenditure made by such candidate or political committee.

(2) Whenever a candidate or a political committee makes an in-kind expenditure which supports or opposes more than one candidate or ballot proposition, the person making such expenditure shall identify each candidate or ballot proposition to which such support or opposition is directed and, if the aggregate expenditure amounts to fifty dollars or more, shall state the prorated amount of the expenditure or expenditures properly attributable to each such candidate or ballot proposition.

(3) Whenever a candidate or political committee provides its equipment, property or other facilities owned, retained, leased or controlled by it to another candidate or political committee, the fair market value of the use of such equipment, property or other facilities, if it amounts to fifty dollars or more, shall be reported as follows:

(a) By the candidate or political committee providing the equipment, property or other facilities, by attaching to its form C-4, Schedule B, a statement setting forth the name of the candidate or political committee benefitted and the date, description and value of the in-kind contribution made by it;

(b) By the candidate or political committee benefitting from the use of such equipment, property or other facilities, by reporting the value of such use in its form C-4, Schedule B, both as a contribution and as an expenditure.

(4) Corporations, unions and other entities not prohibited from making contributions by RCW 42.17.640(10) may make available their facilities for volunteer activities such as telephone banks without incurring an in-kind contribution so long as the activity does not exceed four hours per month. More frequent use of such facilities will constitute an in-kind contribution which must be valued at the fair market value of comparable facilities. "Volunteer services" does not include the production of political advertising, holding

fundraising events or providing transportation to candidates or campaign workers of candidates, political parties or caucus committees.

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 86-01, filed 2/5/86)

WAC 390-16-230 Surplus campaign funds—Use in future. (1) If at any time in the future or after the last day of the election cycle for candidates as defined in RCW 42.17.630(3) any contribution or expenditure is received by or made from such surplus fund or funds for any purpose which would qualify the holder as a candidate or political committee, it will be presumed the holder of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution or expenditure is received or made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus fund may be reported as one sum and listed as a contribution identified as "funds from previous campaign," provided that all augmentations to and all expenditures made from the retained surplus fund from the initial date of retention are reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17.630(3), if at any time after the last day of the election cycle, any contribution or expenditure is received by or made from such surplus fund or funds for any purpose which would qualify the holder as a candidate or political committee, it will be presumed the holder of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution or expenditure is received or made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus funds as of the last day of the election cycle may be reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to his or her new campaign are not subject to contribution limits set forth in RCW 42.17.640.

~~((2) A candidate who, or the political committee of a candidate which, retains surplus funds to use for the support or opposition of other candidates or of ballot propositions has established a continuing political committee, and must thereafter report as such.))~~

(3) All contributions received after the last day of the election cycle shall be reported on the initial report clearly

showing the source and amount of the contributions. All such contributions will be applied to the contribution limit of the contributor for the candidate's next election campaign.

~~((3))~~ (4) A political committee formed to support or oppose a particular ballot proposition or particular candidates which retains surplus funds to use in support or opposition of other candidates or of other ballot propositions has become a continuing political committee and must thereafter report as such.

AMENDATORY SECTION (Amending WSR 91-14-041, filed 6/27/91)

WAC 390-16-240 Earmarked contributions—Definition and use. (1) Earmarked contributions, as that term is used in RCW 42.17.135 and 42.17.670, means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.

(2) For purposes of RCW 42.17.640, an earmarked contribution is deemed to be for the promotion of, and attributable to any limit applicable to the candidate, authorized committee, bona fide political party, caucus of the state legislature or political committee designated by the original contributor.

(3) If an earmarked contribution is given to an intermediary or conduit to be spent on behalf of a candidate and the entire amount given is not used for this purpose, the remainder of the contribution shall be given to the designated candidate unless its use is redesignated by the original contributor. If the conduit or intermediary exercise any direction or control over the use of the remainder of the contribution, then the amount of the remainder shall be considered a contribution from the original contributor and the conduit or intermediary to the recipient.

~~((2))~~ (4) The intermediary or conduit receiving the earmarked contribution shall notify the candidate or political committee for whose use or benefit the contribution is designated within two working days after receipt of the contribution.

(5) If an earmarked contribution is refused by the designated recipient candidate or political committee, the earmarked contribution must be returned by the intermediary or conduit to the original contributor within five working days of refusal.

NEW SECTION

WAC 390-16-232 Same office last sought. A candidate is considered to be seeking the "same office last sought," as that term is used in RCW 42.17.095, when the candidate seeks:

- (1) the identical office last sought; or
- (2) a different position or seat of the same office last sought within the same jurisdiction; or
- (3) the same office, whether a different seat or position, in a revised district or political subdivision whenever the boundaries of a district or political subdivision are officially

altered through redistricting, consolidation or other official procedure.

NEW SECTION

WAC 390-16-234 Transfers of surplus funds. (1)

One candidate may reimburse another for the former's proportionate share of a documented and properly reported joint campaign expense without the transaction constituting a "transfer" within the meaning of RCW 42.17.095.

(2) A candidate may transfer any amount of his or her surplus funds to an exempt contributions account of a party or caucus committee.

(3) If a candidate transfers his or her surplus funds to an account, other than an exempt account of a bona fide political party or caucus, the candidate may only transfer up to the \$2,500 to the bona fide political party or \$500 to the caucus committee per year.

(4) Transfers to exempt accounts must be made by a separate written instrument.

AMENDATORY SECTION (Amending WSR 92-05-079, filed 2/18/92)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17-105(8) and RCW 42.17.640 shall be as follows:

(1) The limitation on contributions shall not apply to a "candidate" as that term is defined in RCW 42.17.020(5) and 42.17.630(3) when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(2) The limitations on contributions shall apply separately to the contributions made by each spouse.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions if the contribution is properly attributed to the emancipated minor child and if;

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to the parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under to RCW 42.17-105(8) and 42.17.640.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership from the contributions made by an individual partner except that;

Contributions made from or charged against the capital account of an individual partner shall be aggregated with the partner's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(6) The limitations on contributions shall apply separately to the contributions made by a corporation, union, association or subsidiary corporation, or subdivision of the union, association or other similar organization except that;

(a) A contribution from a wholly owned or controlled subsidiary corporation or subdivision of a union, association or other similar organization shall be aggregated with the contributions of the parent or controlling corporation or organization for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(b) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by an entity, if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by the factors set forth in WAC 390-16-308 (5)(i) through ~~((vii))~~ (x).

(7) The limitations on contributions shall apply separately to political committees except that; Political committees which are established, financed, maintained or controlled by any corporation, organization or any other person, including any parent, subsidiary, branch, division, department, or local unit of such persons shall be aggregated and considered as having been made by a single political committee for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

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

NEW SECTION

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate.

(2) For purposes of the \$3,000 loan repayment limit imposed by RCW 42.17.125(3), loans by a candidate are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(3) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

AMENDATORY SECTION (Amending WSR 91-14-041, filed 6/27/91)

WAC 390-16-312 Handling contributions of uncertain origin. No contribution shall be deposited by any candidate or treasurer who believes, from the face of the contribution instrument or for any other reason, the contribution was made in a fictitious name, by one person through an agent, relative, political committee, or any other person so as to conceal the source of the contribution or to exceed the contribution limits provided in RCW 42.17.105(8) or 42.17.640. The candidate or treasurer shall return such contributions within ten calendar days to the original contributor if his or her identity is known. Otherwise, the contribution instrument shall be endorsed and made payable to "Washington state treasurer" and the contribution sent to the public disclosure commission for deposit in the state's general fund.

**Chapter 390-17 WAC
CONTRIBUTION LIMITATIONS**

NEW SECTION

WAC 390-17-011 Caucus of the state legislature—Definition. "Caucus of the state legislature," as that term is used in RCW 42.17.610 - 42.17.790 means the political committee established by a caucus of a major political party in each house of the state legislature established for the primary purpose of supporting and opposing candidates.

NEW SECTION

WAC 390-17-013 Committee—Definition. "Committee" as that term is used in RCW 42.17.610 - 42.17.790 means political committee and authorized committee.

NEW SECTION

WAC 390-17-015 Conduit—Definition. (1) "Conduit," as that term is used in chapter 42.17 RCW, is defined as a person, other than an individual, who receives and spends earmarked contributions on behalf of a designated candidate, bona fide political party, caucus of the state legislature or other political committee.

(2) Pursuant to RCW 42.17.730, a conduit may not make or transmit contributions on behalf of another.

NEW SECTION

WAC 390-17-017 Facilities—Definition. "Facilities," as that term is used in RCW 42.17.630(3), means that which facilitates or makes some campaign activity possible, including but not limited to: use of stationary, postage, machines and equipment, use of employees of an entity during working hours, vehicles, office space, room or building, publications of an entity or client list of an entity.

NEW SECTION

WAC 390-17-030 Sample ballots. (1) Sample ballot, as that term is used in RCW 42.17.630 (5)(b)(iv), means a printed list that includes a majority of all of the partisan offices on the ballot and that also may include ballot

measures and nonpartisan races to be voted on at a particular primary, general or special election; all without promotion of or political advertising for specifically named individual candidates.

(2) A sample ballot cannot indicate the sponsor's preference for any specific candidate or candidates listed on the ballot.

(3) A sample ballot may contain a list of candidates, limited to the identification of the candidates (pictures may be used), the office or position currently held, the elective office sought and the party affiliation, as long as the same category of information is given for all candidates listed. The list shall not include additional biographical data on candidates, their positions on political issues or statements on party philosophy.

(4) A sample ballot which meets the above criteria is not considered a contribution to any of the candidates listed in the ballot.

NEW SECTION

WAC 390-17-052 Independent expenditure—Disclosure. For purposes of the disclosure requirement in RCW 42.17.550, the county of residence for an out-of-state person making an independent expenditure in support or opposition to a ballot proposition shall be either:

(1) Thurston county if the independent expenditure is for a statewide ballot proposition; or

(2) For local ballot propositions, the county or counties where the ballot proposition will appear on the election ballot.

NEW SECTION

WAC 390-17-100 Contribution withholding authorizations. (1) For purposes of RCW 42.17.680(3), all political contribution withholding authorizations existing on or before January 1, 1993, will expire no later than December 31, 1993. Beginning January 1, 1994, each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington

(a) for the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17.040, .050, .060 or .090 (1)(k), or

(b) for use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Employers may either use the suggested format below or their own form if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name, city and state of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) The date on which the authorized withholdings or diversions are to be effective;

(f) A statement specifying that the authorization is not valid for more than 12 months after the effective date;

(g) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candi

date, ballot proposition, political party, or political committee;"

(i) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above. The forms may accommodate annual re-authorization by providing space for the employee's signature and the date of re-authorization is signed, up to three re-authorizations.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a non-resident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without annual, written permission from that individual. Completion of this form entitles the entity specified to make such a withholding for no more than 12 consecutive months.

I, _____, authorize _____
First Name Middle Initial Last Name Name of Employer or Other Person

_____ to withhold \$ _____ per / pay period / week / month / year /
Amount Circle One

from my earnings in order to make political contributions to _____
Name, City and State of

_____ political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____ This authorization is

valid for no more than twelve consecutive months. It is effective on _____
Month/Day/Year

and expires on _____
Month/Day/Year

Signature: _____ Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

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

NEW SECTION

WAC 390-17-200 Major political party organizations. (1) With respect to a major political party, each of the following is considered a separate organization for purposes of making and receiving contributions: governing body of the state organization, county central committee and legislative district committee.

(2) Each major political party is restricted to one state central committee, one county central committee per county and one legislative district committee per legislative district.

(3) Each major political party shall designate each county central committee and each legislative district committee and shall notify the commission within two weeks following the designation by filing a PDC form C-1pc.

NEW SECTION

WAC 390-17-205 Number of registered voters— Calculation. (1) For purposes of determining the number of registered voters in a jurisdiction, as required in RCW 42.17.640, bona fide political parties and caucus committees shall initially use the number of registered voters as of the date of the last general election for the office sought by the candidate for whom the contribution is to be made. The final number of registered voters for an election will be the number of registered voters on the last day of voter registration prior to the relevant election according to chapter 29.07 RCW.

(2) If the bona fide political party or caucus committee makes contributions to a candidate based on the initial number of registered voters and the final number of registered voters is less than the initial number such that the aggregate contributions made to the candidate exceeds the contribution limit, the bona fide political party or caucus committee shall request and the candidate shall, after

PERMANENT

receiving this request, return to the bona fide political party or caucus committee, that amount which exceeds the contribution limit.

(3) For purposes of this rule and RCW 42.17.640, registered voters and eligible registered voters shall have the same meaning.

NEW SECTION

WAC 390-17-300 Contribution designation for primary and general election. (1) Pursuant to RCW 42.17.640(1), if a contribution is designated in writing by the contributor for a specific election, the contribution will be attributed to the contributor's limit for that designated election.

(2) An undesignated contribution made prior to the date of a primary election, shall be attributed to the contributor's limit for the primary election. Undesignated contributions made after the date of the primary must be attributed to the contributor's limit for the general election.

(3) Any portion of an undesignated contribution made prior to the date of the primary which exceeds the contributor's primary election contribution limit shall be attributed to the contributor's limit for the general election.

(4) If a candidate loses in the primary election, all funds held in the campaign accounts, whether contributions attributed for the primary or general election, shall be considered surplus funds, disposal of which is governed by RCW 42.17.095.

NEW SECTION

WAC 390-17-305 Personal funds of a candidate. (1) The personal funds of a candidate include:

(a) Assets which the candidate has legal access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;

(b) Income from employment;

(c) Dividends and proceeds from stocks and other investments;

(d) Income from trusts, if established before candidacy;

(e) Income from trusts established from bequests, even if established after candidacy;

(f) Personal gifts, if customarily received; and

(g) Proceeds from lotteries and similar games of chance.

(2) A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse. If the candidate's financial interest is not specified, then the candidate's share is deemed to be half the value of the asset.

(3) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. Such funds are considered a contribution under chapter 42.17 RCW unless the loan meets the exemption provided in RCW 42.17.720(3).

NEW SECTION

WAC 390-17-310 Doing business in Washington. (1) A corporation or business entity is "doing business in Washington state" for purposes of RCW 42.17.640(10) if it conducts continuous and substantial activities in Washington state of such character as to give rise to a legal obligation.

Such things as registering as a foreign corporation in Washington, operating business locations in Washington, hiring employees to work in Washington or purchasing supplies or services from other businesses in Washington may be considered in determining whether a corporation or business entity is doing business in Washington state.

(2) Prior to making contributions reportable under RCW 42.17, a corporation or business entity shall appoint an agent for service of process in Washington state.

NEW SECTION

WAC 390-17-315 Political committees—Qualifications to contribute. In order to make contributions as permitted by RCW 42.17.640(10), a political committee must, within the 180 days prior to making the contribution, receive contributions of \$10 or more from at least ten individuals registered to vote in Washington state at the time they contributed to the political committee. These ten individuals must be identified by name and address on the next report or statement the political committee files with the commission.

NEW SECTION

WAC 390-17-400 Time limit for state officials to solicit or accept contributions. For purposes of complying with RCW 42.17.710:

(1) A successful candidate for state office does not have to comply with RCW 42.17.710 until sworn into office.

(2) An unsuccessful incumbent state official must comply with RCW 42.17.710 until his or her term expires.

(3) "Freeze period," as used in this rule, means the period of time in RCW 42.17.710 within which a state official cannot accept or solicit contributions. The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session. If a special session is held immediately following the end of the regular legislative session, this period ends on the day the special session adjourns or at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session, whichever is later.

(4) A state official may solicit or accept contributions during the freeze period to assist his or her campaign for a non-state office.

(5) A state official may accept gifts valued at over \$50 during the freeze period so long as the gift is not (a) to be used to defray non-reimbursed public office related expenses, (b) as a contribution to a candidate or authorized committee, or (c) used to retire a campaign debt.

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-18-010 Political advertising. Identification of Sponsor. (1) For the purposes of RCW 42.17.510 and this rule, "sponsor" means the candidate, political committee or other person paying for the advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(2) With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed or broadcast.

(3) If more than one person sponsors specific advertising, the identity of each sponsor must be shown. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, it is unnecessary to include that contributor's name as a sponsor provided the contribution is reported in accordance with applicable provisions of chapter 42.17 RCW.

(4) Printed advertising shall clearly state in ~~an area a~~ printed or drawn box set apart from the body of the text any other printed matter that it has been paid for by the sponsor (Example: (1) Paid for by the XYZ Committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code). Broadcast advertising shall conform to the requirements of the Federal Communications Commission.

(5)(a) Political advertising consisting of more than one page but intended to be presented as a single item (i.e. 3-page letter with return envelope) must identify the sponsor on the first each page of the advertising. ~~Identification on subsequent pages or inserts to the same advertising is not required.~~ Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient.

(b) Political advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously must show the respective sponsor on the respective items.

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

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-18-020 Political advertising—Political party identification. ~~(1) In newspaper advertising, brochures, mailings and similar printed advertising, a candidate's political party affiliation must be:~~

~~(a) printed in letters no smaller than 10 point bold face type (or 1/8" high if type is not used);~~

~~(b) placed in an area apart from the body of the text of the advertisement.~~

~~(2) On yard signs, bus signs, hand held signs, banners, bumper strips, posters and similar type advertising, a candidate's political party affiliation must be:~~

~~(a) printed in letters no smaller than 60 point type (or 5/8" high if type is not used);~~

~~(b) printed in a color which contrasts with the background on which the party affiliation is printed.~~

~~(3) The commission shall publish a suggested list of abbreviations or symbols which may be used by candidates and political committees which the commission finds will clearly identify political party affiliation.~~

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 93-16-072
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed August 1, 1993]

Date of Adoption: August 1, 1993.

Purpose: To clarify and simplify methodologies used to reimburse providers of health care services.

Citation of Existing Rules Affected by this Order: Repealing chapters 296-21A and 296-22 WAC; and amending chapters 296-20, 296-21, 296-23, and 296-23A WAC.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Other Authority: SSB 1352.

Pursuant to notice filed as WSR 93-11-095 on May 19, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-20-01002, 296-20-135, 296-23-205, and 296-23-215, the term "drugless therapeutics" has been changed to "naturopathic physicians" in order to update existing language.

Effective Date of Rule: Thirty-one days after filing, September 1, 1993.

August 1, 1993

Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 92-24-066, filed 12/1/92, effective 1/1/93)

WAC 296-20-010 General information. (1) The following rules ~~((and fees are promulgated pursuant to RCW 51.04.020. This fee schedule is intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedule, the practitioner shall bill the department or self-insurer at the lower rate. The department or self-insurer will pay the lesser of the billed charge or the fee schedule maximum allowable.~~

(2)) are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Health Services Analysis
Interested Person's Mailing List for the Fee Schedules
P.O. Box 44322
Olympia, WA 98504-4322

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate. The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to all practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

~~((3))~~ (4) The methodology for determining the maximum allowable fee for a procedure is ~~((determined by multiplying the unit value of a procedure by the appropriate conversion factor, per the conversion factor tables listed in WAC 296-20-135 to 296-20-155))~~ listed in WAC 296-20-132 and 296-20-135.

~~((4) Initial and follow-up visit charges by practitioners include routine examinations, physical modalities, injections, minor procedures, etc., not otherwise provided for in this schedule.)~~ (5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

~~((5))~~ (6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

~~((6))~~ (7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to Chapter 296-20 WAC and department policy for reporting requirements.

~~((7))~~ (8) Except as provided in WAC 296-20-055 (temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

~~((8))~~ (9) When ~~((an injured))~~ a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

~~((9))~~ (10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send provider bills by type (UB-~~((82))~~92) to ~~((the))~~: Department of Labor and Industries, P.O. Box 44266, Olympia, Washington 98504-4266~~((-6))~~.

Adjustments, Home Nursing and Miscellaneous~~((7))~~ to ~~((the))~~: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 99504-44267~~((-7))~~Pharmacy~~((7))~~ to ~~((the))~~: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 99504-4268 ~~((and -6))~~.

HICA~~((7))~~ to ~~((the))~~: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers preceded by a letter other than "S," "T," or "V."

Department of energy claims have seven digit numbers with no letter prefix.

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers preceded by a "S," or "T."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

~~((10))~~ (11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending WSR 92-24-066, filed 12/1/92, effective 1/1/93)

WAC 296-20-01002 Definitions. Termination of treatment: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

Unusual or unlisted procedure: Value of unlisted services or procedures should be substantiated "by report" (BR).

"By report": BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too

unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative (~~or narrative~~), medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) (~~Major~~) Surgical procedure(s) and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to (~~this schedule~~) the fee schedules;
- (5) Estimated follow-up;
- (6) Operative time;
- (7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

"Independent or separate procedure": Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

~~((Sv. items: Sv (service) procedures are not essentially a single procedure, rather they are comprised of several other procedures. These "Sv" procedures although identified by a specific code number, can be described only in terms of the several services included. Therefore, unit values are not indicated for Sv procedures and total value is derived from the values of the individual services performed. These Sv procedures require "BR" (see above) information to substantiate billing.))~~

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include but are not limited to:

- (1) Date(s) of service;
- (2) Patient's name and date of birth;
- (3) Claim number;
- (4) Name and title of the person performing the service;
- (5) Chief complaint or reason for each visit;
- (6) Pertinent medical history;
- (7) Pertinent findings on examination;
- (8) Medications and/or equipment/supplies prescribed or provided;
- (9) Description of treatment (when applicable);
- (10) Recommendations for additional treatments, procedures, or consultations;
- (11) X-rays, tests, and results; and
- (12) Plan of treatment/care/outcome.

Attending doctor report: This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

Consultation examination report: The following information must be included in this type of report. Additional information may be requested by the department as needed.

(1) A detailed history to establish:

(a) The type and severity of the industrial injury or occupational disease.

(b) The patient's previous physical and mental health.

(c) Any social and emotional factors which may effect recovery.

(2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.

(3) A detailed physical examination concerning all systems affected by the industrial accident.

(4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.

(5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:

(a) Due solely to injury.

(b) Preexisting condition aggravated by the injury and the extent of aggravation.

(c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.

(d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).

(6) Conclusions must include:

(a) Type treatment recommended for each pathological condition and the probable duration of treatment.

(b) Expected degree of recovery from the industrial condition.

(c) Probability, if any, of permanent disability resulting from the industrial condition.

(d) Probability of returning to work.

(7) Reports of necessary, reasonable x-ray and laboratory studies to establish or confirm the diagnosis when indicated.

Bundled codes: When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

Fee schedules or maximum fee schedule(s): The fee schedules consist of, but are not limited to the following:

(a) Health Care Financing Administration's Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

Medical Aid Rules: The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

Modified work status: The ((injured)) worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. ((Injured)) Workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

Regular work status: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date

of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

Temporary partial disability: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary.

All time loss compensation must be certified by the attending doctor based on objective findings.

Permanent partial disability: Any anatomic or functional abnormality or loss after maximum rehabilitation has been achieved, which is determined to be stable or nonprogressive at the time the evaluation is made. When the attending doctor has reason to believe a permanent impairment exists, the department or self-insurer should be notified. Specified disabilities (amputation or loss of function of extremities, loss of hearing or vision) are to be rated utilizing a nationally recognized impairment rating guide. Unspecified disabilities (internal injuries, spinal injuries, mental health, etc.) are to be rated utilizing the category system detailed under WAC 296-20-200 et al. for injuries occurring on or after October 1, 1974. **Under Washington law disability awards are based solely on physical or mental impairment due to the accepted injury or conditions without consideration of economic factors.**

Total permanent disability: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

Doctor: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; ~~((drugless therapeutics))~~ naturopathic physician; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and time loss cards except as provided in ((WAC 296-20-100)) chapter 296-20 WAC.

Health services provider or provider: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, ((~~drugless therapeuticians~~)) naturopathic physicians, and durable medical equipment dealers.

Practitioner: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

Physician: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

Acceptance, accepted condition: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

Authorization: Notification by a qualified representative of the department or self-insurer that specific medically necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

Medically necessary: Those health services are medically necessary which, in the opinion of the director or his or her designee, are:

- (a) Proper and necessary for the diagnosis and curative or rehabilitative treatment of an accepted condition; and
- (b) Reflective of accepted standards of good practice within the scope of the provider's license or certification; and
- (c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and
- (d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered medically necessary. Services which are controversial, obsolete, experimental, or investigational are presumed not to be medically necessary, and shall be authorized only as provided in WAC 296-20-03002(6).

Utilization review: The assessment of a claimant's medical care to assure that it is medically necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the

duration, frequency or quantity of services provided in relation to the accepted condition being treated.

Emergent hospital admission: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the worker's health or treatment outcome.

Nonemergent (elective) hospital admission: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

Attendant care: Those personal care services that assist a worker with dressing, feeding, and personal hygiene to facilitate self-care and are provided in order to maintain the worker in their place of temporary or permanent residence consistent with their needs, abilities, and safety. These services may be provided by but are not limited to, registered nurses, licensed practical nurses, registered nursing assistants, and other individuals such as family members.

Home nursing: Those nursing services that are medically necessary to maintain the worker in their place of temporary or permanent residence consistent with their needs, abilities, and safety. These services may be provided by but are not limited to, home health care, and hospice agencies on either an hourly or intermittent basis.

AMENDATORY SECTION (Amending WSR 90-04-057, filed 2/2/90, effective 3/5/90)

WAC 296-20-015 Who may treat. (1) In order to treat workers under the Industrial Insurance Act, a health care provider must qualify as an approved provider under the department's rules. The department must approve the health care provider through the issuance of a provider number before the health care provider is eligible for payment for services.

(2) Para-professionals, who are not independently licensed, must practice under the direct supervision of a licensed health care professional whose scope of practice and specialty training includes the service provided by the para-professional. The department may deny direct reimbursement to the para-professional for services rendered, and may instead directly reimburse the licensed and supervising health care professional for covered services. Payment rules for para-professionals may be determined by department policy.

(3) Procedures and evaluations requiring specialized skills and knowledge will be limited to board certified or board qualified physicians, or osteopathic physicians as specified by the American Medical Association or the American Osteopathic Association.

(4) The department as a trustee of the medical aid fund has a duty to supervise provision of proper and necessary medical care that is delivered promptly, efficiently, and economically. The department can deny, revoke, suspend, limit, or impose conditions on a health care provider's authorization to treat workers under the Industrial Insurance Act. Reasons for denying issuance of a provider number or imposing any of the above restrictions include, but are not limited to the following:

(a) Incompetence or negligence, which results in injury to a worker or which creates an unreasonable risk that a worker may be harmed.

(b) The possession, use, prescription for use, or distribution of controlled substances, legend drugs, or addictive, habituating, or dependency-inducing substances in any way other than for therapeutic purposes.

(c) Any temporary or permanent probation, suspension, revocation, or type of limitation of a practitioner's license to practice by any court, board, or administrative agency.

(d) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the provider's profession. The act need not constitute a crime. If a conviction or finding of such an act is reached by a court or other tribunal pursuant to plea, hearing, or trial, a certified copy of the conviction or finding is conclusive evidence of the violation.

(e) The failure to comply with the department's orders, rules, or policies.

(f) The failure, neglect, or refusal to:

(i) Provide records requested by the department pursuant to a health care services review or an audit.

(ii) Submit complete, adequate, and detailed reports or additional reports requested or required by the department regarding the treatment and condition of a worker.

(g) The submission or collusion in the submission of false or misleading reports or bills to any government agency.

(h) Billing a worker for:

(i) Treatment of an industrial condition for which the department has accepted responsibility; or

(ii) The difference between the amount paid by the department under the maximum allowable fee set forth in these rules and any other charge.

(i) Repeated failure to notify the department immediately and prior to burial in any death, where the cause of the death is not definitely known and possibly related to an industrial injury or occupational disease.

(j) Repeated failure to recognize emotional and social factors impeding recovery of a worker who is being treated under the Industrial Insurance Act.

(k) Repeated unreasonable refusal to comply with the recommendations of board certified or qualified specialists who have examined a worker.

(l) Repeated use of:

(i) Treatment of controversial or experimental nature;

(ii) Contraindicated or hazardous treatment; or

(iii) Treatment past stabilization of the industrial condition or after maximum curative improvement has been obtained.

(m) Declaration of mental incompetency by a court or other tribunal.

(n) Failure to comply with the applicable code of professional conduct or ethics.

(o) Failure to inform the department of any disciplinary action issued by order or formal letter taken against the provider's license to practice.

(p) The finding of any peer group review body of reason to take action against the provider's practice privileges.

(q) Misrepresentation or omission of any material information in the application for authorization to treat workers. (Chapter 51.04 RCW.)

(5) If the department finds reason to take corrective action, the department may also order one or more of the following:

(a) Recoupment of payments made to the provider, including interest; (Chapter 51.04 RCW.)

(b) Denial or reduction of payment;

(c) Assessment of penalties for each action that falls within the scope of subsection (4) (a) through (q) of this section; (Chapter 51.48 RCW.)

(d) Placement of the provider on a prepayment review status requiring the submission of supporting documents prior to payment;

(e) Requirement to satisfactorily complete remedial education courses and/or programs; and

(f) Imposition of other appropriate restrictions or conditions on the provider's privilege to be reimbursed for treating workers under the Industrial Insurance Act.

(6) The department shall forward a copy of any corrective action taken against a provider to the applicable disciplinary authority.

AMENDATORY SECTION (Amending Order 81-28, filed 11/30/81, effective 1/1/82)

WAC 296-20-01501 Physician's assistant rules. (1) Physicians' assistants may perform only those medical services in industrial injury cases, for which the physician's assistant is trained and licensed, under the control and supervision of a licensed physician. Such control and supervision shall not be construed to require the personal presence of the supervising physician.

(2) Physicians' assistants may perform those medical services which are within the scope of their physician's assistant license for industrial injury cases within the limitations of subsection (3) of this section.

(3) Advance approval must be obtained from the department to treat industrial injury cases. To be eligible to treat industrial injuries, the physician's assistant must:

(a) Provide the department with a copy of his/her license.

(b) Provide the name and address and specialty of the supervising physician.

(c) Provide the department with the evidence of a reliable and rapid system of communication with the supervising physician.

(4) Physicians' assistants may prepare report of accident, time loss cards, and progress reports for the supervising physician's signature. Physicians' assistants cannot submit such information under his/her signature.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-020 Acceptance of rules and fees. The filing of an accident report or the rendering of treatment to ~~((an injured))~~ a worker who comes under the department's or self-insurer's jurisdiction, as the case may be, constitutes acceptance of the department's medical aid rules and compliance with its rules and fees.

In accordance with RCW 51.28.020 of the industrial insurance law, when a doctor renders treatment to ~~((an injured))~~ a worker entitled to benefits under the law, "it shall be the duty of the physician to inform the ~~((injured))~~ worker of his rights under this title and to lend all necessary assistance in making the application for compensation and such proof of other matters as required by the rules of the department without charge to the worker," ~~((an injured))~~ a worker shall not be billed for treatment rendered for his accepted industrial injury or occupational disease.

The department or self-insurer must be notified immediately, when an unrelated condition is being treated concurrently with an industrial injury. See WAC 296-20-055 for specific information required.

When there is questionable eligibility, (i.e., service is not usually allowed for industrial injuries or investigation is pending, etc.) the provider may require the worker to pay for the treatment rendered.

In cases of questionable eligibility where the provider has billed the ~~((injured))~~ worker or other insurance, and the claim is subsequently allowed, the provider shall refund the ~~((injured))~~ worker or insurer in full and bill the department or self-insurer for services rendered ~~((at fee schedule rates))~~ using billing instructions ~~((outlined in WAC 296-20-125))~~, codes, and policies as listed in the medical aid rules and fee schedules.

Cases in which there is a question of medical ethics or quality of medical care, will be referred to the Washington state medical association's medical advisory and utilization review committee to the department of labor and industries for recommendations.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-030 Treatment not requiring authorization for accepted conditions. (1) A maximum of twenty office calls for the treatment of the industrial condition, during the first sixty days, following injury. Subsequent office calls must be authorized. Reports of treatment rendered must be filed at sixty day intervals to include number of office visits to date. See ~~((WAC 296-20-03001))~~ chapter 296-20 WAC and department policies for report requirements and further information.

(2) Initial diagnostic x-rays necessary for evaluation and treatment of the industrial injury or condition. See WAC 296-20-121 for further information.

(3) The first twelve physical therapy treatments as provided by ~~((WAC 296-23-710 and 296-21-095))~~ chapters 296-21, 296-23, and 296-23A WAC, upon consultation by the attending doctor or under his direct supervision. Additional physical therapy treatment must be authorized and the request substantiated by evidence of improvement. In no case will the department or self-insurer pay for inpatient hospitalization of a claimant to receive physical therapy treatment only. USE OF DIAPULSE, THERMATIC (standard model only), SPECTROWAVE AND SUPERPULSE MACHINES AND IONTOPHORESIS IS NOT AUTHORIZED FOR WORKERS ENTITLED TO BENEFITS UNDER THE INDUSTRIAL INSURANCE ACT.

(4) Routine laboratory studies reasonably necessary for diagnosis and/or treatment of the industrial condition. Other special laboratory studies require authorization.

(5) Routine standard treatment measures rendered on an emergency basis or in connection with minor injuries not otherwise requiring authorization.

(6) Consultation with specialist when indicated. See WAC 296-20-051 for consultation guidelines.

(7) Nonscheduled drugs and medications during the acute phase of treatment for the industrial injury or condition.

(8) Scheduled drugs and other medications known to be addictive, habit forming or dependency inducing may be prescribed in quantities sufficient for treatment for a maximum of twenty-one days. If drug therapy extends beyond thirty days, see WAC 296-20-03003 regarding management.

(9) Injectable scheduled and other drugs known to be addictive, habit forming, or dependency inducing may be provided only on an in-patient basis. Hospital admission for administration of drugs for relief of chronic pain only will not be allowed.

(10) Diagnostic or therapeutic nerve blocks. See WAC 296-20-03001 for restrictions.

(11) Intra-articular injections. See WAC 296-20-03001 for restrictions.

(12) Myelogram if prior to emergency surgery.

AMENDATORY SECTION (Amending WSR 90-04-057, filed 2/2/90, effective 3/5/90)

WAC 296-20-03001 Treatment requiring authorization. Certain treatment procedures require authorization by the department or self-insurer. Requests for authorization must include a statement of: The condition(s) diagnosed; ICD-9-CM codes; their relationship, if any, to the industrial injury/exposure; an outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis; and an estimate of when treatment would be concluded and condition stable.

(1) Office calls in excess of the first twenty visits or sixty days whichever occurs first.

(2) The department may designate those inpatient hospital admissions that require prior authorization.

(3) X-ray and radium therapy.

(4) Diagnostic studies other than routine x-ray and blood or urinalysis laboratory studies.

(5) Myelogram and discogram in nonemergent cases.

(6) Physical therapy treatment beyond initial twelve treatments as outlined in ~~((WAC 296-21-095 and 296-23-710))~~ chapters 296-21, 296-23, and 296-23A WAC.

(7) Diagnostic or therapeutic injection. Epidural or caudal injection of substances other than anesthetic or contrast solution will be authorized under the following conditions only:

(a) When the worker has experienced acute low back pain or acute exacerbation of chronic low back pain of no more than six months duration.

(b) The worker will receive no more than three injections in an initial thirty-day treatment period, followed by a thirty-day evaluation period. If significant pain relief is demonstrated one additional series of three injections will be

authorized. No more than six injections will be authorized per acute episode.

(8) Home nursing or convalescent center care must be authorized per provision outlined in WAC 296-20-091.

(9) Provision of prosthetics, orthotics, surgical appliances, special equipment for home or transportation vehicle; custom made shoes for ankle/foot injuries resulting in permanent deformity or malfunction of a foot; TNS units; masking devices; hearing aids; etc., must be authorized in advance as per WAC 296-20-1101 and 296-20-1102.

(10) Biofeedback program; pain clinic; weight loss program; psychotherapy; rehabilitation programs; and other programs designed to treat special problems must be authorized in advance. ~~((See WAC 296-21-0501 and 296-21-0502))~~ Refer to the department's medical aid rules and fee schedules for details.

(11) Prescription or injection of vitamins for specific therapeutic treatment of the industrial condition(s) when the attending doctor can demonstrate that published clinical studies indicate vitamin therapy is the treatment of choice for the condition. Authorization for this treatment will require presentation of facts to and review by department medical consultant.

(12) Injections of anesthetic and/or anti-inflammatory agents into the vertebral facet joints will be authorized to qualified specialists in orthopedics, neurology, and anesthesia, or other physicians who can demonstrate expertise in the procedure, AND who can provide certification their hospital privileges include the procedure requested under the following conditions:

(a) Rationale for procedure, treatment plan, and request for authorization must be presented in writing to the department or self-insurer.

(b) Procedure must be performed in an accredited hospital under radiographic control.

(c) Not more than four facet injection procedures will be authorized in any one patient.

(13) The long term prescription of medication under the specific conditions and circumstances in (a) and (b) are considered corrective therapy rather than palliative treatment and approval in advance must be obtained.

(a) Nonsteroidal anti-inflammatory agents for the treatment of degenerative joint conditions aggravated by occupational injury.

(b) Anticonvulsive agents for the treatment of seizure disorders caused by trauma.

(14) Intra-muscular and trigger point injections of steroids and other nonscheduled medications are limited to three injections per patient. The attending doctor must submit justification for an additional three injections if indicated with a maximum of six injections to be authorized for any one patient.

(15) The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a worker has a medical condition which necessitates a hospital admission, prior approval of the department or self-insurer must be obtained.

AMENDATORY SECTION (Amending Order 87-09, filed 3/20/87)

WAC 296-20-035 Treatment in cases that remain open beyond sixty days. Conditions requiring treatment beyond sixty days are indicative of a major industrial condition or complication by other conditions. Except in cases of severe and extensive injuries, i.e., quadriplegia, paraplegia, multiple fractures, etc., when the ~~((injured))~~ worker requires treatment beyond sixty days following injury, a complete examination is necessary to determine and/or establish need for continued treatment and/or payment of time loss compensation. This may be accomplished either by the attending doctor or a consultation exam. In either case, a detailed exam report must be provided to the department or self-insurer. ~~((The following information is required. Additional information may be included or requested.~~

~~(1) Attending doctor report.~~

~~(a) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.~~

~~(b) Their relationship, if any, to the industrial injury or exposure.~~

~~(c) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.~~

~~(d) If the worker has not returned to work, the attending doctor should indicate whether he feels vocational assessment will be necessary to evaluate the worker's ability to return to work and why.~~

~~(e) If the claimant has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance based physical capacities evaluation can be requested. Performance based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance based physical capacities evaluations may also be conducted by other qualified professionals who provided performance based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.~~

~~(2) Consultation exam.~~

~~(a) A detailed history to establish:~~

~~(i) The type and severity of the industrial injury or occupational disease.~~

~~(ii) The patient's previous physical and mental health.~~

~~(iii) Any social and emotional factors which may effect recovery.~~

~~(b) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.~~

~~(c) A detailed physical examination concerning all systems affected by the industrial accident.~~

~~(d) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.~~

~~(e) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:~~

- ~~(i) Due solely to injury.~~
- ~~(ii) Preexisting condition aggravated by the injury and the extent of aggravation.~~
- ~~(iii) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.~~
- ~~(iv) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).~~
- ~~(f) Conclusions must include:~~
 - ~~(i) Type treatment recommended for each pathological condition and the probable duration of treatment.~~
 - ~~(ii) Expected degree of recovery from the industrial condition.~~
 - ~~(iii) Probability, if any, of permanent disability resulting from the industrial condition.~~
 - ~~(iv) Probability of returning to work.~~
- ~~(g) Reports of necessary, reasonable x-ray and laboratory studies to establish or confirm the diagnosis when indicated.) Refer to chapter 296-20 WAC (including the definition section) and department policy for the type of information that must be included in these reports.~~

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-051 Consultations. In cases presenting diagnostic or therapeutic problems to the attending doctor, consultation with a specialist will be allowed without prior authorization. The consultant must submit his findings and recommendations immediately to the attending doctor and the department or self-insurer. ~~((See WAC 296-20-035 for report content))~~ Refer to chapter 296-20 WAC and department policy for reporting requirements.

Whenever possible, the referring doctor should make his x-rays and records available to the consultant to avoid unnecessary duplication. The department's consultation referral form may be used to convey information to the consultant. Consultants may proceed with indicated and reasonable x-rays or laboratory work and reasonable diagnostic studies as permitted within their scope of practice.

Consultations will be held with a specialist within a reasonable geographic area. Whenever possible, consultation should be made with a doctor outside the referring doctor's office or partnership.

The attending doctor will not arrange a consultation if he has received notification that a special or commission examination is being arranged by the department or self-insurer. If he has had recent consultation and is notified that the department or self-insurer is arranging an examination, he must immediately advise the department or self-insurer of the consultation.

The consultation fee will be paid only if a consultation report is complete and contains all pathological findings as well as all pertinent negative or normal findings. The report must be received in the department within fifteen days from the date of the consultation. No fee is paid to the consultant if the worker fails the appointment.

The consultant may not order, prescribe, or provide treatment without the approval of the attending doctor and the injured worker. No transfer will be made to the consul-

tant without the prior approval of the attending doctor and the injured worker.

Consultation services will not be reimbursed for workers who are currently, or have been under the physician's care within the last three years. Such services should be billed as follow up visits, as listed in the fee schedules.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-06101 Reporting requirements. The department or self-insurer ~~((does))~~ requires several kinds of reports at various stages of the claim in order to authorize treatment, time loss compensation, and treatment bills. For additional information refer to the medical aid rules and fee schedules.

Initial report of accident: The first report required is the report of accident. The report of accident qualifies as the office note or report of the initial visit for ~~((brief or limited))~~ Level 1 or 2 office calls. In addition to the office call charge, the doctor may bill ~~((code 90001))~~ for the filing of the accident report. Reimbursement of these services will be paid if the claim is allowed by the department or self-insurer. If the initial visit is a transfer case, a report is required. Billing for ~~((an extended or comprehensive))~~ a Level 3, 4, or 5 initial visit may require submission of additional reports as required by department policy.

Office notes: Legible copies of office or progress notes are required for all follow-up visits. Office notes are not acceptable in lieu of requested narrative reports.

Sixty-day narrative reports: When conservative treatment is to continue beyond sixty days, submission of a narrative report is required to substantiate the need for continued care. A narrative report must contain basic information contained in ~~((WAC 296-20-035))~~ chapter 296-20 WAC, or as determined by department policy. For this narrative report, the department or self-insurer will pay ~~((16.0 units))~~ at a rate determined by department policy for a routine report in addition to a routine office call if the call is needed to provide the information. If the doctor supplies additional comprehensive information in the report, payment of a charge submitted in excess of ~~((16.0 units))~~ the allowed fee will be considered. In most cases, payment for a narrative report in addition to ~~((an extended or comprehensive))~~ a Level 3, 4, or 5 office visit will not be considered as the fee for those services includes a comprehensive report. A narrative report should be ~~((billed under code 99080 and))~~ described as a "sixty-day report."

Consultations reports: Following one hundred twenty days of conservative care (nonsurgical cases), a consultation with the doctor of the attending doctor's choice is required to substantiate further treatment authorization. No prior authorization is required for such consultations. The department or self-insurer should be notified via a consultation referral form (LI-210-299). The consultant is responsible for submitting a copy of ~~((his))~~ the report as outlined in ((WAC 296-20-035 and 296-20-051 with his)) chapter 296-20 WAC, or as determined by department policy, along with the bill to the department or self-insurer.

Follow-up reports: Following the one-hundred twenty day consultation, narrative reports are required at sixty-day intervals as outlined in ~~((WAC 296-20-035))~~ chapter 296-20

WAC. The department or self-insurer will request additional consultations and/or special exams as warranted by the individual case.

Hospital reports: When ~~((injured))~~ workers are hospitalized it is the responsibility of the doctor to submit ~~((his))~~ the reports to the hospital for submission with the hospital billing. The doctor may bill for hospital visits without attaching copies of the reports. However, billing for operative procedures requires a copy of the operative report.

Reopening application: On claims closed over sixty days, the department or self-insurer will pay for completion of a reopening application ~~((Code 90097))~~, an office visit and diagnostic studies necessary to complete the application. (See ~~((WAC 296-20-097))~~ chapter 296-20 WAC.) **No other benefits will be paid until the adjudication decision is rendered.**

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-065 Transfer of doctors. All transfers from one doctor to another must be approved by the department or self-insurer. Normally transfers will be allowed only after the worker has been under the care of the attending doctor for sufficient time for the doctor to: Complete necessary diagnostic studies, establish an appropriate treatment regimen, and evaluate the efficacy of the therapeutic program.

Under RCW 51.36.010 the ~~((injured))~~ worker is entitled to free choice of treating doctor. Except as provided under subsections (1) through (7) of this section, no reasonable request for transfer will be denied. The ~~((injured))~~ worker must be advised when and why a transfer is denied.

When a transfer is approved, the new attending doctor must be provided with a copy of the worker's treatment record by the previous attending doctor. X-rays in the possession of the previous attending doctor must be immediately forwarded to the new attending doctor for his or her retention as long as the worker remains under his or her care. Copies of x-rays and other records may be provided in lieu of originals. ~~((Code 99083 may be used to bill for reproducing records.))~~

The department or self-insurer reserves the right to require a worker to select another doctor or specialist for treatment, under the following conditions:

- (1) When more conveniently located doctors, qualified to provide the necessary treatment, are available.
- (2) When the attending doctor fails to cooperate in observance and compliance with the department rules.
- (3) In time loss cases where reasonable progress towards return to work is not shown.
- (4) Cases requiring specialized treatment, which the attending doctor is not qualified to render, or is outside the scope of the attending doctor's license to practice.
- (5) Where the department or self-insurer finds a transfer of doctor to be appropriate and has requested the worker to transfer in accordance with this rule, the department or self-insurer may select a new attending doctor if the worker unreasonably refuses or delays in selecting another attending doctor.
- (6) In cases where the attending doctor is not qualified to treat each of several accepted conditions. This does not

preclude concurrent care where indicated. See WAC 296-20-071.

(7) No transfer will be approved to a consultant or special examiner without the approval of the attending doctor and the worker.

Transfers will be authorized for the foregoing reasons or where the department or self-insurer in its discretion finds that a transfer is in the best interest of returning the ~~((injured))~~ worker to a productive role in society.

When a ~~((flat fee case))~~ worker's care is transferred to another doctor ~~((it is the responsibility of the two doctors involved to determine the proper apportionment of the total fee for the flat fee procedure. It shall be the responsibility of the operating doctor to advise the department or self-insurer of the proportion of the postoperative care provided by each doctor and the fee distribution.))~~ each doctor must submit a separate bill to the department or self-insurer for ~~((his))~~ their portion of the care. ~~((No payment will be made until this apportionment has been received by the department or self-insurer. If no agreement can be reached between the two doctors concerning the fee distribution, the matter will be referred to the Washington state medical association's medical advisory and utilization review committee to the department of labor and industries.))~~ Payment will be made at rates determined by department policy.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-110 Dental. Only dentists, oral surgeons or dental specialists licensed in the state in which they practice are eligible to treat ~~((injured))~~ workers entitled to benefits under the industrial insurance law.

If only a dental injury is involved, the doctor's portion of the report of accident must be completed by the dentist to whom the worker first reports. See WAC 296-20-025 for further information.

If the accident report has been submitted by another doctor, the dentist's report should be made by letter. In addition to the information required under WAC 296-20-025, the dentist should outline the extent of the dental injury and the treatment program necessary to repair damage due to the injury. Dental x-rays should be retained by the attending dentist for a period of not less than ten years. The department or self-insurer does not require submission of the actual films except upon specific request.

The department or self-insurer is responsible only for repair or replacement of teeth injured or dentures broken as a result of an industrial accident. Any dental work needed due to underlying conditions unrelated to the industrial injury is the responsibility of the worker. It is the responsibility of the dentist to advise the worker accordingly.

In cases presenting complication, controversy, or diagnostic or therapeutic problems, consultation by another dentist may be requested to support authorization for restorative repairs.

Bills covering the cost of dentures should be submitted for the denture only and should not include the cost for subsequent relining. If relining becomes necessary, authorization for relining must be obtained in advance from the department or self-insurer.

Bills must be submitted to the department or self-insurer within ~~((ninety days))~~ one year from the date the service is rendered. Bills must itemize the service rendered, including standard American Dental Association procedure codes, the materials used and the injured tooth number(s). See WAC 296-20-125 and department policy for further billing ~~((instructions))~~ rules.

AMENDATORY SECTION (Amending Order 87-22, filed 11/2/87)

WAC 296-20-1102 Special equipment rental and purchase prosthetic and orthotics equipment. The department or self-insurer will authorize and pay rental fee for equipment or devices if the need for the equipment will be for a short period of treatment during the acute phase of condition. Rental extending beyond sixty days requires prior authorization. If the equipment will be needed on long term basis, the department or self-insurer will consider purchase of the equipment or device. The department's or self-insurer's decision to rent or purchase an item of medical equipment will be based on a comparison of the projected rental costs of the item with its purchase price. An authorized representative of the department or self-insurer will decide whether to rent or purchase certain items, provided they are appropriate and medically necessary for treatment of the ~~((claimant's))~~ worker's accepted industrial condition. Decisions to rent or purchase items will be based on the following information:

- (1) Purchase price of the item.
- (2) Monthly rental fee.
- (3) The prescribing doctor's estimate of how long the item will be needed.

The prescribing doctor must obtain prior authorization from the department or self-insurer, for rental or purchase of special equipment or devices. Also, all equipment (rentals and purchases), prosthetics, and orthotics must be billed using the appropriate codes, and billing forms, as determined by the medical aid rules and fee schedules.

The department or self-insurer will authorize and pay for prosthetics and orthotics as needed by ~~((claimant))~~ the worker and substantiated by attending doctor. If such items are furnished by the attending doctor, the department or self-insurer will reimburse the doctor his cost for the item. ~~((In addition, a handling fee, not to exceed five percent of the wholesale cost of the item, will be paid.))~~ See ~~((WAC 296-20-124))~~ chapter 296-20 WAC (including WAC 296-20-124) and the fee schedules for information regarding replacement of such items on closed claims.

The department or self-insurer will repair or replace originally provided damaged, broken, or worn-out prosthetics, orthotics, or special equipment devices upon documentation and substantiation from the attending doctor.

Provision of such equipment requires prior authorization.

THE GRAVITY GUIDING SYSTEM, GRAVITY LUMBAR REDUCTION DEVICE, BACKSWING AND OTHER INVERSION TRACTION EQUIPMENT MAY ONLY BE USED IN A SUPERVISED SETTING. RENTAL OR PURCHASE FOR HOME USE WILL NOT BE ALLOWED NOR PAID BY THE DEPARTMENT OR SELF-INSURER.

EQUIPMENT NOT REQUIRING PRIOR AUTHORIZATION INCLUDES CRUTCHES, CERVICAL COLLARS, LUMBAR AND RIB

BELTS, AND OTHER COMMONLY USED ORTHOTICS OF MINIMAL COST.

PERSONAL APPLIANCES SUCH AS VIBRATORS, HEATING PADS, HOME FURNISHINGS, HOT TUBS, WATERBEDS, EXERCISE BIKES, EXERCISE EQUIPMENT, JACUZZIES, ~~((ETC.))~~ PILLOWS, CASSETTE TAPES, EDUCATIONAL MATERIALS OR BOOKS, AND OTHER SIMILAR ITEMS WILL NOT BE AUTHORIZED OR PAID.

In no case will the department or self-insurer pay for rental fees once the purchase price of the rented item has been reached.

AMENDATORY SECTION (Amending WSR 91-12-010, filed 5/30/91, effective 7/1/91)

WAC 296-20-1103 Travel expense. The department or self-insurer will reimburse travel expense incurred by ~~((injured))~~ workers for the following reasons: (1) Examinations at department's or self-insurer's request; (2) vocational services at department's or self-insurer's request; (3) treatment at department rehabilitation center; (4) fitting of prosthetic device; and (5) upon *prior authorization* for treatment when ~~((injured))~~ worker must travel more than ten miles one-way from the worker's home to the nearest point of adequate treatment. Travel expense *is not* payable when adequate treatment is available within ten miles of injured worker's home, yet the injured worker prefers to report to an attending doctor outside the worker's home area.

Travel expenses will be reimbursed at the current department rate.

Receipts are required for all expenses except parking expenses under ten dollars.

Claims for reimbursement of travel expenses must be received by the department or self-insurer within ~~((ninety days))~~ one year after the date expenses are incurred. Refer to WAC 296-20-125 and to department policy for additional rules.

AMENDATORY SECTION (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

WAC 296-20-120 Procedures not listed in this schedule. Procedures not specifically listed will be given values comparable to those of the listed procedures of closest similarity. ~~((Codes for unlisted procedures can be found in each section. See 'BR' instructions under WAC 296-20-010 for needed))~~ Refer to chapter 296-20 WAC (including the definition section) and the fee schedules for required billing documentation.

AMENDATORY SECTION (Amending Order 87-18, filed 7/23/87)

WAC 296-20-125 Billing procedures. All services rendered must be in accordance with the medical aid rules, fee schedules, and department policy. The department or self-insurer may reject bills for services rendered in violation of these rules. ~~((The injured))~~ Workers may not be billed for services rendered in violation of these rules.

(1) Bills must be itemized on department or self-insurer forms or other forms which have been approved by the department or self-insurer. Bills may also be transmitted electronically ~~((on department provided software, or transmitted electronically))~~ using department file format specifica-

tions. Providers using any of the electronic transfer options must follow department instructions for electronic billing. Physicians, osteopaths, advanced registered nurse practitioners, chiropractors, naturopaths, podiatrists, psychologists, and registered physical therapists use the national standard HCFA 1500 health insurance claim form with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form. Hospitals use the ~~((UB-82))~~ UB-92 billing form for institution services and the national standard HCFA 1500 health insurance claim form with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form for professional services. Hospitals should refer to chapter 296-23A WAC for billing rules pertaining to institution, or facilities, charges. Pharmacies use the department's statement for pharmacy services ~~((F-245-100))~~. Dentists, equipment suppliers, transportation services, ~~((home health services,))~~ vocational services, and massage therapists use the department's statement for miscellaneous services ~~((F-245-72))~~. When billing the department for home health services, providers should use the "statement for home nursing services." Providers may obtain billing forms from the department's local service locations ~~((see Appendix C for listing))~~.

(2) Bills must specify the date and type of service, the appropriate procedure code, the condition treated, and the charges for each service.

(3) Bills submitted to the department must be completed to include the following:

- (a) Worker's name and address;
- (b) Worker's claim number;
- (c) Date of injury;
- (d) Referring doctor's name and L & I provider account number;
- (e) Area of body treated, including ICD-9-CM code(s), identification of right or left, as appropriate;
- (f) Dates of service;
- (g) Place of service;
- (h) Type of service;
- (i) Appropriate procedure code, hospital revenue code, or national drug code;
- (j) Description of service;
- (k) Charge;
- (l) Units of service;
- (m) Tooth number(s);
- (n) Total bill charge;
- (o) The name and address of the practitioner rendering the services and the provider account number assigned by the department;
- (p) Date of billing;
- (q) Submission of supporting documentation required under subsection (6) of this section.

(4) Responsibility for the completeness and accuracy of the description of services and charges billed rests with the practitioner rendering the service, regardless of who actually completes the bill form;

(5) Vendors are urged to bill on a monthly basis. Bills must be received within ~~((ninety days))~~ one year of the date of service to be considered for payment.

(6) The following supporting documentation is required when billing for services:

- (a) Laboratory and pathology reports;
- (b) X-ray findings;

- (c) Operative reports;
- (d) Office notes;
- (e) Consultation reports;
- (f) Special diagnostic study reports;
- (g) For BR procedures - see ~~((WAC 296-20-010))~~ chapter 296-20 WAC for requirements; and
- (h) Special or closing exam reports.

(7) The claim number must be placed on each bill and on each page of reports and other correspondence in the upper right-hand corner.

~~((8) ((Rebills. If you do not receive payment or notification from the department within ninety days, services may be rebilled. Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. Rebills should be identical to the original bill. Same charges, codes, and billing date. Please indicate rebill on the bill.~~

~~Any inquiries regarding adjustment of charges must be submitted within ninety days from the date of payment to be considered.))~~ The following considerations apply to rebills.

(a) If you do not receive payment or notification from the department within one hundred twenty days, services may be rebilled.

(b) Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. In these instances, the rebills must be received within one year of the date the final order is issued which subsequently reopens or allows the claim.

(c) Rebills should be identical to the original bill: Same charges, codes, and billing date.

(d) In cases where vendors rebill, please indicate "REBILL" on the bill.

(9) The department or self-insurer will adjust payment of charges when appropriate. The department or self-insurer must provide the health care provider or supplier with a written explanation as to why a billing or line item of a bill was adjusted at the time the adjustment is made. A written explanation is not required if the adjustment was made solely to conform with the maximum allowable fees as set by the department. Any inquiries regarding adjustment of charges must be received in the required format within ninety days from the date of payment to be considered. Refer to the medical aid rules for additional information.

AMENDATORY SECTION (Amending Order 79-18, filed 11/30/79, effective 1/1/80)

WAC 296-20-12501 Physician assistant billing procedure. Billing for physician assistant services can be made only by the supervising physician at ninety percent of the value listed in the fee schedules. Payment will be made directly to the supervising physician. All physician assistant services must be identified by using physician assistant modifiers, as listed in chapter 296-21 WAC and the fee schedules.

(1) Bills must be itemized on department or self-insurer forms, as the case may be, specifying: The date, type of service and the charges for each service.

(2) The bill form must be completed in detail to include the claim number. While the name of the physician's assistant rendering service must be included on the bill, all bills must be submitted under the supervising physician

account number. Bills will be accepted when signed by other than the practitioner rendering services. When bills are prepared by someone else, the responsibility for the completeness and accuracy of the description of services and charges rests with the supervising physician.

(3) For a bill to be considered for payment, it must be received in the department or by the self-insurer within ~~((ninety days))~~ one year from the date each specific treatment and/or service was rendered or performed. Whenever possible, bills should be submitted monthly.

(4) Bills cannot be paid for services rendered while a claim is closed.

(5) The department or self-insurer may ~~((reject))~~ deny payment of bills for services rendered in violation of the medical aid rules or department policy. Workers may not be billed for services rendered in violation of these rules.

AMENDATORY SECTION (Amending Order 88-28, filed 12/1/88, effective 1/1/89)

WAC 296-20-132 Determination of conversion factor adjustments. Adjustments to the conversion factors for ~~((the specialty areas of medicine, surgery, anesthesiology, radiology, and pathology))~~ providers and services covered by the fee schedules and by department policy may occur ~~((on January 1st of each year))~~ annually following prior public hearings.

Such adjustments will be based on the estimated increase/decrease in the state's average wage for the current year and on other factors as determined by department policy. The following calendar year's estimate, of the average state wage will be adjusted to reflect the actual increase/decrease in the state's average wage for the preceding year.

The total percentage change for any one calendar year for ~~((all five))~~ the conversion factors may not exceed the total of the estimated increase/decrease in the current year, plus or minus the actual adjustment for the preceding calendar year. ~~((However, apportionment of the adjustments may be made between the various speciality areas to provide parity between the components of the fee schedule.))~~

Starting with services rendered on or after September 1, 1993, the department will adopt a new Washington State Resource Based Relative Value Scale. Due to the changes in reimbursement that will occur through implementation of this scale and supporting reimbursement policies, the department will transition its reimbursement levels over a few years. As a result, during this transition period, the fee schedules may list dollar values, instead of relative value units.

Payment for anesthesia services will continue to use base and time units. The fee schedules will not list dollar values for these services.

AMENDATORY SECTION (Amending WSR 91-02-063, filed 12/28/90, effective 1/28/91)

WAC 296-20-135 Conversion factors. (1) The following conversion factors are the base fees for determining the maximum amount paid by the department for procedures with specified unit values. ~~((To determine the maximum amount paid, the unit value for a specific procedure is multiplied by the appropriate conversion factor or~~

~~base fee listed below.))~~ Except for anesthesia services, during the transition period for services rendered on or after September 1, 1993, reimbursement levels cannot be determined by multiplying the conversion factor and a relative value unit. However, the conversion factors upon which the transition fees for nonanesthesia services are based are listed below (for informational purposes only). Refer to WAC 296-20-132 for additional information.

(2) The conversion factor or base fee for medicine, surgery, radiology, pathology, laboratory, chiropractic, physical therapy, ~~((drugless therapeutics))~~ naturopathic physician and nurse practitioner procedure codes is ~~((1.35))~~ \$34.51.

(3) The conversion factor or base fee for anesthesia is ~~((20.14))~~ \$20.74.

~~((4))~~ The conversion factor or base fee for radiology is \$6.22.

~~((5))~~ The conversion factor or base fee for pathology is \$0.59.

~~((6))~~ The conversion factor or base fee for surgery is \$71.22.))

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-170 Pharmacy—Acceptance of rules and fees. Acceptance and filling of a prescription for ~~((an injured))~~ a worker entitled to benefits under the industrial insurance law, constitutes acceptance of the department's rules and fees. When there is questionable eligibility, (i.e., no claim number, prescription is for medication other than usually prescribed for industrial injury; or pharmacist has reason to believe claim is closed or rejected), the pharmacist may require the worker to pay for the prescription. In these cases, the pharmacist must furnish the worker with a signed receipt and a nonnegotiable copy of the prescription including national drug code and quantity or a completed department pharmacy bill form signed in the appropriate areas verifying worker has paid for the prescribed item(s) in order for the worker to bill the department or self-insurer for reimbursement. The worker may not be charged more than the amount allowable by the department or self-insurer. The worker must submit such reimbursement request within ~~((ninety days))~~ one year of the date of service.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-17002 Billing. In addition to the billing procedures described in WAC 296-20-125 and in department policy the current national drug code number for each prescribed drug, followed by the average wholesale price to the pharmacy must be entered on each prescription. The department's statement for pharmacy services must be used when billing the department for NDC medications and supplies. The department's statement for miscellaneous services must be used when billing the department for non-NDC medications and supplies. In addition, the claimant's name, claim number, date of injury, prescribing doctor's name and department of labor and industries provider number; and the assigned department provider number for the pharmacy must be on the bill. Bills for medication not containing this information will be returned to the pharmacy.

Billing must be made within ~~((ninety days))~~ one year of the date of service. It is requested bills be presented on a monthly basis.

When billing the department for compound prescriptions, providers must use the "Statement for Compound Prescriptions."

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-20-12502 Physician assistant modifiers.
WAC 296-20-115 Flat fees.

Chapter 296-21 WAC

~~**(EVALUATION AND MANAGEMENT SERVICES),
GENERAL REIMBURSEMENT POLICIES,
BUNDLED CODES AND SERVICES, GLOBAL SUR-
GERY POLICY, PSYCHIATRIC, BIOFEEDBACK,
PHYSICAL MEDICINE, HCPCS CODES AND MOD-
IFIERS, DEPARTMENT UNIQUE CODES,
NONCOVERED PROVIDER TYPES, AND INDE-
PENDENT MEDICAL EXAMINATIONS**~~

NEW SECTION

WAC 296-21-240 General instructions. In addition to the policies outlined in this chapter, all providers must follow appropriate rules contained in the medical aid rules and fee schedules.

Unlisted service or procedure

A service or procedure may be provided that does not have a reimbursement level listed in the fee schedules. When reporting such a service, the appropriate "unlisted procedure" code may be used to indicate the service, identifying it by "special report." When an "unlisted procedure" is rendered, a special report is required as supporting documentation. Refer to chapter 296-20 WAC (including the definition section), and fee schedules for additional information.

After-hours, evening, and holiday services

CPT codes 99050 (Medical Services After Office Hours), 99052 (services requested at night), and 99054 (Services requested on Sundays and holidays) are reimbursable only when services are provided outside the usual hours of operation and only where the medical record documents the medical necessity and urgency of the service. **Only one of these codes may be billed per patient per day.**

Electrocardiograms

Separate payment will be permitted for electrocardiograms (CPT codes 93000, 93010, 93040, and 93042) performed in conjunction with physician office services.

Immunizations

Immunization materials are reimbursed at the Estimated Acquisition Cost (EAC), plus an additional \$2.00 for supplies. (The supply charge is included in the reimbursement level published in the fee schedules.) The codes and

reimbursement levels for immunizations are listed in the fee schedules.

Evaluation and management procedure code 99211 may be billed in addition to an immunization when the immunization is the only service performed.

Therapeutic or diagnostic injections

If an evaluation and management service (E/M) is billed for a medical evaluation, procedure codes 90783, 90784, and 90798 and the appropriate HCPCS J and Q codes maybe billed in combination.

If no other service is performed on the same day (including E/M services), intramuscular (90782) and intramuscular antibiotic (90788) can be billed and will be paid in addition to a J or Q procedure code.

Intraarterial and intravenous diagnostic and therapeutic injection services (90783 and 90784) and intravenous therapy for severe allergic disease (90798) will be separately reimbursed as long as they are not provided in conjunction with IV infusion therapy services (90780 and 90781).

If procedure code 90798 is provided in conjunction with 90780 or 90781, it is considered "bundled" into the payment for 90780 or 90781 and will not be separately reimbursed.

Drugs must be billed using the HCPCS J and Q codes and reimbursement will be made at cost. The name, strength, and dosage of the drug(s) must be documented and retained in the patient's chart for review.

Supplies

Services and supplies provided must be medically necessary and must be prescribed by an approved provider for the direct treatment of a covered condition.

CPT code 99070, which represents miscellaneous supplies provided by the physician, is not reimbursable. **Providers must bill a specific HCPCS Level II code for supplies and equipment provided in the office incident to an office visit or other office services.**

Procedure codes for supplies that do not have a fee listed will be reimbursed at cost. An invoice must be retained in the provider's files. An invoice must be submitted with the bill for supplies costing \$150.00 or more.

NEW SECTION

WAC 296-21-250 Bundled services and supplies.

Bundled services:

Under the fee schedules, some services are considered "bundled" into the cost of other procedures and will not be separately reimbursed. Refer to WAC 296-20-01002 (Definitions).

The fee schedules contain a listing of the bundled codes.

Bundled supplies:

Under the fee schedules, many supply items are considered "bundled" into the cost of other services (associated office visits or procedures) and will not be separately reimbursed. Refer to WAC 296-20-01002 (Definitions).

Separate payment will not be made for these items. The HCPCS codes for bundled supply items are listed in the fee schedules.

Separate reimbursement for surgical trays used in the physician's office:

Separate additional payment will be allowed for surgical trays only when they are used in conjunction with certain procedures performed in the physician's office. When one of these procedures is performed in the physician's office, the provider may report HCPCS Code A4550, Surgical Trays.

Procedures for which additional amount for supplies may be payable if performed in a physician's office are listed in the fee schedules.

NEW SECTION

WAC 296-21-260 Global surgery policy. Global surgery reimbursement includes the following services:

- The operation itself.
- Preoperative visits, in or out of the hospital, beginning on the day before the surgery.
- Services by the primary surgeon, in or out of the hospital, during a standard 90 day post-operative period (0 or 10 days for minor surgery).
- Dressing changes; local incisional care and removal of operative packs; removal of cutaneous sutures, staples, lines, wires, tubes, drains and splints; insertion, irrigation and removal of urinary catheters, routine peripheral IV lines, nasogastric and rectal tubes; and change and removal of tracheostomy tubes.
- All additional medical or surgical services required because of complications that do not require additional operating room procedures.

The department will allow separate payment when the preoperative or post-operative components of the surgery are performed by a physician other than the surgeon. The appropriate modifiers must be used.

Separate reimbursement will also be allowed for:

- The initial evaluation or consultation.
- The preoperative visits prior to the day before surgery.
- Post-operative visits for problems unrelated to the surgery.
- Post-operative visit for services that are not included in the normal course of treatment for the surgery.

When multiple surgeries are performed on the same patient on the same day, total payment equals the sum of:
 100% of the global fee for the highest value procedure;
 50% of the global fee for the second most expensive procedure;
 25% of the global fee for the third through the fifth procedures.

Procedures in excess of five require submission of documentation and individual review to determine payment amount.

Multiple dermatological procedures:

When multiple **dermatological** procedures are performed, the policy distinguishes between multiple procedures grouped under one procedure code and individual procedures.

For procedure codes that represent multiple surgical procedures, payment is made based on the fee schedule allowance associated with that code. Examples include:

- 11201- removal of **additional** benign skin lesions
- 17001- destruction of **additional** benign skin lesions

For other dermatological procedure codes that represent individual procedures, payment is made as follows:

- First procedure is paid at 100%;
 - Second procedure is paid at 50%.
- Procedures in excess of two require submission of documentation and individual review to determine payment amount.

Endoscopy procedures:

For endoscopic procedures and minor surgery, for which global surgical payment policy has not been generally used, payments are not allowed for a visit on the same day of the surgical or endoscopic procedure unless a documented, separately identifiable service is provided.

Multiple endoscopies and arthroscopies, that are related to the primary procedure, are paid as follows:

1. 100% payment for the endoscopy/arthroscopy with the highest relative value unit or dollar value.
2. For the next highest valued endoscopy/arthroscopy, payment will be based on the difference between this endoscopy and the base diagnostic endoscopy/arthroscopy.

Multiple endoscopies and arthroscopies, that are not-related (e.g., each is a separate and unrelated procedure) are paid as follows:

1. 100% for each unrelated procedure.

NEW SECTION

WAC 296-21-270 Psychiatric services. The following rules supplements information contained in the fee schedules regarding coverage and reimbursement for psychiatric services.

Treatment of mental conditions to workers is to be goal directed, time limited, intensive, and limited to conditions caused or aggravated by the industrial condition. Psychiatric services to workers are limited to those provided by psychiatrists and licensed psychologists, and according to department policy. For purposes of this rule, the term "psychiatric" refers to treatment by psychologists as well as psychiatrists.

Initial evaluation, and subsequent treatment must be authorized by department staff, as outlined by department policy. The report of initial evaluation, including test results, and treatment plan are to be sent to the worker's attending provider, as well as the department. A copy of sixty-day narrative reports to the department is also to be sent to the attending provider.

All providers are bound by the medical aid rules in chapter 296-20 WAC. Reporting requirements are defined in chapter 296-20 WAC. In addition, the following are required: Testing results with scores, scales, and profiles; report of raw data sufficient to allow reassessment by a

PERMANENT

panel or independent medical examiner. Use of the current Diagnostic and Statistical Manual of the American Psychiatric Association axis format in the initial evaluation and sixty-day narrative reports, and explanation of the numerical scales are required.

A report to the department will contain, at least, the following elements:

- Subjective complaints;
- Objective observations;
- Assessment of the worker's condition and goals accomplished; and
- Plan of care.

The codes, reimbursement levels, and other policies for psychiatric services are listed in the fee schedules.

NEW SECTION

WAC 296-21-280 Biofeedback rules. Procedures listed in the fee schedules are for use by medical doctors, osteopathic physicians, licensed psychologists and other qualified providers as determined by department policy. All providers of biofeedback are bound by the medical aid rules and fee schedule for biofeedback services.

Administration of biofeedback treatment is limited to those practitioners who are certified by the Biofeedback Certification Institute of America or who meet the minimum education, experience, and training qualifications to be so certified. Those practitioners wishing to administer biofeedback treatment to workers, must submit a copy of their biofeedback certification or supply evidence of their qualifications to the department or self-insurer.

(1) The department will authorize biofeedback treatment for the following conditions when accepted under the industrial insurance claim:

- (a) Idiopathic Raynaud's disease;
- (b) Temporomandibular joint dysfunction;
- (c) Myofascial pain dysfunction syndrome (MPD);
- (d) Tension headaches;
- (e) Migraine headaches;
- (f) Tinnitus;
- (g) Torticollis;
- (h) Neuromuscular reeducation as result of neurological damage in CVA or spinal cord injury;

(i) Inflammatory and/or musculoskeletal disorders causally related to the accepted condition.

(2) Twelve biofeedback treatments in a ninety-day period will be authorized for the above conditions when the following is presented:

- (a) An evaluation report documenting:
 - (i) The basis for the claimant's condition;
 - (ii) The condition's relationship to the industrial injury;
 - (iii) An evaluation of the claimant's current functional measurable modalities (i.e., range of motion, up time, walking tolerance, medication intake, etc.);
 - (iv) An outline of the proposed treatment program;
 - (v) An outline of the expected restoration goals.
- (b) No further biofeedback treatments will be authorized

or paid for without substantiation of evidence of improvement in measurable, functional modalities (i.e., range of motion, up time, walking tolerance, medication intake, etc.). Only one additional treatment block of twelve treatments per ninety days will be authorized. Requests for biofeedback

treatment beyond twenty-four treatments or one hundred eighty days will be granted only after file review by and on the advice of the department's medical consultant.

(c) In addition to treatment, pretreatment and periodic evaluation will be authorized. Follow-up evaluation can be authorized at one, three, six, and twelve months posttreatment.

(d) At the department's option, a concurring opinion may be required regarding relationship of the condition to the industrial injury and/or need for biofeedback treatment.

The codes, reimbursement levels, and other policies for biofeedback services are listed in the fee schedules.

NEW SECTION

WAC 296-21-290 Physical medicine. The department or self-insurer will authorize and pay for physical medicine services only when the services are under the direct, continuous supervision of a physician who is "board qualified" in the field of physical medicine and rehabilitation, (except for subsections (1) and (2) of this section). The services must be carried out by the physician or registered physical therapist or a physical therapist assistant serving under the direction of a registered physical therapist, by whom he is employed.

The department or self-insurer will allow other licensed physicians to provide physical medicine modalities in the following situations:

(1) The primary attending physician may administer physical therapist modalities as listed under 97010 - 97039 and/or procedures as listed under 97110 - 97145 in the office. No more than six such visits will be authorized and paid to the attending physician. If the worker requires treatment beyond six visits, he/she must be referred to a registered physical therapist or a physiatrist for such treatment. The attending physician can bill an office visit in addition to the physical therapy visit for the same day if indicated. Refer to the department billing instructions regarding how to bill the physical therapy portion of the visit.

(2) In remote areas, where no registered physical therapist or physical therapist assistant is available, treatment by the attending physician with modalities listed under 97110 - 97145 may be billed under 1044M.

The codes, reimbursement levels, and other policies for physical medicine services are listed in the fee schedules.

NEW SECTION

WAC 296-21-300 HCPCS codes. The department's fee schedules are based on the Health Care Financing Administration's Common Procedure Coding System (HCPCS) Level I and II codes. The level I codes are also referred to as CPT codes.

The Level II codes, are referred to as HCPCS and consist of one alpha character, followed by four numbers. HCPCS are used to bill for miscellaneous services, supplies and materials.

The fee schedules contain the HCPCS Level I and II codes, code descriptions and modifiers as implemented by the department.

Agency unique codes (Level III codes)

Department unique codes and services, are referred to as Level III or "local" codes and consist of four numbers followed by one alpha character. For example, 1040M should be used to code completion of the department's accident report form.

A listing of the department's local codes and reimbursement levels are located in the fee schedules.

NEW SECTION

WAC 296-21-310 HCPCS Billing Modifiers. The following modifiers and descriptions are based on the Health Care Financing Administration's Common Procedure Coding System (HCPCS) as listed in the fee schedules.

- **20 Microsurgery**
Use of this modifier will not change payment levels. It is for informational use only.
- **21 Prolonged Evaluation and Management Service.**
Use of this modifier will not change payment levels. It is for informational use only.
- **22 Unusual Services**
Procedures with this modifier may be individually reviewed prior to payment. Supporting documentation is required for this review.
- **23 Unusual Anesthesia**
Use of this modifier will not change payment levels. It is for informational use only.
- **24 Unrelated Evaluation and Management Services by the Same Physician During a Postoperative Period**
This modifier is used to indicate that an evaluation and management service was performed during a postoperative period that is not related to the surgical procedure. **Supporting documentation must be submitted with the claim when this modifier is used.**
Payment will be made at one hundred percent of the fee schedule level.
- **25 Significant, Separately Identifiable Evaluation and Management (E/M) Service by the Same Physician on the Day of a Procedure**
This modifier is used to indicate that, on the day of a surgical procedure, a significant separately identifiable E/M service was required due to the patient's condition. This E/M service is performed by the same physician; however, it must be unrelated to the usual preoperative and postoperative care associated with the surgical procedure that was performed. **Supporting documentation must be submitted with the claim when this modifier is used.**
Payment will be made at one hundred percent of the fee schedule level.
- **26 Professional Component**
Certain procedures are a combination of the professional and technical components. This modifier

should be used when only the professional component is reported. When a global service is rendered, neither the -26 nor -TC modifier should be used.

- **TC Technical Component**
Certain procedures are a combination of the professional and technical components. This modifier should be used when only the technical component is reported. When a global service is rendered, neither the -26 nor -TC modifier should be used.
- **30 Anesthesia**
Add this modifier to the usual procedure number and use value listed in Anesthesia column for normal, uncomplicated anesthesia.
- **32 Mandated service**
Use of this modifier will not change payment levels. It is for informational use only.
- **47 Anesthesia by Surgeon**
When regional or general anesthesia is provided by the surgeon use the basic anesthesia value without the added value for time.
- **50 - Bilateral Surgery**
The bilateral modifier identifies cases where a procedure typically performed on one side of the body is, in fact, performed on both sides of the body. For surgical procedures typically performed on one side of the body that are, in a specific case, performed bilaterally, payment is made at one hundred fifty percent of the global surgery fee for the procedure. Providers must bill using two line items on the bill form. The modifier -50 should be applied to the second line item.
- **51 - Multiple Surgery:**
For procedure codes that represent multiple surgical procedures, payment is made based on the fee schedule allowance associated with that code. Examples of these codes include:

11201 - Removal of **additional** benign skin lesions
17001 - Destruction of **additional** benign skin lesions

Refer to the Global Surgery rules for additional information.
- **52 Reduced Services:**
Payment will be made at the billed amount or the maximum allowable fee, whichever is less.
- **54, 55, and 56 - Providers Furnishing Less than the Global Surgical Package**
These modifiers are designed to ensure that the sum of all allowances for all practitioners who furnished parts of the services included in a global surgery fee do not exceed the total amount of the payment that would have been paid to a single practitioner under the global fee for the procedure. Three modifiers are used:

54 - Surgical Care Only - When one physician performs a surgical procedure

and another provides preoperative and/or postoperative management

55 - Postoperative Management Only - When one physician performs the postoperative management and another physician has performed the surgical procedure

56 - Preoperative Management Only - When one physician performs the preoperative care and evaluation and another physician performs the surgical procedure

The payment policy pays each physician directly for the portion of the global surgery services furnished to the beneficiary.

● **62 - Two Surgeons**

For surgery requiring the skills of two surgeons (each with a different specialty), each surgeon is reimbursed at 62.5 percent of the global surgical fee. No payment is made for an assistant-at-surgery in these cases.

● **66 - Team Surgery**

This modifier is used when highly complex procedures are carried out by a surgical team, which may include the concomitant services of several physicians, often of different specialties; other highly skilled, specially trained personnel; and various types of complex equipment.

Procedures with this modifier are reviewed and priced on an individual basis. Supporting documentation is required for this review.

● **76 Repeat Procedure by Same Physician**

Use of this modifier will not change payment levels. It is for informational use only.

● **77 Repeat Procedure by Another Physician**

Use of this modifier will not change payment levels. It is for informational use only.

● **78 Return to the operating room for a Related Procedure During the Postoperative Period**

Payment will be made at one hundred percent of the fee schedule level.

● **79 Unrelated Procedure or Service by the Same Physician During the Postoperative Period**

Use of this modifier allows separate payment for procedures not associated with the original surgery. Payment will be made at one hundred percent of the fee schedule level.

● **80, 81, and 82 - Physicians Who Assist at Surgery**

Three modifiers may be used to identify procedures where a second physician assists another in the procedure. They are:

- 80 - Assistant Surgeon
- 81 - Minimum Assistant Surgeon

- 82 - Assistant Surgeon (when qualified resident surgeon not available)

Payment for procedures with these modifiers is made at the lower of the following:

- Actual charge
- Twenty percent of the global surgery amount for the procedure

● **90 Reference (Outside) Laboratory**

Use of this modifier will not change payment levels. It is for informational use only.

● **99 Multiple Modifiers**

Under certain circumstances, two or more modifiers may be necessary to completely delineate a service. The fee schedules allow two modifiers to be applied to a service, with payment made based on the payment approach associated with each modifier.

Under the fee schedules, this modifier must be used only when two or more modifiers affect pricing. The modifiers must be indicated on the appropriate billing form, (e.g., modifiers 26 and 50).

Modifier 99 should only be used when two or more of the following modifiers are used:

- 26 Professional Component
- 50 Bilateral surgery
- 51 Multiple surgery
- 54 Surgical Care only
- 55 Post operative care only
- 56 Preoperative care only
- 62 Two surgeons
- 66 Surgical Team
- 80 Assistant Surgeon
- 81 Minimum Assistant surgeon
- 82 Assistant surgeon (when qualified resident surgeon not available)
- TC Technical component

Other Modifiers

RR This HCPCS level II modifier should be used to indicate that the durable medical equipment is rented rather than purchased. Payment will be made at the rate listed in the fee schedules.

Physician Assistant services must be identified by the following modifiers when the physician bills for these services:

- AN For other than assistant at surgery (nonteam member).
- AS Assist at surgery team member (e.g., organ transplant team).
- AU For other than assist at surgery team member.

PERMANENT

NEW SECTION

WAC 296-21-320 Provider types and services not covered. The department will not pay for services performed by the following practitioners:

- Acupuncturists
- Herbalists
- Christian Science practitioners or theological healers
- Homeopaths
- Noncertified physician assistants
- Operating room technicians
- Certified surgical technicians
- Certified surgical assistants
- Any other licensed or unlicensed practitioners not otherwise specifically provided for by the department.

Refer to the chapter 296-20 WAC for definitions of doctor, health services practitioner, physician (WAC 296-20-01002) and for the rules regarding who may treat (chapter 296-20 WAC).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-21-140	Guidelines.
WAC 296-21-150	Office or other outpatient services.
WAC 296-21-160	Hospital inpatient services.
WAC 296-21-170	Consultations.
WAC 296-21-180	Emergency department services.
WAC 296-21-190	Miscellaneous.
WAC 296-21-200	Critical care services.
WAC 296-21-210	Nursing facility services.
WAC 296-21-230	Case management services.

RADIOLOGYNEW SECTION

WAC 296-23-135 General information—Radiology.

(1) Rules and billing procedures pertaining to all practitioners rendering services to workers are presented in the general instruction section beginning with WAC 296-20-010.

(2) Billing codes, reimbursement levels, and supporting policies are listed in the fee schedules.

(3) Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

(4) Refer to chapter 296-21 WAC for information on use of coding modifiers.

(5) The values listed in the fee schedules only apply when these services are performed by or under the responsible supervision of a doctor.

NEW SECTION

WAC 296-23-140 Custody of x-rays. (1) Radiographs should not be sent to the department or self-insurer unless they are requested for comparison and interpretation in determining a permanent disability, administrative or legal

decisions, and for cases in litigation. X-rays must be retained for a period of ten years by the radiologist or the attending doctor.

(2) X-rays must be made available upon request to consultants, to medical examiners, to the department, to self-insurers, and/or the board of industrial insurance appeals.

(3) In cases where the worker transfers from one doctor to another, the former attending doctor will immediately forward all films in his possession to the new attending doctor.

(4) When a doctor's office is closed because of death, retirement, or upon leaving the state, department approved custodial arrangements must be made to insure availability on request. If a radiological office is closed for any of the previously listed reasons or because the partnership or corporation is being dissolved, disposition of x-rays for industrial injuries will be handled in the same manner. In the event custodial arrangements are to be made, the department must approve the arrangements prior to transfer of x-rays to the custodian so as to assure their availability to the department or self-insurer upon request.

(5) Refer to chapter 296-20 WAC (including WAC 296-20-125) and to chapter 296-21 for additional information.

NEW SECTION

WAC 296-23-145 Duplication of x-rays and extra views. Every attempt should be made to minimize the number of x-rays taken for workers. The attending doctor or any other person or institution having possession of x-rays which pertain to the injury and are deemed to be needed for diagnostic or treatment purposes should make these x-rays available upon request.

The department or self-insurer will not authorize or pay for additional x-rays when recent x-rays are available except when presented with adequate information regarding the need to re-x-ray.

NEW SECTION

WAC 296-23-150 Low osmolar contrast media. Separate payment will not be made for contrast material, except in the case of low osmolar contrast media (LOCM) used in intrathecal, intravenous, and intraarterial injections for patients with one or more of the following conditions:

A history of previous adverse reaction to contrast material, with the exception of a sensation of heat, flushing, or a single episode of nausea or vomiting.

A history of asthma or allergy.

Significant cardiac dysfunction including recent imminent cardiac decompensation, services arrhythmias, unstable angina, pectoris, recent myocardial infraction, and pulmonary hypertension.

Generalized severe debilitation.

Sickle cell disease.

To bill for LOCM, use procedure HCPCS code A4648. The brand name of the LOCM and the dosage must be documented in the patient's chart. HCPCS codes and reimbursement levels are listed in the fee schedules.

PATHOLOGY**NEW SECTION**

WAC 296-23-155 Pathology general information and instructions. (1) Rules and billing procedures pertaining to all practitioners rendering service to workers are presented in general information section beginning with WAC 296-20-010.

(2) Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

(3) Refer to chapter 296-21 WAC for information on use of coding modifiers.

(4) Billing codes, reimbursement levels, and supporting policies are listed in the fee schedules.

(5) The reimbursement levels listed in the fee schedules apply only when the services are performed by or under the responsible supervision of a physician. Unless otherwise specified, the listed values include the collection and handling of the specimens by the laboratory performing the procedure. **SERVICES IN PATHOLOGY AND LABORATORY** are provided by the pathologist or by technologists under responsible supervision of a physician.

(6) Laboratory procedures performed by other than the billing physician shall be billed at the value charged that physician by the reference (outside) laboratory under the individual procedure number or the panel procedure number listed under "PANEL OR PROFILE TESTS" (see modifier -90).

(7) The department or self-insurer may deny payment for lab procedures which are determined to be excessive or unnecessary for management of the injury or conditions.

(8) Separate or multiple procedures: It is appropriate to designate multiple procedures that are rendered on the same date by separate entries.

DENTAL**NEW SECTION**

WAC 296-23-160 General information and instructions. (1) The department or self-insurer is responsible only for repair or replacement of teeth injured or prosthodontics broken as a result of an industrial injury.

(2) Information pertaining to industrial claims is explained in WAC 296-20-010.

(3) Information pertaining to reports of accident is outlined in WAC 296-20-025.

(4) Information pertaining to the care of workers is explained in WAC 296-20-110.

(5) An estimate of cost is not needed prior to authorization of dental work unless indicated due to the extensive nature of the dental work. The department or self-insurer reserves the right to review all charges billed.

(6) Billing instructions are listed in WAC 296-20-125. Bills for services must be itemized, specifying tooth numbers and materials used. No services will be paid on rejected or closed claims except those rendered in conjunction with a reopening application.

(7) Billing codes, billing modifiers, reimbursement levels, and supporting policies are listed in the fee schedules.

MISCELLANEOUS SERVICES AND APPLIANCES**NEW SECTION**

WAC 296-23-165 Miscellaneous services and appliances. (1) The department or self-insurer will reimburse for certain medically necessary miscellaneous services and items needed as a result of an industrial accident. Nursing care, attendant care, transportation, hearing aids, eyeglasses, orthotics and prosthetics, braces, medical supplies, oxygen systems, walking aids, and durable medical equipment are included in this classification.

(a) When a fee maximum has been established, the rate of reimbursement for miscellaneous services and items will be the supplier's usual and customary charge or the department's current fee maximum, whichever is less. In no case may a supplier or provider charge a worker the difference between the fee maximum and their usual and customary charge.

(b) When the department or self-insurer has established a purchasing contract with a qualified supplier through an open competitive request for proposal process, the department or self-insurer will require that workers obtain specific groups of items from the contractor. When items are obtained from a contractor, the contractor will be paid at the rates established in the contract. When a purchasing contract for a selected group of items exists, suppliers who are not named in the contract will be denied reimbursement if they provide a contracted item to a worker. The noncontracting supplier, not the worker, will be financially responsible for providing an item to a worker when it should have been supplied by a contractor. This rule may be waived by an authorized representative of the department or self-insurer in special cases where a worker's attending doctor recommends that an item be obtained from another source for medical reasons or reasons of availability. In such cases, the department may authorize reimbursement to a supplier who is not named in a contract. Items or services may be provided on an emergency basis without prior authorization, but will be reviewed for appropriateness to the accepted industrial condition and medical necessity on a retrospective basis.

(2) The department or self-insurer will inform providers and suppliers of the selected groups of items for which purchasing contracts have been established, including the beginning and ending dates of the contracts.

(3) Prior authorization by an authorized representative of the department or self-insurer will be required for reimbursement of selected items and services which are provided to workers. Payment will be denied for selected items or services supplied without prior authorization. The supplier, not the worker, will be financially responsible for providing selected items or services to workers without prior authorization. In cases where a worker's doctor recommends rental or purchase of a contracted item from a supplier who lacks a contract agreement, prior authorization will be required.

The decision to grant or deny prior authorization for reimbursement of selected services or items will be based on the following criteria:

(a) The worker is eligible for coverage.

(b) The service or item prescribed is appropriate and medically necessary for treatment of the worker's accepted industrial condition.

(4) The decision to rent or purchase an item will be made based on a comparison of the projected rental costs of the item with its purchase price. An authorized representative of the department or self-insurer will decide whether to rent or purchase certain items provided they are appropriate and medically necessary for treatment of the worker's accepted condition. Decisions to rent or purchase items will be based on the following information:

- (a) Purchase price of the item.
- (b) Monthly rental fee.
- (c) The prescribing doctor's estimate of how long the item will be needed.

(5) The department will review the medical necessity, appropriateness, and quality of items and services provided to workers.

(6) The department's STATEMENT FOR MISCELLANEOUS SERVICES form or electronic transfer format specifications must be used for billing the department for miscellaneous services, equipment, supplies, appliances, and transportation. Bills must be itemized according to instructions in WAC 296-20-125 and the department or self-insurer's billing instructions. Bills for medical appliances and equipment must include the type of item, manufacturer name, model name and number, and serial number.

(7) All miscellaneous materials, supplies and services must be billed using the appropriate HCPCS Level II codes and billing modifiers. HCPCS codes are listed in the fee schedules.

NEW SECTION

WAC 296-23-170 Nursing services and attendant care. Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

See WAC 296-20-091 for qualifications.

The codes and fees for home nursing services and attendant care are listed in the fee schedules.

NEW SECTION

WAC 296-23-175 Stimulators. For qualifications regarding prior authorization and billing of stimulators refer to chapter 296-23 WAC (Miscellaneous services and appliances), 296-20-1102, and 296-20-125.

NEW SECTION

WAC 296-23-180 Vehicle and home modification. Requires prior approval from the assistant director for industrial insurance.

- 8914H Home modification
- 8915H Vehicle modification

NEW SECTION

WAC 296-23-185 Drug and alcohol rehabilitation services. Authorization requirements for these services may be found in WAC 296-20-03001 and 296-20-055.

- 0141M Intake evaluation
- 0142M Physical examination

- 0143M Individual therapy, routine visit
- 0144M Individual therapy, brief visit
- 0145M Group therapy
- 0146M Chemotherapy
- 0147M Medication adjustment
- 0149M Detoxification facility (room & board)

CHIROPRACTIC

NEW SECTION

WAC 296-23-190 General instructions—Chiropractic. (1) Refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to treatment of workers.

(2) Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

Use the radiology codes and conversion factors to bill radiology procedures.

(3) In addition to the rules found in WAC 296-20-010 through 296-20-125, the following rules apply when chiropractic treatment is being rendered:

(a) No more than one chiropractic adjustment per day will be authorized or paid, except on the initial and next two subsequent visits. The attending doctor must submit a detailed report regarding the need for the additional treatment.

(b) Treatment beyond the first twenty treatments or sixty days, whichever comes first, will not be authorized without submission of a consultation report or a comprehensive comparative exam report regarding need for further care. (See WAC 296-20-051 re: Consultation.)

(c) If needed, x-rays immediately prior to and immediately following the initial chiropractic treatment may be allowed without prior authorization.

(d) X-rays before and after subsequent chiropractic treatment will not be paid unless previously authorized. Prior authorization must be obtained for x-rays subsequent to the initial treatment.

(e) No payment will be made for excessive or unnecessary x-rays taken on initial or subsequent visits.

(f) No services or x-rays will be paid on rejected or closed claims except those rendered in conjunction with a reopening application.

(g) See chapter 296-23 WAC for custody requirements for x-rays.

(h) Treatment as a maintenance or supportive measure will not be authorized nor paid.

(4) Billing procedures itemized in WAC 296-20-125 must be followed.

NEW SECTION

WAC 296-23-210 Chiropractic office visits and special services.

DEFINITIONS:

Routine office visit: A level of service pertaining to the evaluation and treatment of a condition requiring only an abbreviated history and exam, i.e.:

- (1) Palpation, exam, and adjustment of one or more areas.
- (2) Brief exam and no adjustment.

PERMANENT

Extended office visit: A level of service pertaining to an evaluation of patient with a new or existing problem requiring a detailed history, review of records, exam, and a formal conference with patient or family to evaluate and/or adjust therapeutic treatment management and progress.

Comprehensive office visit: A level of service pertaining to an indepth evaluation of a patient with a new or existing problem, requiring development or complete reevaluation of treatment data; includes recording of chief complaints and present illness, family history, past treatment history, personal history, system review; and a complete exam to evaluate and determine appropriate therapeutic treatment management and progress.

REPORTING:

Reporting requirements are outlined in WAC 296-20-06101. The department or self-insurer will accept a brief narrative report of treatment received and the patient's progress as supporting documentation for billings in lieu of routine follow-up office notes.

CHIROPRACTIC MODIFIERS:

- 22 UNUSUAL SERVICES: When treatment services provided are greater than that usually required for listed procedures. Use of this modifier must be based on the injured worker's need for extended or unusual care. A report is required; the modifier -22 should be added to the procedure number.
- 52 REDUCED SERVICES: Under certain circumstances no treatment may be given, in these cases the procedure should be reduced and modifier -52 should be added to the procedure number.

MATERIAL SUPPLIED BY DOCTOR:

Department or self-insurer will reimburse the doctor for materials supplied, i.e., cervical collars, heel lifts, etc., at cost only. See RCW 19.68.010, professional license statutes.

Materials and supplies must be billed using the appropriate HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information.

SPECIAL SERVICES:

The following services are generally part of the basic services listed in the maximum fee schedule but do involve additional expenses to the chiropractor for materials, for his time or that of his employees. These services are generally provided as an adjunct to common chiropractic services and should be used only when circumstances clearly warrant an additional charge over and above the usual charges for the basic services.

The codes and reimbursement levels for chiropractic services are listed in the fee schedules.

NEW SECTION

WAC 296-23-195 Chiropractic consultations. See WAC 296-20-035, 296-20-045, and 296-20-051 for rules pertaining to consultation.

Chiropractic consultation requires prior notification to the department or self-insurer. Consultants must be from an approved list of chiropractic consultants.

The codes and reimbursement levels for chiropractic consultations services are listed in the fee schedules.

NATUROPATHIC PHYSICIANS

NEW SECTION

WAC 296-23-205 General instructions— Naturopathic physicians. (1) Refer to WAC 296-20-010 through 296-20-125 regarding general rules and billing procedures.

(2) Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

(3) In addition to general rules found in WAC 296-20-010 through 296-20-125, the following rules apply to naturopathic physicians:

(a) If the naturopathic physician is dual licensed, all treatment rendered by the practitioner must be billed as "treatment of the day." Further, the practitioner must elect and notify the department or self-insurer, which type of treatment he is providing for the injured worker, and abide by rules pertaining to area of elected treatment.

(b) Naturopathic physicians utilizing hydro-; mechano-; and/or electro- therapy modalities cannot bill for those services in addition to office visit services. Office visit includes treatment of the day.

(c) No more than one office visit will be allowed per day, except on the initial and next two subsequent visits. The attending doctor must submit a detailed report regarding the need for the additional treatment.

(d) If necessary, x-rays may be taken immediately prior to and following the initial naturopathic physician treatment without prior authorization.

(e) X-rays immediately prior to and following each subsequent naturopathic physician treatment will be disallowed, unless previously authorized.

(f) Prior authorization must be obtained for x-rays subsequent to initial treatment.

(g) Payment will not be made for excessive or unnecessary x-rays. No payment will be made for x-rays taken on rejected or closed claims, except those taken in conjunction with a reopening application.

(h) See chapter 296-23 WAC for custody requirements for x-rays.

(4) Drugless therapy as a maintenance or supportive measure will not be authorized or paid.

(5) Treatment beyond the first twenty treatments or sixty days, whichever occurs first, will not be authorized without submission of a consultation report or a comprehensive comparative exam report regarding need for further care.

NEW SECTION

WAC 296-23-215 Office visits and special services— Naturopathic physicians. Definitions:

Routine office visit: A level of service pertaining to the evaluation and treatment of a condition requiring only an abbreviated history and exam.

Extended office visit: A level of service pertaining to an evaluation of patient with a new or existing problem requiring a detailed history, review of records, exam, and a formal conference with patient or family to evaluate and/or adjust therapeutic treatment management and progress.

Comprehensive office visit: A level of service pertaining to an indepth evaluation of a patient with a new or existing problem, requiring development or complete reevaluation of treatment data; includes recording of chief complaints and present illness, family history, past treatment history, personal history, system review; and a complete exam to evaluate and determine appropriate therapeutic treatment management and progress.

Reporting:

Reporting requirements are outlined in WAC 296-20-06101. The department or self-insurer will accept a brief narrative report of treatment received and the patient's progress as supporting documentation for billings in lieu of routine follow-up office notes.

Modifiers:

- 22 Unusual services: When treatment services provided are greater than that usually required for listed procedures. Use of this modifier must be based on the injured worker's need for extended or unusual care. A report is required. The modifier -22 should be added to the procedure number.
- 52 Reduced services: Under certain circumstances no treatment may be given, in these cases the procedure should be reduced by ten units and modifier -52 should be added to the procedure number.

Material supplied by doctor:

Department or self-insurer will reimburse the doctor for materials supplied, i.e., cervical collars, heel lifts, etc., at cost only. See RCW 19.68.010, professional license statutes.

All supplies and materials must be billed using HCPCS Level II codes as listed in the fee schedules.

The codes and reimbursement levels are listed in the fee schedules.

PHYSICAL THERAPY

NEW SECTION

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-095.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$60.05, whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

NEW SECTION

WAC 296-23-225 Work hardening. The department will publish billing instructions, reimbursement limits, quality assurance standards, utilization review guidelines, admission criteria, outcome criteria, measures of effectiveness, minimum staffing levels, certification requirements, special reporting requirements, and other criteria that will ensure workers receive good quality services at cost-effective payment levels. Providers will be required to meet the department's requirements in order to qualify as a work hardening provider. The department may also establish a competitive or other appropriate selection process for work hardening providers. Providers should refer to WAC 296-20-12050 regarding special programs.

Billing codes and reimbursement levels are listed in the fee schedules.

OCCUPATIONAL THERAPY

NEW SECTION

WAC 296-23-230 Occupational therapy rules.

Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$60.05 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major

treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

NEW SECTION

WAC 296-23-235 Work hardening. The department will publish billing instructions, reimbursement limits, quality assurance standards, utilization review guidelines, admission criteria, outcome criteria, measures of effectiveness, minimum staffing levels, certification requirements, special reporting requirements, and other criteria that will ensure workers receive good quality services at cost-effective payment levels. Providers will be required to meet the department's requirements in order to qualify as a work hardening provider. The department may also establish a competitive or other appropriate selection process for work hardening providers. Providers should refer to WAC 296-20-12050 regarding special programs.

Billing codes, reimbursement levels, and supporting policies for work hardening services are listed in the fee schedules.

NURSING

NEW SECTION

WAC 296-23-240 Licensed nursing rules. (1) Registered nurses and licensed practical nurses may perform private duty nursing care in industrial injury cases when the attending physician deems this care necessary. Registered nurses may be reimbursed for services as outlined by department policy. (See chapter 296-20 WAC for home nursing rules.)

(2) Advanced registered nurse practitioners (ARNPs) may perform advanced and specialized levels of nursing care on a fee for service basis in industrial injury cases within the limitations of this section. ARNPs may be reimbursed for services as outlined by department policy.

(3) In order to treat workers under the Industrial Insurance Act, the advanced registered nurse practitioner must be:

(a) Recognized by the Washington state board of nursing or other government agency as an advanced registered nurse practitioner (ARNP). For out-of-state nurses an equivalent title and training may be approved at the department's discretion.

(b) Capable of providing the department with evidence and documentation of a reliable and rapid system of obtaining physician consultations.

(4) Billing procedures outlined in the medical aid rules and fee schedules apply to all nurses.

(5) Advanced registered nurse practitioners cannot sign accident report forms or time loss cards.

NEW SECTION

WAC 296-23-245 Licensed nursing billing instructions. (1) Registered nurses may be required to obtain provider account numbers from the department as outlined by department policy.

(2) Advanced registered nurse practitioners must obtain provider account numbers from the department.

(3) Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

(4) Refer to the department's billing instructions for additional information.

(5) Services performed by advanced registered nurse practitioners must be billed using the appropriate procedure code number listed in the fee schedules preceded by a Type of Service Code "N." The rate of reimbursement for the services billed by advanced registered nurse practitioners will be ninety percent of the value listed in the fee schedules.

(6) Refer to chapter 296-20 WAC (home nursing care) and chapter 296-23 WAC (miscellaneous services) for rules regarding reimbursement for home attendant care.

NEW SECTION

WAC 296-23-250 Massage therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers. See WAC 296-20-125 for billing instructions.

Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

Massage therapy treatment will be permitted when given by a licensed massage practitioner only upon written orders from the worker's attending doctor.

A progress report must be submitted to the attending doctor and the department or the self-insurer following six treatment visits or one month, whichever comes first. Massage therapy treatment beyond the initial six treatments will be authorized only upon substantiation of improvement in the worker's condition in terms of functional modalities, i.e., range of motion; sitting and standing tolerance; reduction in medication; etc. In addition, an outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Massage therapy in the home and/or places other than the practitioners usual and customary business facilities will be allowed only upon prior justification and authorization by the department or self-insurer.

No inpatient massage therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

Massage therapy treatments exceeding once per day must be justified by attending doctor.

Billing codes, reimbursement levels, and supporting policies for massage therapy services are listed in the fee schedules.

NEW SECTION

WAC 296-23-255 Independent medical examinations. (1) Purpose:

Independent medical examinations may be requested by the department, the self-insurer, or the attending physician; this is usually for one of the following purposes:

(a) To establish a diagnosis. Prior diagnoses may be controversial or ill-defined;

(b) To outline a program of rational treatment, where treatment or progress is controversial;

(c) To establish medical data from which it may be determined whether the medical condition is industrially acquired, or unrelated to industrial work activities;

(d) To determine the extent and duration of aggravation of a preexisting medical condition by an industrial injury or exposure;

(e) To establish when the accepted medical condition has reached maximum benefit from treatment;

(f) To establish a percentage rating of any permanent disability, based on the loss of body function or the category rating when maximum recovery is reached; or

(g) To determine the medical indications for reopening of a claim for further treatment on the basis of aggravation of an accepted condition, based on objective findings.

(2) Workers who are scheduled for independent medical examinations are allowed to bring with them an accompanying person to be present during the physical examination. The accompanying person cannot be compensated in any manner, except that language interpreters may be necessary for the communication process and may be reimbursed for interpretative services.

The department may designate those conditions under which the accompanying person is allowed to be present during the independent medical examination process.

NEW SECTION

WAC 296-23-260 Examination reports. (1) It is the department's intention to purchase objective examinations to ensure that sure and certain determinations are made of all benefits to which the injured worker might be entitled.

The report of an independent medical examination must include the following items:

(a) A detailed chronology of the injury or condition including mechanism of injury, diagnostic studies, and treatments attempted. The chronology must mention the results of treatments and diagnostic studies;

(b) An opinion as to whether treatment actual or proposed is or will be curative or palliative in nature;

(c) An assessment of whether the condition is industrially caused, on a more probable than not basis;

(d) Specific diagnoses sorted into the following categories:

(i) The accepted condition;

(ii) Preexisting conditions, and a statement as to whether they are worsening on their own or are aggravated by the accepted industrially acquired condition; and

(iii) Conditions acquired after the industrial injury.

(e) Answers to written questions posed by adjudicators, or a description of what would be needed to address the questions; and

(f) Conclusions and a summary statement of the objective medical findings upon which the conclusions are based.

(2) Disability ratings are to be done as specified in WAC 296-20-210.

NEW SECTION

WAC 296-23-265 Independent medical examinations examiner. (1) Independent medical examinations must be performed in accordance with WAC 296-20-200 by examiners approved by the department and licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry except:

(a) Attending physicians licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry may perform an impairment rating examination for a worker under their care at the direction of the state fund or self-insurer.

(b) The independent medical examination may be performed by a board certified specialist licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry selected by the department or the self-insurer if the worker does not live in Washington, Oregon, or Idaho.

(c) The independent medical examination may be performed by a treating physician in a department approved chronic pain management program accredited by the commission on accreditation of rehabilitation facilities. The examiner must be licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry.

(2) All other examiners who wish to do independent medical examinations of workers under Title 51 RCW, whether purchased by the department or self-insurers, must:

(a) Submit a completed department application to the medical director at the department of labor and industries; and

(b) Receive the medical director's approval to be an "approved examiner."

(3) Approved examiners will be listed on the department's approved examiners list. Examiners may be suspended or removed from the approved examiners list by the medical director. Such examiners shall not receive worker referrals from the department or self-insurers.

(4) The factors the medical director may consider in approving or disapproving or suspending examiners include, but are not limited to, any one or a combination of the following:

- (a) Board certification;
- (b) Complaints from workers about the conduct of the examiner;
- (c) Disciplinary proceedings or actions;
- (d) Experience in direct patient care in the area of specialty;
- (e) Ability to effectively convey and substantiate medical opinions and conclusions concerning workers;
- (f) Quality and timeliness of reports; and
- (g) Geographical need of the department and self-insurer.

(5) Examiners must be available and willing to testify at the department fee schedule rate on behalf of the department, worker, or employer.

(6) Complaints from workers about examiner conduct during an independent medical examination must be prompt-

ly forwarded from self-insurer and department staff to the office of the medical director.

(7) The standards for independent medical examiners, the application for approved examiner status and maximum fee schedule for performing examinations are published in a medical examiners' handbook available from the Office of the Medical Director, Department of Labor and Industries, Olympia, WA 98504.

(8) Fees for independent medical examinations are determined by the dollar value published in the medical examiners' handbook.

NEW SECTION

WAC 296-23-270 Independent medical examinations two or more examiners. Providers who wish to offer independent medical examinations by two or more examiners must apply for a panel provider number and meet standards set by the medical director of the department. Examiners working through panels must be on the approved list.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-23-010 General information—Radiology.
- WAC 296-23-01001 Injection procedures.
- WAC 296-23-01002 Custody of x-rays.
- WAC 296-23-01004 Billing procedures.
- WAC 296-23-01005 Duplication of x-rays and extra views.
- WAC 296-23-01006 Radiology, radiation therapy, nuclear medicine and modifiers.
- WAC 296-23-01007 Unlisted service or procedure.
- WAC 296-23-01008 Special report.
- WAC 296-23-015 Head and neck.
- WAC 296-23-020 Chest.
- WAC 296-23-025 Spine and pelvis.
- WAC 296-23-030 Upper extremities.
- WAC 296-23-035 Lower extremities.
- WAC 296-23-040 Abdomen.
- WAC 296-23-045 Gastrointestinal tract.
- WAC 296-23-050 Urinary tract.
- WAC 296-23-055 Female genital tract.
- WAC 296-23-065 Vascular system.
- WAC 296-23-079 Miscellaneous.
- WAC 296-23-07901 Diagnostic ultrasound.
- WAC 296-23-07902 Head and neck.
- WAC 296-23-07903 Heart and chest.
- WAC 296-23-07905 Abdomen and retroperitoneum.
- WAC 296-23-07906 Pelvis, genitalia, and extremities.
- WAC 296-23-07907 Vascular studies.
- WAC 296-23-07908 Miscellaneous.
- WAC 296-23-080 Therapeutic radiology—General information and instructions.
- WAC 296-23-120 Nuclear medicine—General information and instructions.
- WAC 296-23-125 Diagnostic.
- WAC 296-23-130 Therapeutic.

PERMANENT

WAC 296-23-200	Pathology general information and instruction.	WAC 296-23-810	General instructions.
WAC 296-23-201	Unlisted service or procedure.	WAC 296-23-811	Office visits and special services.
WAC 296-23-20101	Special report.	WAC 296-23-900	Licensed nursing rules.
WAC 296-23-20102	Pathology modifier.	WAC 296-23-910	Licensed nursing billing instructions.
WAC 296-23-204	Panel or profile tests.	WAC 296-23-950	Massage therapy rules.
WAC 296-23-208	Urinalysis.	WAC 296-23-960	Massage—Modalities.
WAC 296-23-212	Chemistry and toxicology.	WAC 296-23-970	Occupational therapy rules.
WAC 296-23-216	Hematology.	WAC 296-23-980	Occupational therapy services.
WAC 296-23-221	Immunology.	WAC 296-23-990	Work hardening.
WAC 296-23-224	Microbiology.		
WAC 296-23-228	Anatomic pathology.		
WAC 296-23-231	Anatomic pathology.		
WAC 296-23-232	Miscellaneous.		
WAC 296-23-412	General information and instructions.		
WAC 296-23-421	Diagnostic services.		
WAC 296-23-430	Preventive services.		
WAC 296-23-440	Restorative services.		
WAC 296-23-450	Endodontics.		
WAC 296-23-460	Periodontics.		
WAC 296-23-470	Prostodontics, removable—Including routine postdelivery care.		
WAC 296-23-480	Prostodontics, fixed.		
WAC 296-23-485	Orthodontics.		
WAC 296-23-490	Oral surgery.		
WAC 296-23-495	Adjunctive general services, anesthesia and professional consultation.		
WAC 296-23-500	Miscellaneous services and appliances.		
WAC 296-23-50001	Nursing services and attendant care.		
WAC 296-23-50002	Transportation services.		
WAC 296-23-50003	Hearing aids and masking devices.		
WAC 296-23-50004	Eyeglasses and contact lenses.		
WAC 296-23-50005	Orthotics and prosthetics.		
WAC 296-23-50006	Medical supplies.		
WAC 296-23-50007	Pulmonary and respiratory services and supplies.		
WAC 296-23-50008	Hospital beds and accessories.		
WAC 296-23-50009	Traction equipment.		
WAC 296-23-50010	Canes.		
WAC 296-23-50011	Crutches.		
WAC 296-23-50012	Walkers.		
WAC 296-23-50013	Wheelchairs.		
WAC 296-23-50014	Stimulators.		
WAC 296-23-50015	Vehicle and home modification.		
WAC 296-23-50016	Drug and alcohol rehabilitation services.		
WAC 296-23-610	General instructions.		
WAC 296-23-615	Office visits and special services.		
WAC 296-23-620	Chiropractic consultations.		
WAC 296-23-710	Physical therapy rules.		
WAC 296-23-715	Modalities.		
WAC 296-23-720	Procedures.		
WAC 296-23-725	Tests and measurements.		
WAC 296-23-730	Work hardening.		

AMENDATORY SECTION (Amending Order 87-18, filed 7/23/87)

WAC 296-23A-100 General information. Hospital services will be paid when necessary for treatment of the accepted industrial illness or injury. General information and rules pertaining to the care of ((injured)) workers are explained in ((the section beginning WAC 296-20-010 through 296-20-17003)) chapter 296-20 WAC.

To avoid a delay in paying hospital bills be sure the claim number is listed in the space provided on the bill form. If the department's accident report form is completed at the hospital, then a preassigned claim number will be on the form. In other circumstances, the hospital may not be able to obtain the claim number from the injured worker or the attending physician prior to hospitalization and/or outpatient services. When this occurs, contact the local service location or call the department's provider toll-free line in Olympia. Self-insurers may be contacted directly to obtain claim numbers on self-insured claims. ((See Appendix B in the medical aid rules and maximum fee schedules for a list of self-insured employers.))

Do not substitute the date of injury with either the date of admission or the date of service.

We urge you to submit bills to the department or self-insurer on a monthly basis.

The department or self-insurer will pay hospital inpatient charges for bed rest, physical therapy and/or administration of injectable drugs only under the conditions specified in WAC 296-20-075.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-110 Hospital outpatient fee schedule information. ((The hospital outpatient fee schedule contains procedure codes and fee maximums for radiology, pathology and laboratory, and physical therapy services performed in a hospital outpatient setting by practitioners who are approved by the department (see WAC 296-20-015). The fee schedule is based on the Physicians' Current Procedural Terminology (CPT) manual of procedure codes with modifications to accommodate ease of billing and department rules. (Note: Do not use the CPT manual as a billing reference.)) The maximum allowable fees for hospital outpatient radiology, pathology, laboratory, and physical therapy services are listed in the fee schedule. Only those providers who are approved by the department will be reimbursed for services rendered. Refer to chapter 296-20 WAC for additional information.

AMENDATORY SECTION (Amending WSR 91-02-063, filed 12/28/90, effective 1/28/91)

WAC 296-23A-115 Hospital outpatient services conversion factors.

((Radiology (codes 70000 through 79999) — \$6.22
Pathology and laboratory (codes 80000 through 89999) — \$0.59
Physical therapy (codes beginning with 9) — \$1.35

(The conversion factor multiplied by the unit value equals the fee maximum for a procedure code in this chapter.)) Refer to WAC 296-20-132 and 296-20-135 for information on the conversion factor to be used with hospital outpatient services.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-130 Treatment of unrelated illness or injury. Treatment or surgery for an unrelated illness or injury, while the ((injured)) worker is hospitalized or receiving hospital outpatient services, is not usually allowed. When such unrelated treatment is permitted by the department or self-insurer, the requesting physician must identify which services are needed due to the industrial illness or injury and which are needed due to the unrelated condition(s). Diagnostic tests and/or treatment for unrelated conditions directly affecting recovery from the industrial illness or injury may be given consideration as stated under ((WAC 296-20-055)) chapter 296-20 WAC.

Diagnostic tests and studies ordered by the attending physician as a part of the initial care and diagnosis of an industrial injury will be allowed.

AMENDATORY SECTION (Amending WSR 90-04-057, filed 2/2/90, effective 3/5/90)

WAC 296-23A-150 Billing procedures. Bills for hospital services must be submitted on ((UB-82 bill forms, transmitted electronically on department provided software, or transmitted)) the current National Uniform Billing Form (billing form) or submitted electronically using department file format specifications. Providers using the ((UB-82 bill)) billing form must follow the billing instructions provided by the Washington State Hospital Association. Providers using any of the electronic transfer options must follow department instructions for electronic billing in addition to instructions provided by the Washington State Hospital Association. Self-insurers may accept other bill forms.

(1) The following information must appear on the ((UB-82)) billing form for hospital inpatient services:

- ~~((a) Provider name;~~
- ~~(b) Patient control number;~~
- ~~(c) Type of bill;~~
- ~~(d) Department of labor and industries provider number;~~
- ~~(e) Patient name;~~
- ~~(f) Patient address;~~
- ~~(g) Birth date;~~
- ~~(h) Sex;~~
- ~~(i) Admission date;~~
- ~~(j) Patient status;~~
- ~~(k) Statement covers period;~~

- ~~(l) Date of injury;~~
- ~~(m) Description (include daily rate with room accommodation revenue code);~~
- ~~(n) Revenue code;~~
- ~~(o) Units;~~
- ~~(p) Total charges;~~
- ~~(q) Payer;~~
- ~~(r) Social Security number;~~
- ~~(s) Claim number;~~
- ~~(t) Employer name;~~
- ~~(u) Narrative of principal and other diagnoses;~~
- ~~(v) Principal and other ICD diagnosis code(s) when applicable;~~
- ~~(w) Narrative of principal and other procedure(s);~~
- ~~(x) Principal and other ICD procedure code(s) when applicable;~~
- ~~(y) Procedure date(s) for ICD procedure code(s) when applicable; and~~
- ~~(z) Treatment authorization number.~~

~~(2) The following information must appear on the UB-82 for hospital outpatient services:~~

- ~~(a) Provider name;~~
- ~~(b) Patient control number;~~
- ~~(c) Type of bill;~~
- ~~(d) Department of labor and industries provider number;~~
- ~~(e) Patient name;~~
- ~~(f) Patient address;~~
- ~~(g) Birth date;~~
- ~~(h) Sex;~~
- ~~(i) Statement covers period;~~
- ~~(j) Date of injury;~~
- ~~(k) Description;~~
- ~~(l) Revenue code when applicable;~~
- ~~(m) Department of labor and industries procedure codes for radiology, pathology and laboratory, and physical therapy services;~~

- ~~(n) Units;~~
- ~~(o) Total charges;~~
- ~~(p) Payer;~~
- ~~(q) Social Security number;~~
- ~~(r) Claim number;~~
- ~~(s) Employer name;~~
- ~~(t) Narrative of principal and other diagnoses with side of body; and~~
- ~~(u) Principal and other ICD diagnosis code(s) when applicable.~~

~~Summarize inpatient charges by revenue codes as specified in the UB-82 instructions.)) (a) Provider name, address, and telephone number;~~

- ~~(b) Patient control number;~~
- ~~(c) Type of bill;~~
- ~~(d) Federal tax number;~~
- ~~(e) Patient name;~~
- ~~(f) Birth date;~~
- ~~(g) Sex;~~
- ~~(h) Admission date;~~
- ~~(i) Admission hour;~~
- ~~(j) Type of admission;~~
- ~~(k) Source of admission;~~
- ~~(l) Condition code, when applicable;~~
- ~~(m) Patient status;~~
- ~~(n) Statement covers period;~~

- (o) Date of injury;
 (p) Revenue code;
 (q) Revenue code description;
 (r) Daily rate;
 (s) Units;
 (t) Total charges;
 (u) Noncovered charges;
 (v) Payer;
 (w) Department provider number;
 (x) Prior payments;
 (y) Patient's Social Security number;
 (z) Claim number;
 (aa) Treatment authorization number;
 (bb) Employer name;
 (cc) Principle and other International Classification of Diseases (ICD) diagnosis codes when applicable (indicate side of body: R = right, L = left, and B = both sides of body);
 (dd) Admitting diagnosis;
 (ee) E code;
 (ff) Principle and other ICD procedure codes when applicable;
 (gg) Attending physician; and
 (hh) Date billed.
Summarize inpatient charges by revenue codes as specified in the billing instructions.
 (2) The following information must appear on the billing form for hospital outpatient services:
 (a) Provider name, address, and telephone number;
 (b) Patient control number;
 (c) Type of bill;
 (d) Federal tax number;
 (e) Patient name;
 (f) Birth date;
 (g) Sex;
 (h) Statement covers period;
 (i) Date of injury;
 (j) Revenue code;
 (k) Revenue code description;
 (l) Health Care Financing Administration Common Procedure Coding System (HCPCS) Level I codes, or other codes, as adopted by the department, for radiology, pathology and laboratory and physical therapy services;
 (m) Units;
 (n) Total charges;
 (o) Noncovered charges;
 (p) Payer;
 (q) Department provider number;
 (r) Prior payments;
 (s) Patient's Social Security number;
 (t) Claim number;
 (u) Treatment authorization number, when applicable;
 (v) Employer name;
 (w) Principle and other ICD diagnosis codes when applicable (indicate side of body: R = right, L = left, and B = both sides of body);
 (x) E code;
 (y) Principle and other ICD procedure codes, when applicable;
 (z) Attending physician; and
 (aa) Date billed.

(3) Supporting documentation for inpatient and outpatient services must be sent to the department or self-insurer. When sending supporting documentation to the department, it should not be submitted along with the bill for services. Hospitals should instead send the supporting documentation to:

Department of Labor and Industries
Claims Section
PO Box 44291
Olympia, WA 98504-4291

Place the claim number on the upper right hand corner of each attachment. The information to be sent includes, but is not limited to the following:

- (a) Admission history and physical examination;
 (b) Discharge summary for stays over forty-eight hours;
 (c) Emergency room reports; and
 (d) Operative reports.

Providers using any of the electronic transfer options provided by the department must send the department the required documentation normally associated with a bill, within thirty calendar days of the date billing information was sent to the department on electronic mediums. Providers must comply with electronic billing instructions supplied by the department regarding the submission of hospital bill documentation. Place the claim number on the upper right hand corner of each supporting document submitted.

(4) For a bill to be considered for payment, it should be received by the department or self-insurer within ~~((ninety days))~~ one year from the date of service. Refer to chapter 296-20 WAC and to department policy for additional information.

(5) The department or the self-insurer may reject bills for services rendered in violation of the medical aid rules and maximum fee schedules.

(6) Charges for ambulance services and for professional services provided by hospital staff physicians must be submitted on the Health Insurance Claim Form, HCFA-1500. Hospitals using any of the electronic transfer options must follow department instructions for electronic billing in addition to department instructions for completing the Health Insurance Claim Form, HCFA-1500. The emergency room will be considered the office for those physicians providing regular emergency room care to the hospital, and fees will be allowed on this basis.

(7) Call-back services between 6 p.m. and 8 a.m., of surgical staff not normally on duty during this period of time, should be billed using the appropriate revenue codes.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-200 General information—Hospital outpatient radiology. Rules and billing procedures pertaining to all practitioners rendering services to ~~((injured))~~ workers are presented in the general instructions section beginning with WAC 296-20-010 and in department billing instructions. Some of the similarities are repeated here for the convenience of those hospitals referring to the radiology section. ~~((Radiology fees for nonhospital providers are covered in chapter 296-23 WAC.~~

~~The following procedures and fee maximums apply only when these services are))~~ The procedure codes and maximum allowable fees for radiology services are listed in the fee schedules. Refer to WAC 296-20-132 and 296-20-135 regarding use of a conversion factor.

Radiology procedures and services must be performed by or under the supervision of a physician.

The department or self-insurer may deny payment for radiology procedures which are determined to be excessive or unnecessary for management of the accepted industrial illness or injury.

~~((The technical component represents the expenses of nonradiologist personnel, materials, facilities and space, used for diagnostic or therapeutic services rendered. It excludes the cost of radio isotopes.~~

~~The professional component represents the professional services supplied by physicians. See WAC 296-23-010 to 296-23-130 for billing the professional component.))~~

AMENDATORY SECTION (Amending WSR 91-17-038, filed 8/16/91, effective 9/30/91)

WAC 296-23A-205 Billing procedures. (1) Department billing instructions appear in ~~((WAC 296-20-125))~~ chapter 296-20 WAC and in department policy. Hospital billing information and instructions appear in WAC 296-23A-100, 296-23A-105, and 296-23A-150.

~~((2))~~ (2) ((Fee maximums for radiology services are listed for the combined professional and technical components.

~~((3))~~ (3) Hospitals are reimbursed only for the technical component at rates, listed in the fee schedules, or as determined by department policy.

~~((4))~~ (3) Hospitals should bill their usual and customary rates for the technical component of outpatient radiology services.

~~((5))~~ (4) Radiology procedures performed by other than the billing hospital shall be billed at the value charged the hospital by the reference (outside) radiology department. When possible, the service should be billed under the same procedure code as billed by the reference radiology department.

~~((6))~~ (5) "BR" in the unit value column indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable, or new to be assigned a unit value. The report should provide an adequate definition or description of the services or procedures as discussed in WAC 296-23A-235. Whenever possible, list the nearest similar procedure code according to this schedule. The department or self-insurer may adjust BR procedures when such action is indicated.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-230 Unlisted service or procedure. A radiology service or procedure may be provided that is not listed in ~~((this section of))~~ the fee schedules. When reporting such a service, the appropriate "unlisted procedure" code may be used to indicate the service, identifying it by "special report" as discussed in WAC 296-23A-235. ~~((The "unlisted procedures" and accompanying codes for the RADIOLOGY section are as follows:~~

- ~~76499 Unlisted diagnostic radiologic procedure~~
- ~~76999 Unlisted diagnostic ultrasound procedure~~
- ~~77299 Unlisted procedure, therapeutic radiology clinical treatment planning~~
- ~~77399 Unlisted procedure, medical radiation physics, dosimetry and treatment devices~~
- ~~77499 Unlisted procedure, therapeutic radiology clinical treatment management~~
- ~~77799 Unlisted procedure, clinical brachytherapy~~
- ~~78099 Unlisted endocrine procedure, diagnostic nuclear medicine~~
- ~~78199 Unlisted hematopoietic, R-E and lymphatic procedure, diagnostic nuclear medicine~~
- ~~78299 Unlisted gastrointestinal procedure, diagnostic nuclear medicine~~
- ~~78399 Unlisted musculoskeletal procedure, diagnostic nuclear medicine~~
- ~~78499 Unlisted cardiovascular procedure, diagnostic nuclear medicine~~
- ~~78599 Unlisted respiratory procedure, diagnostic nuclear medicine~~
- ~~78699 Unlisted nervous system procedure, diagnostic nuclear medicine~~
- ~~78799 Unlisted genitourinary procedure, diagnostic nuclear medicine~~
- ~~78999 Unlisted miscellaneous procedure, diagnostic nuclear medicine~~
- ~~79999 Unlisted radionuclide therapeutic procedure.))~~

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-235 Special report. A service that is rarely provided, unusual, variable, or new, may require a special report in determining medical appropriateness of the service. Pertinent information should include an adequate definition or description of the nature, extent, and need for the procedure; and the time, effort and equipment necessary to provide the service. Additional items which may be helpful include: Complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care.

Refer to chapter 296-20 WAC for additional information.

AMENDATORY SECTION (Amending Order 89-09, filed 8/10/89, effective 9/10/89)

WAC 296-23A-300 General information—Hospital outpatient pathology and laboratory. Rules and billing procedures pertaining to all practitioners rendering services to ~~((injured))~~ workers are presented in the general instructions section beginning with WAC 296-20-010 and in department policy. Some of the similarities are repeated here for the convenience of those hospitals referring to the pathology and laboratory section. ~~((Pathology and laboratory fees for nonhospital providers are covered in chapter 296-23 WAC.~~

~~The following procedures and fee maximums apply only when these services are))~~ The procedure codes and maximum allowable fees for pathology and laboratory services are listed in the fee schedules. Refer to WAC 296-20-132

and 296-20-135 regarding use of a conversion factor. Pathology and laboratory services must be performed by or under the supervision of a physician.

Unless otherwise specified, the fee maximums include the collection and handling of the specimens by the laboratory performing the procedure.

The department or self-insurer may deny payment for pathology or laboratory procedures which are determined to be excessive, unrelated, or unnecessary for management of the accepted industrial illness or injury.

~~((The technical component represents the expenses of the nonpathologist personnel, materials, facilities and space, used for diagnostic or therapeutic services rendered.~~

~~The professional component represents the professional services supplied by physicians. See WAC 296-23-200 to 296-23-232 for billing the professional component.)~~

By report: "BR" in the unit value column indicates that the value of the service is to be determined by report (BR) because the service is too unusual, variable, or new to be assigned a unit value. The report should provide an adequate definition or description of the services or procedure as discussed in WAC 296-23A-315. Whenever possible, list the nearest similar procedure code according to this schedule. The department or self-insurer may adjust BR procedures when such action is indicated.

It is appropriate to designate separate or multiple procedures that are rendered on the same date by separate entries.

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-310 Billing procedures. (1) Department billing instructions appear in WAC 296-20-125 and in department policy. Hospital information and billing instructions appear in WAC 296-23A-100, 296-23A-105, and 296-23A-150.

~~(2) ((Some pathology and laboratory services contain a professional component. Fee maximums for these services are set for the combined professional and technical components, and the procedure codes for these services are marked with a "*".~~

~~All other pathology and laboratory services do not have a professional component. Fee maximums for these services are for the total procedure.~~

~~(3)) Hospitals are reimbursed only for the technical component at ((a rate up to and including sixty percent of the fee maximum for the procedure codes with a "*".~~ All other procedure codes are reimbursed at a rate up to and including one hundred percent of the fee maximum)) rates listed in the fee schedules, or as determined by department policy.

~~((4)) (3) Hospitals should bill their usual and customary rates for the technical component of outpatient pathology and laboratory services.~~

~~((5)) (4) Laboratory procedures performed by other than the billing hospital shall be billed at the value charged the hospital by the reference (outside) laboratory. When possible, the service should be billed under the same procedure code or panel procedure number listed under "PANEL OR PROFILE TESTS" used by the reference laboratory.~~

~~((6)) (5) Laboratory reports must be attached to the bills for laboratory services.~~

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-315 Unlisted service or procedure.

A pathology or laboratory service or procedure may be provided that is not listed in ~~((this section of))~~ the fee schedules. When reporting such a service, the appropriate "unlisted procedure" code may be used to indicate the service, identifying it by "special report" as discussed in WAC ~~((296-23A-420))~~ 296-23A-320. ~~((The "unlisted procedures" and accompanying codes for the PATHOLOGY AND LABORATORY section are as follows:~~

~~80099 Unlisted panel
81099 Unlisted urinalysis procedure
84999 Unlisted chemistry or toxicology procedure
85999 Unlisted hematology procedure
86999 Unlisted immunology procedure
87999 Unlisted microbiology procedure
88099 Unlisted necropsy (autopsy) procedure
88199 Unlisted cytopathology procedure
88299 Unlisted cytogenetic procedure
88399 Unlisted surgical pathology procedure
89399 Unlisted miscellaneous pathology test))~~

AMENDATORY SECTION (Amending Order 86-47, filed 1/8/87)

WAC 296-23A-320 Special report. A service that is rarely provided, unusual, variable or new may require a special report in determining medical appropriateness of the service. Pertinent information should include an adequate definition or description of the nature, extent, and need for the procedure; and the time, effort, and equipment necessary to provide the service. Additional items which may be helpful include: Complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care.

For additional information refer to chapter 296-20 WAC.

AMENDATORY SECTION (Amending Order 89-01, filed 3/23/89, effective 5/1/89)

WAC 296-23A-400 Hospital outpatient physical therapy rules. Hospitals should refer to ~~((WAC 296-20-010 through 296-20-125))~~ chapter 296-20 WAC for general information~~((;))~~ and rules, and to department billing instructions pertaining to the care of ~~((injured))~~ workers and the billing of services.

The procedure codes and maximum allowable fees for physical therapy services are listed in the fee schedules. Also refer to WAC 296-20-132 and 296-20-135 regarding use of the conversion factor.

Physical therapy treatment will be reimbursed only when ordered by the ~~((injured))~~ worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist.

The department or self-insurer will review the quality and medical necessity of physical therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~((48 relative value units))~~ a flat dollar rate of \$60.05, whichever is less. These limits will not apply to physical therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to ~~((injured))~~ workers.

Use of diapulse or similar machines on ~~((injured))~~ workers is not authorized. See WAC 296-20-03002 for further information.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-075 and 296-23A-100 for further information.

Biofeedback treatment may be rendered on physician's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See ~~((WAC 296-21-0504))~~ chapter 296-21 WAC and department policy for rules pertaining to the authorized conditions and the reporting requirements. The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-23A-240 Head and neck.
- WAC 296-23A-242 Chest.
- WAC 296-23A-244 Spine and pelvis.
- WAC 296-23A-246 Upper extremities.
- WAC 296-23A-248 Lower extremities.
- WAC 296-23A-250 Abdomen.
- WAC 296-23A-252 Gastrointestinal tract.
- WAC 296-23A-254 Urinary tract.
- WAC 296-23A-256 Gynecological and obstetrical.
- WAC 296-23A-258 Vascular system.
- WAC 296-23A-260 Miscellaneous.
- WAC 296-23A-262 Diagnostic ultrasound.
- WAC 296-23A-264 Therapeutic radiology.
- WAC 296-23A-266 Nuclear medicine.
- WAC 296-23A-268 Therapeutic.
- WAC 296-23A-325 Panel or profile tests.
- WAC 296-23A-330 Urinalysis.

- WAC 296-23A-335 Chemistry and toxicology.
- WAC 296-23A-340 Hematology.
- WAC 296-23A-345 Immunology.
- WAC 296-23A-350 Microbiology.
- WAC 296-23A-355 Cytopathology.
- WAC 296-23A-360 Miscellaneous.
- WAC 296-23A-410 Muscle testing.
- WAC 296-23A-415 Modalities.
- WAC 296-23A-420 Procedures.
- WAC 296-23A-425 Tests and measurements.

**WSR 93-16-073
PERMANENT RULES
DEPARTMENT OF HEALTH**
[Filed August 2, 1993, 1:43 p.m.]

Date of Adoption: July 30, 1993.

Purpose: To establish a fee for temporary dental hygiene licenses.

Citation of Existing Rules Affected by this Order: Amending WAC 246-815-990.

Statutory Authority for Adoption: RCW 43.70.250.

Other Authority: SHB 1801, signed May 12, 1993.

Pursuant to notice filed as WSR 93-12-121 on June 2, 1993.

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

July 30, 1993

Bruce A. Miyahara

Secretary

AMENDATORY SECTION (Amending Order 173, filed 6/6/91, effective 7/7/91)

WAC 246-815-990 Dental hygiene fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application examination and reexamination	\$200.00
Renewal	95.00
Late renewal penalty	60.00
Credentialing application	300.00
<u>Temporary license application</u>	<u>115.00</u>
Duplicate license	15.00
Certification	35.00
Education program evaluation	200.00

**WSR 93-16-079
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION**
[Filed August 3, 1993, 11:00 a.m.]

Date of Adoption: August 3, 1993.

Purpose: Regulate local government self-insurance transactions and to provide managerial and operational requirements for individual and joint health and welfare and property and liability risk programs.

Citation of Existing Rules Affected by this Order: Amending chapter 392-130 WAC.

Statutory Authority for Adoption: Chapter 48.62 RCW. Pursuant to notice filed as WSR 93-09-030 on April 16, 1993.

Effective Date of Rule: Thirty-one days after filing.
August 3, 1993
Betty Reed
Risk Manager

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 93-16-080
PERMANENT RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Filed August 3, 1993, 12:02 p.m.]

Date of Adoption: August 3, 1993.
Purpose: To implement a system for changing the funding of the office pursuant to legislative mandate.
Statutory Authority for Adoption: Chapter 195, Laws of 1993.
Pursuant to notice filed as WSR 93-12-135 on June 2, 1993.

Changes Other than Editing from Proposed to Adopted Version: The new section entitled certification fee, WAC 326-02-032 will be added to chapter 326-20 WAC as new WAC 326-20-125. This will unite all information regarding the filing of applications. Proposed WAC 326-02-034 is not being adopted at this time.

Effective Date of Rule: Thirty-one days after filing.
August 3, 1993
James A. Medina
Director

Chapter 326-02 WAC
GENERAL PROVISIONS

NEW SECTION

WAC 326-02-031 Office of minority and women's business enterprises account-Created-Purpose. The Office of Minority and Women's Business Enterprises account is created in the custody of the State Treasurer for the purpose of defraying costs of the office in administering Chapter 39.19 RCW. Only the director or the director's designee may authorize expenditures from the account. Money in the account may be spent only after appropriation. The revolving fund account is subject to the allotment procedures provided under Chapter 43.88 RCW. The director of the Office of Financial Management shall prescribe appropriate accounting procedures to accurately record payments to the fund from businesses, state agencies and educational institutions, and political subdivisions and expenditures from the fund.

NEW SECTION

WAC 326-02-033 State agency and educational institution fees. The office shall charge a fee to each state agency and educational institution to assist in the support of the state's Minority and Women's Business Enterprise program. The fee will be apportioned according to the state agency and educational institution's expenditure level of funds which are subject to Chapter 39.19 RCW and Title 326 WAC.

State agency and educational institution's charges that are five-hundred dollars or less will be billed once in a biennium. Charges over five hundred dollars will be billed at least yearly to limit administrative expenditures. The office will submit invoices to state agencies and educational institutions and payments will be due on or before July 15 unless, the state agency or educational institution is billed more frequently than yearly.

Chapter 326-20 WAC
CERTIFICATION

NEW SECTION

WAC 326-20-125 Certification fee. The office shall charge businesses a twenty dollar processing fee for certification and recertification applications. Businesses must submit the fee with all applications for certification or recertification received in the office on or after July 1, 1993, before processing will occur.

WSR 93-16-102
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed August 4, 1993, 10:42 a.m.]

Date of Adoption: August 4, 1993.
Purpose: To establish fee for retired active physician license.

Citation of Existing Rules Affected by this Order: Amending WAC 246-917-990.

Statutory Authority for Adoption: RCW 43.70.250.
Pursuant to notice filed as WSR 93-12-122 on June 2, 1993.

Effective Date of Rule: Thirty-one days after filing.
August 4, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 258, filed 3/27/92, effective 4/27/92)

WAC 246-917-990 Physician and surgeon fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Physician and surgeons:	
Application with examination or reexamination (both components)	\$600.00
Examination or reexamination (component I)	295.00

PERMANENT

Examination or reexamination (component II)	320.00
Applicants (without full examination)	300.00
((Renewal	107.50))
<u>Retired active physician license renewal</u>	<u>125.00</u>
Renewal ((effective April 1, 1994))	100.00
Late renewal penalty	50.00
((Disciplinary assessment	107.50))
Disciplinary assessment (effective April 1, 1994))	100.00
Surcharge-impaired physician	25.00
Certification	50.00
Duplicate license	15.00
Temporary permit	50.00

Limited license:

Limited license application	200.00
((Renewal	107.50))
Renewal ((effective April 1, 1994))	100.00
Duplicate license	15.00
((Disciplinary assessment	107.50))
Disciplinary assessment (effective April 1, 1994))	100.00
Surcharge-impaired physician	25.00

PERMANENT

WSR 93-14-015
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed June 25, 1993, 1:50 p.m., effective July 1, 1993]

Date of Adoption: July 1, 1993.

Purpose: To implement chapter 25, Laws of 1993 1st ex. sess., by repealing, amending, and adding new sections to existing chapter 458-61 WAC.

Citation of Existing Rules Affected by this Order: See repealer section below; amending WAC 458-61-030 Definitions, 458-61-050 Payment of tax—County treasurer as agent for the state, 458-61-060 Disposition of proceeds, 458-61-070 Affidavit batch transmittal, 458-61-080 Affidavit requirements, 458-61-090 Interest and penalties—Date of sale (new title—formerly: Timing of payment—Late payment penalty), 458-61-100 Refunds of tax paid, 458-61-120 Evasion penalty (new title—formerly: Fraud), 458-61-130 Department audit responsibility, 48-61-150 Supplemental statements, 458-61-200 Apartments, 458-61-210 Assignments—Purchasers, 485-61-220 Assignments—Sellers, 458-61-230 Bankruptcy, 458-61-250 Cemetery lots or graves, 458-61-300 Contractor, 458-61-330 Foreclosure—Deeds in lieu of foreclosure (new title—formerly: Court order—Transfer pursuant to), 458-61-335 Easements, development rights, water rights and air rights (new title—formerly: Development rights and air rights), 458-61-340 Community property—Dissolution of marriage/divorce, 458-61-370 Exchanges—Trades, 458-61-400 Creation, assignment and release of security interests (new title—formerly: Fulfillment deed), 458-61-410 Gifts and inheritances (new title—formerly: Gifts), 458-61-420 Government transfers (new title—formerly: Improvements sold on leased land), 458-61-470 Irrigation equipment, 458-61-480 IRS "tax deferred" exchange, 458-61-510 Leases (new title—formerly: Lease with option to purchase), 458-61-520 Mineral rights and mining claims (new title—formerly: Mineral rights), 458-61-540 Mobile and floating home sales (new title—formerly: Mobile home sales), 458-61-550 Nominee, 458-61-555 Option to purchase, 458-61-590 Rescission of sale, 458-61-610 Rerecord, 458-61-640 Sheriff's sale, 458-61-650 Tenants in common and joint tenants (new title—formerly: Tenants in common), 458-61-660 Timber, standing and 458-61-670 Trade-in credit; and New sections WAC 458-61-015 General information, 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state, 458-61-235 Boundary line adjustments, 458-61-255 Clearing title, 458-61-375 Exemption—Mere change in identity or form—Family corporations and partnerships, 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code, 458-61-548 Native American, and 458-61-553 Nonprofit organizations.

Statutory Authority for Adoption: RCW 82.32.300.

Other Authority: Chapter 25, Laws of 1993 1st ex. sess.

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: Effective date of new provisions of law regulating real estate excise tax are effective July 1, 1993. These rules govern the procedures required by taxpayers to comply and by department of revenue to administer this tax.

Effective Date of Rule: July 1, 1993.

June 25, 1993
Gary K. O'Neil
Assistant Director

REPEALER

The following sections of chapter 458-61 Washington Administrative Code are hereby repealed:

- WAC 458-61-010 Authority.
- WAC 458-61-020 General provisions pursuant to chapter 82-32 RCW.
- WAC 458-61-040 Tax imposed.
- WAC 485-61-110 Tax appeals.
- WAC 485-61-140 Compliance.
- WAC 485-61-240 Care, comfort and support.
- WAC 458-61-270 Community property—To establish or separate.
- WAC 458-61-280 Condemnation.
- WAC 458-61-310 Corporation—Family.
- WAC 458-61-320 Corporation—Nonfamily.
- WAC 458-61-360 Easement, sale of.
- WAC 458-61-380 Federal housing agencies.
- WAC 458-61-390 Foreclosure of mortgage, deed in lieu of.
- WAC 458-61-440 Improvements sold to be removed from the land.
- WAC 458-61-450 Indian (American), transfers to or from.
- WAC 458-61-460 Inheritance.
- WAC 458-61-490 Joint tenancy.
- WAC 458-61-500 Leasehold interest.
- WAC 458-61-530 Mining claims.
- WAC 458-61-560 Partnership—Family.
- WAC 458-61-570 Partnership—Nonfamily.
- WAC 458-61-620 Sales made before imposition of tax.
- WAC 458-61-630 Security documents.
- WAC 458-61-680 Trust.
- WAC 458-61-690 Trustee sale pursuant to deed of trust (nonjudicial).

NEW AND AMENDED SECTIONS

NEW SECTION

WAC 458-61-015 General information. (1) Chapter 82.45 RCW imposes an excise tax on every sale of real estate in this state at the rate of one and twenty-eight one-hundredths percent of the selling price. Unless otherwise specifically exempt from tax, all sales of real property are subject to the real estate excise tax. Chapter 82.46 RCW authorizes counties, cities and towns to impose additional taxes on sales of real property based on the same incidences, collection and reporting methods, as applicable under chapter 82.45 RCW. The taxes imposed are due at the time the sale occurs and are to be collected by the county treasurer upon

EMERGENCY

presentation of the documents of sale for recording in the public records, or by the department in the case of a transfer of a controlling interest in an entity which owns real property located in this state. This chapter provides applicable definitions, describes tax payment, collection and reporting procedures, explains the imposition of penalties and interest on late payment, describes available exemptions from tax, and provides procedures for refunds of overpaid taxes and appeals from assessments of tax.

(2) The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except for the following: RCW 82.32.030, 82.32.040, 82.32.050, 82.32.140 and 82.32.270, and the penalties and limitations imposed by RCW 82.32.090.

NEW SECTION

WAC 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** Chapter 25, Laws of 1993, 1st ex. sess., effective July 1, 1993, enacted a provision where the transfer of the controlling interest in an entity which has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax. This tax was enacted to equalize the excise tax burdens between other sales of real property and transfers of entity ownership essentially equivalent to sales of real property by extending the real estate excise tax to transfers of a controlling interest in an entity which has an interest in real property located in this state. This section explains the application of those provisions.

(2) **Definitions.** (a) "Transfer of a controlling interest in an entity" means the transfer or acquisition for a valuable consideration within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state. For purposes of this subsection, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.

(b) "Controlling interest" means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(iii) **Example 1.** A and B each own 40% of the voting shares of a corporation. C, D, E and F each own 5% voting shares. C acquires B's 40% interest, and D's and E's 5% interests. This would constitute a taxable sale because of controlling interest (50% or more) was acquired by C (40% from B plus 5% from D and 5% from E). However, if C, D and E were to transfer their shares to A, those transfers would not be taxable. Although A would then own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by A is not taxable.

(iv) **Example 2.** In a limited partnership consisting of a general partner and three limited partners, each possessing a 25% interest, even though the general partner controls the management and day to day operations, a 25% interest is not a controlling interest. Only if someone were to acquire at least a 50% interest from at least two of the partners would there be the taxable acquisition of a controlling interest. If one partner acquires an additional 25% interest from another partner for a total of 50% interest, no transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(c) The terms "person" or "company" mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

(d) "True and fair value" means market value, which is the amount of money which a purchaser willing, but not obligated, to buy would pay a owner willing, but not obligated, to sell, taking into consideration all uses to which the property is adapted and might in reason be applied.

(e) "Twelve-month period" is any period of twelve consecutive months and may span two calendar years.

(f) "Acting in concert" occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example, if a parent corporation and a wholly-owned subsidiary each purchase a 25% interest in an entity, the two corporations will be considered to have acted in concert to acquire a controlling (i.e., 50%) in the entity.

(ii) Where individuals or entities are not commonly controlled or owned but the unity with which purchasers have negotiated and will consummate the acquisition of ownership interests indicates that they are action as a single entity.

(3) **In General.** In order for the tax to apply when the controlling interest in an entity which has an interest in real property in this state has been transferred, the following elements must have occurred:

(a) The transfer or acquisition of the controlling interest must have occurred within a twelve-month period;

(b) The controlling interest must have been acquired by a single person, or a group of persons acting in concert which aggregate to a controlling interest;

(c) The entity must have an interest in real property located in this state; and,

(d) The transfer is not otherwise exempt under chapter 82.45 RCW and chapter 458-61 WAC, and

(e) Valuable consideration has been received for the transfer.

(4) **Measure of the Tax.** The measure of the tax is the selling price of the real property in this state owned by the entity whose controlling interest has been acquired. the true and fair value of the real property located in this state at time of sale may be determined by a fair market value appraisal of the property or by an allocation of assets by the seller and the buyer made pursuant to section 1060 of the

Internal Revenue Code of 1986. If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price.

(5) **Persons Acting in Concert.** This tax applies to acquisitions, but not transfers, made by persons acting in concert, as defined in (2)(f) above.

(a) Where persons are not commonly controlled or influenced, factors that each indicate whether persons are acting in concert include:

- (i) a close relation in time of the transfers or acquisitions;
- (ii) small number of purchasers;
- (iii) mutual terms contained in the contracts of sale; and
- (iv) additional agreements to the sales contract which bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identify of the other purchasers, then the acquisitions shall be considered separate acquisitions.

(c) Example 1. A owns 100% of X Corporation, the only asset of which is real property. B, C, D, and E, as a group, negotiate to buy all of A's interest in X Corporation with B, C, D and E each buying 25% of A's interest. The contracts of B, C, D, and E are identical and the purchases are to occur simultaneously. B, C, D, and E have also negotiated an agreement binding themselves to a course of action with respect to the acquisition of X Corporation and the terms of the shareholders agreement which would govern their relationship as owners of X Corporation. B, C, D and E would be considered to be acting in concert and their acquisitions from A would be treated as a single acquisition of a controlling interest which is subject to the real estate excise tax.

(d) Example 2. Partnership X, which owns real property, is composed of partners A and B, each having a 50% partnership interest. In August of 1993, A and B decided to raise more capital by agreeing that each will sell a percentage of their partnership interests. On August 20, 1993, A and B each sold 12 1/2 percent of their respective partnership interests to C (C thereby acquiring a 25% partnership interest). On June 27, 1994, A and B each sold a 15% partnership interest to D (D thus acquiring a 30% partnership interest). Although A and B have acted in concert, they are the sellers of the interest and not the persons acquiring the interest. Only the activities of those acquiring the interest are aggregated. Because C and D did not act in concert, neither C nor D acquired a controlling interest as a result of the transfers and the transfers are not subject to the real estate excise tax.

(e) Example 3. Corporation X has 2 stockholders. Individual A owns 90 shares of stock (9%) and individual B owns 10 shares of stock (10%). Corporation X owns 60% of the stock of Corporation Y, which owns real property. Individual A, by virtue of owning 90% of the stock of Corporation X, has a 54% interest in Corporation Y (90% interest in Corporation X multiplied by the 60% interest Corporation X has in Corporation Y equals the 54% interest individual A has in Corporation Y). Individual A sells his 90 shares of stock in Corporation X to individual G.

Individual A, by selling his 90 shares of Corporation X stocks, has transferred a controlling interest (54%) in an entity that owns real property (Corporation Y). This transfer is subject to the real estate transfer tax. The real estate excise tax due is computed on the true and fair value of the real property owned by Corporation Y.

(f) Example 4. Assume the same facts as in Example 3 except that Corporation X owns 50% of the stock of Corporation Y. Since A has not transferred nor has G acquired a controlling interest in Corporation Y (90% X 50% = 45%), the tax would not apply. If, however, Corporation X had transferred its 50% interest in Corporation Y, the transfer would be subject to tax.

(6) **Date of Sale.** Where the controlling interest is acquired in one transaction, the actual date of transfer of the controlling interest shall be considered the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or, when payment is received by the seller and partnership documents are signed, etc.

(a) Where the acquisition of a controlling interest involves the aggregation of interests of persons acting in concert, the selling price of each transfer or acquisition shall be determined as of the actual date of that transfer or acquisition. The actual date control is transferred, not the date of the contract arranging the transfer, determines if the transaction falls within the twelve-month period. However, if it can be shown that the sole reason for the delay in transferring control is the avoidance of the tax, then the date of the contract arranging the transfer may determine if the transaction falls within the twelve-month period.

(b) Example 1. A acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from X on January 30; on July 30, A acquires a 30% interest in the same entity from Y, but the building is now worth \$900,000; on September 30, A acquires a 10% interest in the same entity from Z, but the building is now worth \$1,000,000. The final transfer allows A to acquire, within twelve months, a controlling interest in an entity which owns real property. September 30 is the date of sale.

(i) The sellers' percentages of tax liability in the example above are determined by viewing the series of transactions as a whole. Here, X and Z conveyed 10% interests while Y conveyed a 30% interest. This would result in liability percentages for X and Z of 20% each and for Y, 60%.

(ii) In the example above, the value of the property to which the percentage applies would be the valuation in effect at the time of each transfer (i.e., X's 20% on the \$500,000; Y's 60% on the \$900,000; Z's 20% on the \$1,000,000).

(7) **Tax liability.** Where there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, on or after July 1, 1993, the seller of the interest is generally liable for the tax.

(a) Where the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within 30 days of the sale, the buyer is also liable for the tax.

(b) Where the controlling interest is transferred by a series of sales, each seller is liable for its proportional share

of the tax valued on the date of sale as provided in subsection (6) above.

(8) **Filing of Returns.** the sale of a beneficial interest in real property shall be reported to the department where a tax is due under this chapter and where no instrument is recorded in the official real property records of the county in which the property is located.

(a) The sale shall be reported within five days from the date of the sale on the Department of Revenue Affidavit Form, DOR Form 84-001B. The Affidavit Form shall be signed by both the seller and the buyer and shall be accompanied by payment of the tax due.

(b) The Affidavit Form shall also be used to disclose the sale, in which case:

(i) It shall be signed by either seller or buyer, dependent on who is making the disclosure, and

(ii) It shall be accompanied by payment of the tax due only when submitted by the seller.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter shall be guilty of perjury.

(9) **Due Date, Interest and Penalties.** The tax imposed is due and payable immediately on the date of sale. If not paid within thirty days of the date of sale, it shall bear interest at the rate of one percent per month from the date of sale until the date of payment. In addition to the interest, if the payment of any tax is not received by the department:

(a) Within thirty days of the date due, there shall be assessed a penalty of five percent of the amount of the tax;

(b) Within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and

(c) Within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax.

(d) The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(10) **Transfers after Tax Has Been Paid.** When there is a transfer or acquisition of a controlling interest in an entity on or after July 1, 1993, and the real estate excise tax is paid on the transfer and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the previous seller(s) (or buyer(s), if the buyer(s) have paid the tax) may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** As the transfer and acquisition of a controlling interest in an entity which owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW also apply to the sale of a controlling interest.

(a) Example 1. The merger of a wholly owned subsidiary containing real property located in this state with another subsidiary wholly owned by the parent would be a transfer of controlling interest. However, this transfer is not taxable because it is exempt as a mere change in form or

identity (see: WAC 458-61-375) and it is also exempt because it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization (See: WAC 458-61-376).

(b) Example 2. X owns 100% of corporation Y. X wants daughter D and corporate manager M to be owners with himself in the corporation. X gives daughter D 50% of the voting stock and sells 33 1/3% to manager M. While a controlling interest in the corporation has been transferred to and acquired by D, it is not taxed because generally a gift is an exempt transfer not to be counted for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% to manager M is not a sufficient interest to transfer control, and is not taxed.

(c) Example 3. D owns 75% of the voting stock of X corporation which owns real estate located in this state. D pledges all of its corporate stock to secure a loan with Bank B. When D defaults on the loan and Bank B becomes the owner of all D's stock in Corporation X, the transfer and acquisition of control of the entity is not a taxable transaction because foreclosures of mortgages and other security devices is an exempt transfer.

(12) **Transition rules.** Transactions occurring prior to July 1, 1993 are exempt from inclusion in any determination of whether a transfer or acquisition of a controlling interest occurred within a twelve-month period. Only transactions occurring on July 1, 1993, or later, may be used to determine whether a transfer or acquisition of a controlling interest occurred within a twelve-month period.

AMENDATORY SECTION (Amending WSR 87-12-016 (Order PT 87-4), filed 5/27/87)

WAC 458-61-030 Definitions. For the purposes of chapter 458-61 WAC, unless otherwise required by the context:

(1) "Affidavit" (~~shall~~) means the real estate excise tax affidavit which the department shall prescribe and furnish to the county treasurers for use by taxpayers in reporting transfers of real property. Both the grantor and grantee or agents of each shall sign the affidavit under penalty of perjury. See WAC 458-61-080. (~~Such affidavit shall require the following information:~~

~~(a) Identification of the seller and purchaser, including their current mailing addresses;~~

~~(b) Legal description of the property transferring, including the tax parcel or account numbers;~~

~~(c) Date of sale;~~

~~(d) Type of instrument of sale;~~

~~(e) Nature of transfer;~~

~~(f) Gross sales price;~~

~~(g) Value of personal property involved in the transfer;~~

~~(h) Taxable sales price;~~

~~(i) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW;~~

~~(j) Whether or not the land is classified as open space land, farm and agricultural land, or timber land under chapter 84.33 RCW;~~

~~(k) Whether or not the property is exempt from property tax under chapter 84.36 RCW, at the time of sale;~~

~~(l) Whether or not the property is:~~

- (i) Land only;
- (ii) Land with new building; or
- (iii) Land with a previously used building;

(m) A notice of continuance, signed by all new owners, for classified forest land (RCW 84.33.120), designated forest land (RCW 84.33.180) (RCW 84.33.130) or classified open space land, farm and agricultural land or timber land (RCW 84.34.108) shall be signed for those affidavits conveying land subject to the provisions of chapters 84.33 and 84.34 RCW, if the new owner desires to continue said classification or designation. The county assessor shall determine from information provided by the grantor or grantee if the land qualifies for continued classification or designation and shall so note this determination on the affidavit prior to the acceptance of the affidavit by the county treasurer;

(n) The affidavit shall list the following questions, the responses to which are not required:

- (i) Is this property at the time of sale subject to an elderly, disability, or physical improvement exemption?
- (ii) Does any building have a heat pump or solar heating or cooling system?
- (iii) Does this transaction divide a current parcel of land?
- (iv) Does this transaction include current crops or merchantable timber?
- (v) Does this transaction involve a trade, or partial interest, corporate affiliates, related parties, a trust, a receivership, or an estate?
- (vi) Is the grantee acting as a nominee for a third party?
- (vii) Is the principal use of the land agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, or growing timber?

(o) The affidavit form shall contain a statement of the potential compensating and additional tax liability under chapter 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262 and 84.36.810, and a statement of the applicable penalties for perjury under chapter 9A.72 RCW.

Each county shall use the affidavit form prescribed and furnished by the department of revenue.

The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to all required information.)

(2) "Consideration" ((shall)) means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, or services performed or contracted to be performed in return for the sale and includes ((real property or estate or interest in real property. The term shall further include the market value of real property transferred to a corporation by its shareholders, officers, or corporate affiliates so as to increase the assets of the grantee corporation.)) the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale. Consideration includes the issuance of an ownership interest in any entity in exchange for a transfer of real property to the entity, and, in the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, but notwithstanding the presence of consideration, such a transfer

may not be taxable if it is specifically exempt under WAC 458-61-375 or WAC 458-61-376.

(a) If the total consideration for the sale cannot be ascertained or the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price.

(b) Consideration" does not include the amount of any outstanding lien or incumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements.

((3)) "Court decree" and "court order" shall have the same meaning and may be used interchangeably for the purposes of these rules. This shall be the judgment of a court of competent jurisdiction.

(4) "Date of taxability" shall mean the date of transfer as defined in subsection (15) of this section.

(5)) (3) "Department" ((shall)) means the Washington State Department of Revenue.

((6)) "Mining property" shall mean property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(7) "Mobile home" shall mean a mobile home as defined by RCW 46.04.302, as now or hereafter amended. (RCW 82.45.032))

((8)) (4) "Mortgage" ((shall have)) has its ordinary meaning and shall include a "deed of trust" for the purposes of these rules, unless the context clearly indicates otherwise.

((9)) "Nominal sales prices" shall mean sales prices stated on the real estate excise tax affidavit that are so low in comparison to the actual value of the real estate as to cause disbelief by a reasonable person.

(10) "Nonsale" as defined by RCW 82.45.010 includes those real property transfers which, by their nature, are exempt from the real estate excise tax (see WAC 458-61-080: Affidavit requirements):

(a) Gift, devise or inheritance (see WAC 458-61-410 and 458-61-460);

(b) Leasehold interest, other than option to purchase real property, including timber (see WAC 458-61-500);

(c) Cancellation or forfeiture of a vendee's interest in a real estate contract, whether or not such contract contains a forfeiture clause (Note: Tax exemption applies only to transfer back to original vendor or contract holder and is not the basis for refund of tax paid on original transfer — See WAC 458-61-210(1); see also WAC 458-61-330);

(d) Deed in lieu of foreclosure of a mortgage (where no consideration passes otherwise. See WAC 458-61-210(1));

(e) Assumption of mortgage, deed of trust, or real estate contract where no consideration passes otherwise (see WAC 458-61-210(1));

(f) Deed in lieu of forfeiture of a real estate contract, where no consideration passes otherwise (see WAC 458-61-210(1));

(g) Partition of property by tenants in common, whether by agreement or court decree (see WAC 458-61-650);

(h) Divorce decree or property settlement incident thereto (see WAC 458-61-340);

(i) Seller's assignment (see WAC 458-61-220);

EMERGENCY

~~(j) Condemnation by governmental body (see WAC 458-61-280);~~

~~(k) Security documents (mortgage, real estate contract, or other security interests apart from actual title) (see WAC 458-61-630);~~

~~(l) Court ordered sale or execution of judgment (see WAC 458-61-330);~~

~~(m) Transfer prior to imposition of this tax under chapter 82.45 RCW or previous chapter 28A.45 RCW;~~

~~(n) The transfer of any grave or lot in an established cemetery (see WAC 458-61-250); and~~

~~(o) A transfer to or from the United States, the state of Washington or any political subdivision thereof, or a municipal corporation of this state. (See WAC 458-61-420))~~

~~((11)) (5) "Real estate" or "real property" ((shall)) means ((real property, including improvements the title to which is held separately from the title to the land to which the improvements are affixed,)) any interest, estate or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity which itself owns land or anything affixed to land. ((t)) The term also includes used mobile homes and used floating homes and improvements constructed upon leased land. ((RCW 82.45.032))~~

~~(6) "Real Estate Contract" or "contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The terms "real estate contract" or "contract" do not include earnest money agreements or options to purchase real property.~~

~~((12)) (7) "Sale" ((shall have)) has its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, exchange, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration((- and)).~~

~~(a) "Sale" also includes any contract for such conveyance, grant, assignment, quitclaim, exchange, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person ((by his/her)) at the purchaser's direction, ((which)) and title to the property is retained by the vendor as security for the payment of the purchase price.~~

~~(b) "Sale" also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land. ((RCW 82.45.010))~~

~~(c) "Sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For purposes of this chapter, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.~~

~~(d) "Sale" does not included those real property transfers which are excluded from the definition of "sale" and exempted from the real estate excise tax by RCW 82.45.010 and this chapter, including transfers where no valuable consideration is present such as the transfer of a property to a grantee "subject to" a debt where the grantor is not liable~~

for the payment of the obligation or is otherwise not relieved of the obligation and no other consideration is present.

~~((13)) (8) "Seller" ((shall)) means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington or any political subdivision thereof, or a municipal corporation of this state. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning provided in this subsection for purposes of the real estate excise tax. ((RCW 82.45.020))~~

~~((14)) (9) "Selling price" ((shall)) means ((consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price or any part thereof, or remaining unpaid on such property at the time of sale: Provided, That when the sale is that of a fractional interest in real property, the principal balance of any such debt remaining unpaid at the time of sale shall be multiplied by that same fraction and the result added as a component of the total sales price. The term shall not include the amount of any outstanding lien or encumbrance in favor of the United States, the state of Washington or a municipal corporation for the taxes, special benefits, or improvements. The value maintained on the county assessment rolls at the time of the transaction will be used for the sales price if such cannot otherwise be ascertained. In the event that the property is under current use assessment, the market value assessment maintained by the county assessor shall be used for the sales price.)) the true and fair value of the property conveyed. A rebuttable presumption exists that the selling price is equal to the total consideration paid or contracted to be paid to the transferor, or to another for the transferor's benefit. ((RCW 82.45.030))~~

~~((15)) (10) "Date of transfer," "date of sale," "conveyance date" and "transaction date" ((shall)) all have the same meaning and may be used interchangeably ((for the purposes of these rules)) in this chapter. ((This shall be)) These terms refer to the date ((shown on the instrument of conveyance or sale)) when ownership of or title to real property, or the controlling interest in an entity which has a beneficial interest in real property, is delivered to the transferee in exchange for valuable consideration. This is the date on which the real estate excise tax is due.~~

~~((16) "Used mobile home" shall mean a mobile home which has been previously sold at retail and a previous sale has already been subject to the retail sales tax under chapter 82.08 RCW, or which has been previously used and a previous use has already been subject to the use tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities. (RCW 82.45.032)~~

(17) "Wilful fraud" shall mean knowingly making false statements or taking actions so as to intentionally underpay or not pay the proper real estate excise tax due on the transfer of real estate.

(18) "Used floating home" shall mean a building on a float used in whole or in part for human habitation as a single family dwelling, which is not designed for self propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

(19) "Rescinded transfer" shall mean a real property transfer wherein both grantor and grantee have been restored to their original positions. In such case, title to the real property has been reconveyed to the grantor and all valuable consideration paid toward the sales price principal has been returned to the grantee.

(20) "Air rights" shall mean the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

(21) "Development rights" shall mean those rights that are subject to conveyance and are the unused development which is the difference between the density allowed by zoning and that which exists on a parcel of land.)

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

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

GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 87-03-036 (Order PT 87-1), filed 1/16/87)

WAC 458-61-050 Payment of tax—County treasurer as agent for the state. This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property.

(1) The real estate excise tax ((imposed by RCW 82.45.060 and herein shall)) is to be paid to and collected by the treasurer of the county ((within which is located)) where the real property ((which was sold)) is located.

(2) The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price.

((2)) (3) The law requires the county treasurer ((shall)) to act as agent for the department in carrying out the provisions of chapter 82.45 RCW and these rules.

((3)) (4) The county treasurer shall ((cause a)) stamp ((evidencing satisfaction of the tax lien to be affixed to)) the instrument of sale or conveyance ((prior to its recording)), or ((to)) the real estate excise tax affidavit in the case of used mobile home sales, prior to its recording as evidence of the payment of the tax imposed or entitlement to exemption. However, a stamp indicating payment of tax or entitlement to exemption will not be conclusive as to the taxpayer's liability and will be subject to audit by the department.

((Such)) The stamp shall ((bear reference)) refer to the affidavit number, date and amount of the payment and shall be initialed by the person ((affixing said stamp)) stamping the instrument or affidavit. The county treasurer shall not ((affix such)) stamp ((to)) the instrument of sale or conveyance unless one of the following criteria is met:

(a) Continuance of use has been approved by the county assessor under chapter 84.33 or 84.34 RCW;

(b) Compensating or additional taxes have been collected as required by RCW 84.33.120 (5)(b) and (e), 84.33.140 (1)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080; or

(c) ((Property is not so classified, designated, exempted or specially valued.)) The transfer is not subject to the compensating or additional taxes referred to in (b) above.

Delay in either securing the approval of continuance of use or payment of the compensating tax ((does not forestall the real estate excise tax)) will not prevent the imposition of interest or penalties for delinquent ((penalty imposed by WAC 458-61-090)) payment imposed by RCW 82.45.100. However, ((the taxpayer may pay the real estate excise tax and thus preclude any furtherance of the real estate excise tax delinquent penalty)) payment of the real estate excise tax will stop the accrual of additional delinquent interest and penalties. ((See WAC 458-61-030 (1)(m)-))

((4)) (5) A receipt issued by the county treasurer for the payment of the tax shall be evidence of the satisfaction of the lien imposed under RCW 82.45.070 ((and these rules)) and may be recorded in the manner prescribed for recording the satisfaction of mortgages.

((5)) (6) No ((lease, assignment of lease nor memorandum of either lease or assignment of lease, nor)) instrument ((of sale or conveyance)) evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax ((shall have)) has been paid and the stamp has been affixed ((thereto)) as provided in this section. In ((the)) case ((the)) tax is not due on the transfer, the instrument shall not be ((so)) accepted until suitable notation of such fact has been made on the instrument by the county treasurer. In addition, no instrument of conveyance shall be filed or recorded by the county auditor or recorder if such property is classified or designated as forest land under chapter 84.33 RCW, classified as open space land, farm and agricultural land, or timber land under chapter 84.34 RCW, or receiving a special valuation as historic property under chapter 84.26 RCW, unless the compensating or additional tax has been paid, or the new owner ((shall have)) has signed a notice of continuance which ((shall either be)) is stated on or attached to the excise tax affidavit ((or attached thereto)).

AMENDATORY SECTION (Amending WSR 84-17-002 (Order PT 84-3), filed 8/2/84)

WAC 458-61-060 Disposition of proceeds. (1) The county treasurer shall place one percent of the proceeds of the tax imposed by chapter 82.45 RCW exclusive of any delinquent interest and/or penalties in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. ((RCW 82.45.180))

EMERGENCY

(2) Any requests from county treasurers for adjustments to the funds which have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward all such requests which it approves to the state treasurer and return the requests it denies to the county treasurers along with an explanation for such denial.

(3) Tax payments made directly to the department shall be remitted to the state treasurer who shall deposit the proceeds of any state tax in the general fund for the support of the common schools. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 8/2/84 [7/21/82])

WAC 458-61-070 Affidavit batch transmittal. (1) By the fifth business day following the close of the month in which the tax was received, the county treasurers shall send to the department the department's copies of the real estate excise tax affidavits for the entire month. This affidavit batch shall include all affidavits received during the month, plus copies of any ~~((voided affidavits which represent))~~ documents related to refunds made by the county treasurers.

(2) County treasurers ~~((will))~~ shall complete the affidavit batch transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county treasurer ~~((will))~~ shall send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit. County treasurers shall use the adjustment area provided on the batch transmittal form to reflect any refunds made during the month and shall attach all refund documentation to the batch transmittal form that accompanies the affidavit batch.

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.

AMENDATORY SECTION (Amending WSR 87-03-036 (Order PT 87-1), filed 1/16/87)

WAC 458-61-080 Affidavit requirements. This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property.

(1) **Affidavit Contents.** (a) The law requires the department to prescribe a form of real estate excise tax affidavit to be completed by taxpayers and filed with the county treasurer of the county where the transferred property is located. Affidavit forms will be furnished by the department to the county treasurers for this purpose.

(b) Each county shall use the affidavit form prescribed and furnished by the department.

(c) The affidavit shall be signed by both the grantor and the grantee, or the agent of either, under oath attesting to all required information.

~~((1))~~ (2) When Affidavit is Required. Except for the transfers listed under subsection ~~((2))~~ (3) of this section, the real estate excise tax affidavit ~~((shall be))~~ is required for all transfers of real property including, but not limited to, the following:

(a) Conveyance from one spouse to the other as a result of a decree of divorce or dissolution of a marriage, or in fulfillment of a property settlement agreement incident ~~((thereto))~~ to a divorce;

(b) Conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding;

(c) Conveyance made pursuant to the provisions of a deed of trust;

(d) Conveyance of an easement ~~((it))~~ which is taxable ~~((consideration passes));~~

(e) A deed in lieu of foreclosure of mortgage;

(f) A deed in lieu of forfeiture of a real estate contract;

(g) Conveyance to the heirs in the settlement of an estate;

(h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;

(i) A declaration of forfeiture of a real estate contract;

(j) Conveyance of development rights, water rights, or air rights; and

(k) A boundary line adjustment.

~~((2))~~ (3) When Affidavit is Not Required. The real estate excise tax affidavit ~~((shall))~~ is not ~~((be))~~ required for the following and county treasurers shall not take affidavits for these specific types of transactions:

(a) Conveyance of cemetery lots or graves;

(b) Conveyance for security purposes only and the instrument states on the face of it:

(i) For security only;

(ii) To secure a debt;

(iii) Assignment of a debt;

(iv) For collateral purposes only;

(v) Release of collateral;

(vi) To release security;

(c) A lease of real property that does not contain an option to purchase, or does not transfer lessee-owned improvements;

(d) A mortgage or deed of trust or a satisfaction ~~((thereof))~~ of mortgage or reconveyance of a deed of trust;

(e) Conveyance of an easement ~~((it))~~ which is not taxable ~~((no consideration passes or an easement to the United States, the state of Washington, or any political subdivision or municipal corporation of this state))~~ (WAC 458-61-335);

~~((f) A recording of a contract that changes only the contract terms and not the legal description, purchaser, or sales price, if the affidavit number of the previous transaction is reported;))~~

~~((g))~~ (f) A seller's assignment of deed and contract;

~~((h))~~ (g) A fulfillment deed pursuant to a real estate contract;

(h) A community property agreement which converts separate property of either spouse to community property; and

(i) Options to purchase.

~~((3) County treasurers shall not accept incomplete affidavits. It is the taxpayers' responsibility to furnish complete documentation for claimed tax exemptions. It is the county treasurers' responsibility and authority to require that such documentation, as required by this chapter, shall be furnished by the taxpayers or their agents.))~~

(4) Claims of Exemption. (a) ~~((Among other requirements set forth in WAC 458-61-030(1).))~~ All affidavits which state claims for tax exemption must show:

(i) Current assessed values of parcels involved as of ~~((transaction))~~ the date of sale; and

(ii) Complete reasons for exemptions, including reference to the specific tax exemption in this chapter ~~((in all cases where the exemption is based upon a prior payment of the tax, the prior payment date, amount and affidavit number must be provided on the current affidavit)).~~

(iii) A quitclaim deed is a conveyance instrument. It is not, in itself, a reason for tax exemption. A valid ~~((reason for the))~~ tax exemption must be shown on the affidavit. ~~((Likewise statements such as "to clear title only" and "no consideration" are not complete reasons for tax exemption.))~~

(b) When the transfer of property is to two or more grantees, the affidavit must clearly state the relationship between them such as joint tenants, tenants in common, partners, etc., and the form and proportion of interest that they are each acquiring.

(c) In the case of a used mobile home that is sold with the land upon which it is located, the county treasurer may require the completion of either two affidavits, both real and mobile home, or a single real property affidavit. At the county treasurer's option, a separate mobile home affidavit may not be required if the real property affidavit lists the make, model, year, size and serial number of the unit. Such information should be contained as a separate item within the legal description portion of the affidavit.

(5) Incomplete Affidavits - Duty of Treasurer. County treasurers shall not accept incomplete affidavits. Taxpayers must furnish complete and accurate information on affidavits as well as complete documentation for claimed tax exemptions. The county treasurers have the responsibility to require that taxpayers or their agents furnish proper documentation. An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit which is so low in comparison with the fair market value assessment stated on the property tax rolls so as to cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value shall be used as the selling price.

(6) To accommodate the requirement that the affidavit be signed by both the grantor and grantee or agents of each, identical affidavits may be submitted for a transaction, one bearing the grantor's signature or that of their agent and one bearing the grantee's signature or that of their agent. Both affidavits must be complete and have identical information. The county treasurer will receipt the affidavit signed by the taxpayer (grantor or grantee) and the other affidavit will not be receipted but will become an attachment to the first.

above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-090 ~~((Timing of payment - Late payment penalty.))~~ Interest and penalties - Date of sale.

(1) The tax imposed under ~~((RCW 82.45.070))~~ Chapter 82.45 RCW is due and payable to the county treasurer as of the ~~((transaction))~~ date of sale, whether or not the contract of sale or instrument of conveyance is recorded at that time.

(2) If the tax is paid within thirty days ~~((of the transaction))~~ following the date of sale, ~~((the late payment penalty is))~~ interest will not be applied. If the tax is not paid ~~((more than))~~ within thirty days ~~((after))~~ following the ~~((transaction))~~ date of sale, ~~((a one percent penalty is))~~ interest in the amount of one percent will be applied to the amount of unpaid tax for each thirty-day period, or part thereof, beginning with the ~~((transaction))~~ date of sale to the date of ~~((final and complete))~~ full payment.

(3) In addition to the interest described in subsection (2) of this section, if the payment of any tax is not received by the county treasurer within thirty days of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due; if the tax is not received within sixty days of the date of sale, a total penalty of ten percent shall be added to the tax due; and if the tax is not received within ninety days of the date of sale, a total penalty of twenty percent will be added to the tax due. penalties shall be assessed only against the grantor and shall not be included in the lien arising under RCW 82.45.070.

~~((3) The tax is due as of the transaction date whether or not the contract or conveyance documents are recorded at that time. If the tax is not paid within thirty days of the date, the late payment penalty in subsection (2) of this section, is applicable for the period which the tax remains unpaid.))~~

(4) Where an instrument of sale or conveyance is signed and delivered by the grantor to an escrow agent licensed under Chapter 18.44 RCW, a title company, a title insurance company, or an attorney at law acting as an escrow agent, with instructions to deliver the instrument to the grantee upon the fulfillment of one or more conditions, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(a) A statement, as provided by WAC 458-61-150, signed by the escrow agent, the title company agent, the title insurance company agent, or attorney, is attached to the affidavit indicating that the instrument was delivered to such person in the capacity of an escrow agent; and

(b) The date shown on the instrument is not more than ninety days prior to the date the affidavit is presented to the county treasurer for filing.

(5) In all other cases the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

EMERGENCY

above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-100 Refunds of tax paid. (1) Taxpayers who have paid the real estate excise tax or who have received a notice of assessment of tax and who wish to ~~((seeking to))~~ contest the application of the real estate excise tax ~~((upon))~~ to a particular transfer ~~((of real property must pay the tax prior to))~~ may file a petition for refund or correction of assessment as provided in this section.

(2) Refunds. Any person who has overpaid any tax, interest, or penalty, may apply for a refund within four years from the date of sale by petitioning in writing for a refund of the amount overpaid. ~~((Taxpayers shall obtain copies of the))~~ Claims for refund are to be made on ~~((“Petition for real estate excise tax refund”))~~ forms prescribed by the department and made available ~~((from))~~ at the county treasurers’ offices and at the department. ~~((as provided by the department. After completing the form.))~~

(a) The taxpayer shall submit the completed form and all documentation supporting the claim for refund to the county treasurer’s office in the county where the tax was originally paid.

(b) If the taxpayer originally paid the tax directly to the department, the form and supporting documentation shall be submitted to the department in accordance with the requirements of WAC 458-20-100 (Appeal Procedures). See WAC 458-61-110.

(3) If the taxpayer submits the petition for refund before the county treasurer has sent to the department the copy of the affidavit which receipted the tax payment now in question, the county treasurer is authorized to void the receipted affidavit copies, based upon the criteria listed in subsection (5) of this section, and issue the refund. If the county treasurer authorizes and issues such refund, the voided copy of the affidavit, with a copy of the refund petition attached, must be included in the monthly affidavit batch sent to the department. If the county treasurer does not authorize such refund, the treasurer shall send the petition for refund, along with a copy of the affidavit and all supporting records, to the department. The procedure for petitions sent to the department shall follow subsection (4) of this section.

(4) If the taxpayer submits the petition for refund after the county treasurer has sent to the department the copy of the affidavit which receipted the payment now in question, the county treasurer shall verify the information on the petition and forward it to the department with a copy of the affidavit and any other supporting records furnished by the taxpayer. The department shall approve or deny the refund. ~~((If denied, the petition for refund shall be returned to the petitioner with the reason for denial.))~~ The taxpayer may then appeal the imposition of the tax under the appeal procedures. See WAC 458-61-110: Tax appeals. If such petition is denied, the department will return to the petitioner all supporting documents which are submitted with the petition for refund.

(5) The authority ~~((of the department))~~ to issue tax refunds under this chapter is limited to the following:

(a) Transactions that are completely rescinded as defined in WAC ~~((458-61-030(19)))~~ 458-61-590;

(b) Sales rescinded by court order. In such case a copy of the court decision must be attached to the department’s affidavit copy by the county treasurer (see also WAC 458-61-330 - Court order—Transfer pursuant to);

(c) Double payment of the tax;

(d) Overpayment of the tax through error of computation;

(e) Failure of a taxpayer to claim tax exemption for a transfer which was properly exempt;

~~((f) Nonpayment of valuable consideration by grantee.))~~

~~((5) The authority of the county treasurers to issue tax refunds under subsection (2) of this section is limited to the following reasons:~~

~~((a) Double payment of the tax;~~

~~((b) Overpayment of tax through error of computation;~~

~~((c) Failure of a taxpayer to claim tax exemption for a transfer which was properly exempt;~~

~~((d) Rescission of sale prior to closing; or~~

~~((e) Nonpayment of valuable consideration by grantee.~~

~~((6) Only the taxpayer or authorized agent may petition for a refund of tax.~~

~~((7) Refunds approved by the county treasurer or by the department shall be paid to the petitioner.~~

~~((a) After the real estate excise tax receipt stamp has been voided on the conveyance instrument provided that this conveyance instrument has not been recorded; or~~

~~((b) In the case where the conveyance instrument was recorded, after a second conveyance instrument has been recorded to reverse the effect of the original conveyance instrument.~~

~~In either of the above procedures (a) or (b), the county treasurer or department shall advise the petitioner of the approval of the refund and the necessity to provide the unrecorded conveyance instrument or a reversing conveyance instrument. The county treasurer shall note the issuance of the refund on the affidavit copy maintained in county files and shall notify the county assessors office of the refund.))~~

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 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-120 ((Fraud)) Evasion penalty. (1) A penalty of fifty percent of the proper tax due, or remaining due after insufficient payment, is to be applied by the department to taxable real estate transfers involving an intent to evade the payment of tax. For this purpose, intent to evade means knowingly making false statements or taking actions so as to intentionally fail to pay the proper real estate excise tax due ~~((wilful fraud with intent to evade the tax)).~~

(2) ~~((Wilful fraud with))~~ Intent to evade the tax is illustrated by, but not limited to, the following examples:

(a) Knowingly stating a false ~~((sales))~~ selling price;

(b) Knowingly stating a sale as a gift;

(c) Knowingly claiming a false reason for tax exemption.

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 82-15-070 (Order PT 82-5), filed 7/21/82)

~~WAC 458-61-130~~ Department audit responsibility. ~~((RCW 82-45-150))~~ (1) The department shall conduct audits of transactions and ~~((real estate excise tax affidavits and shall))~~ determine any underpayment of tax ((payment deficiency where such exists)). If the department discovers an underpayment, it shall notify taxpayers ((and appropriate county treasurers of tax payment deficiencies)) and assess the additional tax due as well as all applicable interest and penalties. ~~((Such))~~ Deficiency notices ((shall)) will inform taxpayers ((as to the tax payment required from them)) of the amount owing and set forth reasons ((why such deficient tax amount has been assessed against them by the department)) for the assessment.

(2) If the taxpayer receiving ~~((such))~~ a notice of ~~((tax payment))~~ deficiency has not answered the same within thirty days after its being mailed by the department, the department shall enforce the collection of ~~((such))~~ the deficient tax through the administrative provisions ~~((set forth))~~ in chapter 82.32 RCW.

~~((3))~~ In its audits of the taxability of real estate transactions, the department will generally rely upon, but not be limited to, information:

- ~~(a) The real estate excise tax affidavits, including the entire affidavit file at the county treasurer's office;~~
- ~~(b) Documents recorded by the county auditor;~~
- ~~(c) The assessment rolls and in the field books in the county assessor's office; and~~
- ~~(d) Records supplied by the taxpayer.)~~

(3) Any person may request from the department a predetermination of real estate excise tax liability pertaining to any proposed transfer of real property or to any proposed transfer or acquisition of the controlling interest of an entity with an interest in real property. Requests for predetermination of liability should be addressed to the department's taxpayer information and education section and be accompanied by sufficient facts as will enable the department to ascertain the proper tax liability.

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 87-03-036 (Order PT 87-1), filed 1/16/87)

WAC 458-61-150 Supplemental statements. The department shall provide the county treasurer offices with a uniform multi-use supplemental statement form for use in meeting the ((as required by)) requirements of the following sections of this chapter:

- ~~((1))~~ WAC 458-61-210, Assignments—Purchasers)
- (1) WAC 458-61-090(4), Interest and Penalties - Date of Sale
- ~~((2))~~ WAC 458-61-230, Bankruptcy)
- ~~((3))~~ WAC 458-61-320, Corporation—Nonfamily)

- ~~((4))~~ WAC 458-61-410, Gifts)
- ~~((5))~~ (2) WAC 458-61-550, Nominee
- (3) WAC 458-61-320, Corporation
- (4) WAC 458-61-480, IRS "Tax Deferred" Exchange

The supplemental statements ~~((shall))~~ are to be completed as required by the instructions ((therein)) contained on the form and by each of the sections listed in subsections (1) through ~~((5))~~ (4) of this section. The county treasurer shall distribute the supplemental statement as follows: Original attached to original of affidavit; first copy attached to the department's copy of the affidavit; second copy attached to the assessor's copy of the affidavit; and third copy attached to the taxpayer's copy of the affidavit. Except for the notary requirements of WAC ~~((458-61-320(4)))~~ 458-61-375 and 458-61-550, ((such)) supplemental statements ((shall)) are to be unsworn written statements which meet the requirements set forth in RCW 9A.72.085.

TAXABILITY OF TRANSFERS

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82.)

WAC 458-61-200 Apartments. The real estate excise tax applies to ((F)) the sale of ((an)) individual apartments by the owner of an apartment building which entitles the ((purchaser)) grantee to a warranty deed upon completion of payments ((is a "sale" within the meaning of RCW 82-45-010; therefore, the sale is subject to the real estate excise tax)).

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 87-03-036 (Order PT 87-1), filed 1/16/87)

WAC 458-61-210 Assignments—Purchasers. (1) The real estate excise tax does not apply to ~~((the following types of purchaser's assignments, provided that no consideration passes to the grantor:~~

~~((a) Cancellation or forfeiture of the vendee's interest in a contract of sale, deed in lieu of foreclosure of mortgage or deed in lieu of forfeiture of a real estate contract all of which are being conveyed to the lien holder as the result of default of the obligation;))~~ assignments of a purchaser's interest in an earnest money agreement where neither the earnest money agreement nor its assignment effect a present transfer of the title to or ownership of real property.

~~((b) Assumption by a grantee of the balance owing on an existing obligation which is secured by a mortgage, deed of trust or real estate contract where the grantee has become personally and principally liable for payment of that obligation.~~

The real estate excise tax affidavit is required for each of the above. If the transfer is an assumption under (b) of this subsection, the grantor must furnish the supplemental statement, as provided by WAC 458-61-150, signed by both the grantor and grantee that no additional consideration of any kind is being paid by the grantee to the grantor. ~~((See WAC 458-61-150))~~

EMERGENCY

The tax exemption provided in (b) of this subsection does not apply to the following transfers:

~~(i) Between a corporation and its stockholders, officers, or affiliated corporations (except that tax exemption contained in WAC 458-61-320(3));~~

~~(ii) Between a partnership and its members or another partnership or corporation owned by the same members;~~

~~(iii) Between joint venturers;~~

~~(iv) Between joint tenants;~~

~~(v) Between tenants in common; or~~

~~(vi) During the conversion of a joint or common tenancy, a joint venture, partnership, or corporation from one form of ownership to another form of ownership.)~~

(2) The real estate excise tax applies to transfers where the purchaser of real property under a real estate contract assigns his/her interest in ((such property)) the contract and receives valuable consideration for that interest. The measure of the real estate excise tax is the sum of the consideration paid or contracted to be paid to the grantor of such assignment plus the unpaid principal balance due on the assigned ~~((mortgage or))~~ real estate contract. ~~((Note: The consideration passing to the assignor of such interest in real property nullifies the exemptions granted in subsection (1) of this section, because each of these exemptions is granted upon the condition that no consideration passes to the transferee of the interest of real property.))~~

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 84-17-002 (Order PT 84-3), filed 8/2/84)

WAC 458-61-220 Assignments—Sellers. The real estate excise tax does not apply where ~~((the vendor))~~ a seller of real property under a real estate contract assigns ((his/her)) any interest in the contract to a third party. The real estate excise tax affidavit is not required. The instrument of assignment must be stamped by the county treasurer as required by ((RCW 82-45-090)) WAC 458-61-050. ~~((Such))~~ The stamp shall ((show)) cross-reference the number of the affidavit ((number on)) relating to the ((prior sale for which the current assignment is made)) contract being assigned.

AMENDATORY SECTION (Amending WSR 90-01-003, filed 12/7/89, effective 1/7/90)

WAC 458-61-230 Bankruptcy. The real estate excise tax applies to ~~((A))~~ conveyances of real property by a trustee in bankruptcy ((whether made by a trustee conducting the business of the bankrupt or by a trustee liquidating the bankrupt's estate)) when made under either a chapter 7 plan or chapter 13 plan((- However, such a conveyance is)), but not ((taxable)) when made under a ((post-petition)) chapter 11 plan or chapter 12 plan ((per 11 USC 1146 or 11 USC 1231 respectively)).

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

NEW SECTION

WAC 458-61-235 Boundary line adjustments. A transfer of real property for the purpose of establishing the location of a boundary line is taxable to the extent that consideration is given for the transfer. An affidavit is required whether or not consideration is present.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-250 Cemetery lots or graves. The real estate excise tax does not apply to ((F))the sale of lots or graves in an established cemetery ((is not subject to the real estate excise tax)). An established cemetery is one which meets the requirements for ad valorem property tax exemption under RCW 84.36.020. ~~((RCW 82-32-010))~~

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 458-61-255 Clearing title. The real estate excise tax does not apply to quit claim deeds given for the purpose of clearing title only where no consideration passes otherwise. A narrative which explains the nature of the clearance of title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county treasurer's office and a copy of the narrative will be attached to the department's affidavit copy. Any consideration for the clearance of title causes the transaction to become taxable. An example of clearing title would be a quitclaim deed given to a partnership by an exiting minority partner for the purpose of removing any presumptive interest. A second example is the deeding of greenbelts, streets or common areas in a development by the developer to the homeowners association upon completion of the development and under the terms and covenants of the development.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-300 Contractor. (1) If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance subject to the following:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) Where the requirements of subsection (1) of this section have been met ((In this case)), the deed to the contractor, although absolute on its face, ((has simply created a security interest because of the requirement to reconvey the property after construction of the improvement)) will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax

under chapter 82.04 RCW (see excise tax bulletin 275.08.170). Real estate excise tax affidavits are ~~((nevertheless))~~ required for both the original conveyance and the reconveyance ~~((but))~~. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

(3) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61-550 (Nominee) are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

~~((2))~~ (4) Where the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or where a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement.

~~((3))~~ (5) Where a ~~((contractor))~~ speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. Where a speculative builder sells a parcel of property with a partially constructed improvement on the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

~~((4) The real estate excise tax applies to both conveyances where an owner desiring a new home conveys his existing home to a contractor who first uses that home as collateral to secure a loan under FHA to finance the construction of the new home and then conveys the old home to a third person.))~~

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-330 ~~((Court order—Transfer pursuant to))~~ Foreclosure — Deeds in lieu of foreclosure. (1) The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by ~~((the))~~ a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. This exemption includes ~~((the))~~ a court ordered sale of real property by a trustee under the terms of a deed of trust ~~((by the trustee acting on behalf of the beneficiary to the deed of trust))~~. ~~((Note:))~~ Real estate excise tax affidavits which state claims for this tax exemption must cite the ~~((court decision))~~ cause number of the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer. ~~((See also: WAC 458-61-280, Condemnation and WAC 458-61-650, Tenants in common, partition by.))~~

(2) The real estate excise tax does not apply to a transfer of real estate by deed from a mortgagor to the mortgagee in lieu of foreclosure. The tax also does not apply to a transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default

of the underlying obligation. A copy of the recorded original mortgage, deed of trust or contract of sale must be attached to the real estate excise tax affidavit which accompanies the present deed in lieu of foreclosure or forfeiture.

(3) The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

AMENDATORY SECTION (Amending WSR 87-03-036 (Order PT 87-1), filed 1/16/87)

WAC 458-61-335 ~~((Development rights and air rights.))~~ Easements, development rights, water rights and air rights. (1) The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. A taxable sale has not occurred if valuable consideration does not pass, if the easement is transferred to a governmental entity under the threat of exercise of eminent domain, or any other exemption applicable under this chapter applies. An affidavit is required only if the transfer is taxable.

(2) The real estate excise tax applies to the sale of ~~((both))~~ development rights, water rights and air rights. The real estate excise tax affidavit must be completed for the transfer of development rights and air rights whether or not a taxable sale has occurred.

(3) "Development rights" means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(4) "Water rights" means the rights to the use of surface and ground water established and recognized under state law.

(5) "Air rights" means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-340 Community property—Dissolution of marriage/divorce. (1) Where no consideration, other than love and affection, passes from one spouse to another in exchange for either establishing or separating community property, the transfer is not subject to the real estate excise tax. The affidavit must state that the purpose of the transfer is to establish or separate community property.

(2) The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other ~~((in accordance with the terms of a decree of divorce or))~~ in fulfillment of a property settlement agreement incident ~~((thereto))~~ to a divorce. (RCW 82.45.010). This exempting does not apply to a sale of real property by either one or both spouses to a third party regardless of whether the sale is in accordance with the terms of a decree of divorce or property settlement agreement.

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 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-370 Exchanges—Trades. The real estate excise tax applies when real property is exchanged for other real property or any other valuable property, either tangible or intangible. In the case where real property is exchanged for other real property, the transfer of each property is individually subject to the tax. The gross taxable value of each property is the fair market value of each property at the time of transfer - not the equity that each owner has vested in the properties. Where the true and fair value of a parcel of property is not reasonably ascertainable, the assessed value of the property on the assessment rolls of the county assessor may be used. ((RCW 82.45.010 and 82.45.030))

NEW SECTION

WAC 458-61-375 Exemption-mere change in identity or form-family corporations and partnerships. (1) **Introduction.** A transfer of real property, however effected, is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. This exemption is not limited to transfers involving corporations and partnership and includes transfers by trusts, estates, associations and other entities. Except as provided in subsection (3) of this section, this exemption is limited to those transfers where no change in beneficial interest is made.

(2) **Exempt transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by tenants-in-common of their interest in real property to a partnership or a corporation with partnership or corporation interests received bring in the same pro rata shares as the tenants-in-common held prior to the transfer. Such transfer is non-taxable because there is no change in beneficial ownership. (See also: WAC 458-61-376, Exemption-Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation of its interest in real property to its shareholders who will hold the real property as tenants-in-common in the same pro rata share as they own the corporation. Such transfer is not taxable because there is no change in beneficial ownership.

(c) The transfer by a corporation of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another. Such transfer is not taxable because there is no change in beneficial ownership.

(d) A transfer of real property to a corporation or a partnership in exchange for stock in the corporation or a partnership interest would qualify under this section and WAC 458-61-376, Exemption-Transfers where gain is not recognized under the Internal Revenue Code, if the transferor received all of the stock in the corporation or a pro rata partnership interest. However, if a non-family member receives 5% or more of the stock in the corporation, or, if the transferor does not receive a pro rata partnership interest, the transfer may continue to qualify under WAC 458-61-376,

but would not qualify under this section because a change in beneficial ownership has been made.

(e) Corporate mergers and consolidations which are accomplished by stock transfers, and, mergers between corporations and limited partnerships as provided in Chapter 25.10 RCW.

(f) A transfer of real property to a newly-formed, beneficiary corporation from an incorporator to the newly-formed corporation, subject to the following:

(i) The proper real estate excise tax was paid on the original transfer to the incorporator;

(ii) It was documented on or before the original transfer that the incorporator was receiving title to the property on behalf of that corporation during its formation process; and

(iii) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction. This tax exemption does not apply where a real property owner had acquired title in his/her own name and later transferred title to the corporation upon formation.

(g) The distribution of partnership real property to the partners so long as each parcel of property distributed vests in each of the partners in proportion to the partner's interest in the partnership. The tax will apply to the extent a distribution of any parcel of real property is disproportionate to the interest in the partnership of a grantee partner.

(h) A transfer into any revocable trust. The tax does not apply to a conveyance from a trustee of a revocable trust to the original grantor or a beneficiary where no valuable consideration passes or the gift or inheritance exemption applies. The real estate excise tax applies to the sale of real property by the trustee to a third party or a beneficiary for valuable consideration.

(3) **Family Corporations and Partnerships.** Notwithstanding a change in beneficial ownership, the exemption includes transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or children: PROVIDED, That if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse, or children voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (1) the transferor and/or the transferor's spouse or children, (2) a trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust, or (3) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

NEW SECTION

WAC 458-61-376 Exemption-transfers where gain is not recognized under the Internal Revenue Code. (1) **Introduction.** An exemption from the real estate excise tax is allowed for a transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss

because of application of section 332, 337, 351, 368 (a)(1), 721, or 731 of the Internal Revenue Code of 1986, as amended.

(2) **Internal Revenue Code sections.**

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and Partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and Partnerships - Extent of recognition of gain or loss on distribution.

(3) **Extent of exemption.** The exemption applies only to transfers which qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) The exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property held for productive use or investment. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization. (See: WAC 458-61-480 - IRS "Tax deferred" exchanges.)

(b) The exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) **Treatment when gain is partially recognized in an otherwise exempt transaction.** In the event a transaction qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(a) Example 1. In an otherwise nontaxable Internal Revenue Code section 351 transaction, A transfers to X Corporation real property which has a true and fair value of \$100,000 (in which A has a basis of \$50,000 for federal income tax purposes). A receives, in exchange, X Corporation stock worth \$80,000, cash of \$10,000 and a promissory note from X Corporation to pay A \$10,000, payable monthly, starting at closing, for 36 months at 6% interest. The \$10,000 cash received and the \$10,000 promissory note constitute "boot" under the provisions of Sec. 351 and gain is recognized to the extent of the "boot". For real estate excise tax purposes, the non-exempt portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real property transferred, \$20,000, with 80% or \$80,000 of the true and fair value of the property being exempt.

(b) Example 2. In an otherwise nontaxable Internal Revenue Code section 351 transaction, B transfers to Y Corporation, real property with a true and fair value of \$50,000, machinery worth \$250,000. B receives, in exchange, Y stock worth \$275,000 and cash of \$25,000. The

cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the non-exempt portion of the transaction is 8.3% (\$25,000/\$300,000). The non-exempt percentage (8.3%) is applied to the true and fair value of the real property (\$50,000) to arrive at the amount (\$4,167) to which the real estate excise tax is applied.

(5) **Rules of construction.** In the determination of whether a transaction qualifies as an exemption under this section, the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the courts, shall apply to a determination for real estate excise tax purposes. If a transfer has been determined under this chapter and the same transfer is examined and determined for federal tax purposes with the determination becoming fixed under federal law either by agreement with the taxpayer or through final determination in the federal court, then the determination as fixed under this chapter shall be the same as the final federal tax determination.

AMENDATORY SECTION (Amending WSR 82-15-070 [84-17-002] (Order PT 82-5 [PT 84-3]), filed 7/21/82 [8/2/84])

WAC 458-61-400 ((~~Fulfillment deed~~)) Creation, assignment and release of security interests. (1) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment of the security interest, is not a taxable transaction and completion of the affidavit is not necessary.

(2) A deed given ((~~the vendee in~~)) to a purchaser under a real estate contract upon fulfillment of the terms of the ((~~mortgage or~~)) contract is not subject to the real estate excise tax, provided that the proper tax was paid on the original transaction. Similarly, the real estate excise tax is not due upon the delivery of a release of security interest, satisfaction of mortgage, or reconveyance under the terms of a mortgage or deed of trust. The real estate excise tax affidavit is not required for any of the preceding transfers. The fulfillment deed, release, satisfaction of mortgage, or reconveyance must be stamped by the county treasurer as required by ((~~RCW 82-45-090~~)) **WAC 458-61-050.** ((~~Such~~)) In the case of a fulfillment deed, the stamp shall show the affidavit number ((~~of~~)) of the sale which ((~~this~~)) the deed is fulfilling.

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.

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-410 ((~~Gifts~~)) Gifts and inheritances. (1) Gifts. Transfers of real property as gifts are not subject to the real estate excise tax provided that the transfer is without consideration or that love and affection is the only consideration.

(a) When any consideration other than love and affection is present in the transfer, the transaction is taxable to the

extent of the consideration and the consideration shall include, in addition to other consideration, the indebtedness balance when the real property which is transferred is encumbered by a lien securing an indebtedness.

(b) Completion of the real estate excise tax affidavit is required for transfers by gift.

~~((Completion of the real estate excise tax affidavit is required and the supplemental statement as provided by WAC 458-61-150 shall be furnished with both grantor and grantee signatures unless the parties are family related or the grantee is a tax exempt organization under chapter 84.36 RCW. In such case no separate statement is required to be attached to the affidavit but the nature of the family relationship or the fact that the grantee is a tax exempt organization under chapter 84.36 RCW must be stated on the affidavit and the grantor or grantee must sign the affidavit.))~~

(2) Inheritances. Transfers of real property by inheritance are not subject to the real estate excise tax.

(a) A non-prorata distribution by a personal representative of real property making up the residuary estate of a decedent is not taxable so long as the transfer is approved by a court or made pursuant to nonintervention powers granted by the decedent's last will and testament under RCW 11.68.090 and no consideration passes between the grantee beneficiary and the estate. If consideration is given by the grantee beneficiary, the transfer will be taxable to the extent of the consideration.

(b) Completion of the real estate excise tax affidavit is required for transfers by inheritance.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-420 Government~~((s))~~ **transfers** ~~((to or from))~~. (1) The real estate excise tax does not apply to transfers ~~((to or))~~ of real property from the United States, any agency thereof, the state of Washington, any political subdivision thereof, or municipal corporation of this state. Furthermore, the tax does not apply to ~~((transfer to or from any federally chartered credit union.))~~:

(a) Transfers to the United States, the state of Washington or any political subdivision thereof, or a municipal corporation, either under threat of the exercise of eminent domain or as a result of the actual exercise of eminent domain;

(b) Transfers to the federal housing administration or veteran's administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veteran's administration.

(c) Transfers for a public use in connection with the development of real property by a developer when such transfer is required for plat approval and when made: to the United States, the state of Washington or any political subdivision thereof, or a municipal corporation.

(2) The tax applies to sales of real property to governmental entities from non-governmental entities. ~~((RCW 82.45.010))~~

AMENDATORY SECTION (Amending WSR 86-16-080 [82-15-070] (Order PT 86-3 [82-5]), filed 8/6/86 [7/21/82])

WAC 458-61-430 ~~((Improvements sold on leased land.))~~ **Sale of improvements to land.** (1) ~~((The real estate excise tax applies to the sale of improvements on leased land held in private ownership separate from the land if the terms of the sales contract do not require that the improvements be removed from the land.))~~ The sale of an improvement constructed on real property is subject to the real estate excise tax if the contract of sale does not require that the improvements be removed at the time of sale.

(2) The transfer of a lessee's interest in a leasehold for a valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land.

(3) If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on the assessment rolls of the county assessor will be used. See WAC 458-61-030(2).

~~((2))~~ (4) The real estate excise tax does not apply to the sale of improvements ~~((on leased land held in private ownership))~~ if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their ~~((sale))~~ use by the purchaser is subject to the use tax under chapter 82.12 RCW.

~~((3))~~ The real estate excise tax applies to the sale of improvements on leased land held in public ownership. However, if the sale price includes a valuable leasehold estate, the value of the leasehold estate must be deducted from the sales price before application of the tax.)

(5) ~~((Note:))~~ Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (4) in which case the purchaser must file a use tax return with the department. ~~((Affidavits for sales under subsection (2) of this section should show the improvement's sales price as "gross sales price" and deduct this same amount under "deduct personal property." The result will be net taxable sales price of zero.))~~

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.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-470 Irrigation equipment. (1) Any part of a center pivot irrigation system, or any part of an irrigation system that is underground, is considered real property and is subject to the real estate excise tax.

(2) Any irrigation equipment that is above ground, other than a center pivot irrigation system, is considered personal property and its sale is not subject to the real estate excise tax, but is subject to the use tax.

(3) The transfer of irrigation equipment constituting personal property which accompanies a sale of real property should be listed separately as personal property on the real estate excise tax affidavit.

AMENDATORY SECTION (Amending WSR 83-02-022 (Order PT 82-10), filed 12/28/82)

WAC 458-61-480 IRS "tax deferred" exchange. (1) The real estate excise tax applies to the transfer or exchange of real property whether or not federal income tax or capital gains tax is "deferred" or "exempted" under ~~((the))~~ Internal Revenue ~~((Service codes))~~ Code section 1031. The real estate excise tax applies to each property transferred in a section 1031 exchange. See WAC 458-61-370 (Exchanges — Trades).

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax. The later transfer of the property by the facilitator in completion of the exchange will also be subject to the real estate excise tax unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61-150, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee. If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator;

(3) A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61-150 and subsections (2)(a) and (b) of this section.

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 WSR 84-17-002 (Order PT 84-3), filed 8/2/84)

WAC 458-61-510 (~~Lease with option to purchase.~~) Leases. (1) The real estate excise tax ~~((shall apply))~~ applies to a lease with option to purchase at the time ~~((when))~~ the purchase option is exercised~~((+))~~ and the property is transferred.

(2) The real estate excise tax does not apply to the assignment of the lessee's interest in the leasehold except to the extent that the assignment includes the grant assignment, quitclaim, sale or transfer of improvements constructed upon leased land. See WAC 458-61-430.

(3) An affidavit is required to be submitted to the county treasurer when the lease with option to purchase originates.

~~((1) If the option to purchase must be exercised within a period no longer than two years after the original commencement of the lease and the amount of lease payments will not exceed half of the purchase price; or~~

~~(2) If none of the lease payments apply toward the ultimate sales price.~~

Transactions lacking the above criteria are taxable at the time that the lease with option to purchase agreement originates. The sales price shall be considered to be the purchase price stated in the lease option agreement. If the selling price is not stated in the instrument, the grantor, grantee or the agent of either shall, by affidavit, state the option price intended and the tax levied hereunder shall be on such stated option price: **PROVIDED, That upon execution and delivery of the instrument of conveyance or transfer pursuant to such option a second affidavit stating the actual consideration shall be filed with the county treasurer. If the actual consideration passing is greater than the option price stated in the affidavit filed at the time the lease option was executed, there shall be collected the tax on such additional amounts prior to the time the deed is accepted for recording. If the actual consideration is the same as the option price originally stated, no additional tax will be collected. If the actual consideration is less than the option price stated, refund of excess tax shall be made.)**

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-520 (~~Mineral rights.~~) Mineral rights and mining claims. (1) Mineral Rights. The real estate excise tax applies to the sale of mineral rights in private property. ~~((A quitclaim deed, in itself, is not a valid reason for tax exemption.))~~

~~((2)) (a) A conditional sale of mining property in which the ~~((buyer))~~ grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-~~((buyer))~~ grantee has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the ~~((seller))~~ grantor or lessor for execution of such contract. The tax due on any additional consideration paid by the ~~((buyer))~~ grantee and received by the ~~((seller))~~ grantor shall be paid to the county treasurer;~~

~~((a)) (i) at the time of termination, ~~((or))~~~~

~~((b)) (ii) at the time that all of the consideration due to the ~~((seller))~~ grantor has been paid and the transaction is completed except for the delivery of the deed to the ~~((buyer))~~ grantee, or~~

~~((c)) (iii) at the time when the ~~((buyer))~~ grantee unequivocally exercises an option to purchase the property, whichever of the three events occurs first.~~

(b) "Mining property" means property containing or believed to contain metallic or nonmetallic minerals and sold or leased under terms which require the grantee or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(c) A mining lease which grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax: provided, that the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(2) Mining Claims (a) Patented mining claims are real property and their sale is subject to the real estate excise tax.

(b) Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-540 ~~((Mobile home sales.))~~ **Mobile and floating home sales.** (1) Mobile Homes. (a) The real estate excise tax applies to transfers of used mobile homes. Used mobile homes are mobile homes that:

~~((a))~~ (i) Have become affixed to land by being placed upon a foundation (post or blocks) with fixed pipe connections with sewer, water, and other utilities;

~~((b))~~ (ii) The mobile home's removal from the land is not a condition of sale; and

~~((c))~~ (iii) The retail sales or use tax has been paid on a previous sale or use of the home.

~~((2))~~ (b) The retail sales or use tax applies to any of the following mobile home sales:

~~((a))~~ (i) Initial retail sale;

~~((b))~~ (ii) Sale from a dealer's lot of either a new or used unit;

~~((c))~~ (iii) Sale conditional on removal of the unit from its fixture to land; or

~~((d))~~ (iv) Sale of a unit that is not affixed to land by virtue of its placement upon a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

~~((3))~~ (c) The sale of a new or used mobile home is subject either to the real estate excise tax as set forth in subsection (1)(a) of this section, or to the retail sales or use tax as set forth in subsection ~~((2))~~ (1)(b) of this section. A single sale of a mobile home is not subject to both taxes.

~~((4))~~ (d) The decision whether to apply the real estate ~~((sales))~~ excise tax versus the retail sales or use tax should be made without considering the mobile home's status as real or personal property on the assessment rolls. Both taxes are upon transfers of property and it is the characteristics of the transfer, not the classification, that determines which tax to apply.

~~((5) A separate mobile home affidavit is not necessary when the primary affidavit lists the make, model, year and serial number of the mobile home. This information should be listed as a separate item in the legal description portion of the affidavit.)~~

(e) "Mobile home" means a mobile home as defined by RCW 46.04.302.032).

(2) Floating Homes. The real estate excise tax applies to sales of used floating homes. A used floating home is a building which is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

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

WAC 458-61-548 Native American. (1) **Introduction.** Certain exemptions from the real estate excise tax exist when the transfers involve Native Americans. See WAC 458-20-192 for the general rule on taxation of Native Americans.

(2) **Definitions.** (a) "Native American Reservation" means the area set aside by the United States for a Native American Tribe by treaty, law, or executive order and which is an area recognized as a "Reservation" by the United States Department of the Interior. The following Washington reservations are currently recognized by the United States Department of the Interior: Chehalis, Colville, Hoh, Jamestown S'Klallam, Kalispel, Elwha S'Klallam, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Saux-Suiattle, Shoalwater, Skokomish, Spokane, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit and Yakima. Should any additional Native American Reservations be recognized by the Department of the Interior subsequent to the adoption of this rule, they would also be subject to its provisions.

(b) "Native American Tribe means any Native American nation, tribe, band, or community recognized as such by the United States Department of the Interior.

(c) "Native American" and/or "tribal member" mean a person enrolled on the roll of the Native American Tribe occupying a Native American Reservation, and residing or operating a business upon the Native American Reservation of the tribe in which the person is enrolled.

(3) **In general.** (a) The real estate excise tax does not apply to transfers to or from Native American individuals tribes when the United States government acts as trustee on behalf of that Native American individual or tribe.

(b) The real estate excise tax does not apply to sales of property located within the boundaries of a Native American Tribe's Reservation by Native American individuals enrolled on the tribal rolls of the Tribe concerned or by the Tribe itself. The tax exemption is valid even where the buyer of the property is not a tribal member. This exemption includes sales where mobile homes are sold affixed to the land. (See also, WAC 458-61-540).

(c) The real estate excise tax does not apply to sales of timber made by Native Americans holding trust allotments or fee patented lands located within the borders of the Native American Reservation of the Tribe on whose tribal rolls they are enrolled. The tax exemption is valid even where the buyer of the timber is not a tribal member.

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

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-550 Nominee. (1) When a nominee has received title to or interest in real property on behalf of a third-party principal, the real estate excise tax does not apply to the subsequent transfer of the property from the nominee to the third party, provided that:

~~((1))~~ (a) The proper tax was paid on the initial transaction;

~~((2))~~ (b) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction (such notarized statement must be dated on or prior to the first transaction);

~~((3))~~ (c) The third party principal was in legal existence at the time of the initial transaction;

~~((4))~~ (d) The funds used by the nominee to initially acquire the property were provided by the third-party principal; and

~~((5))~~ (e) The subsequent transfer from the nominee to the third-party principal is not for a greater consideration than that of the initial acquisition, or, in the case where the nominee is a licensed contractor and the subsequent transfer to the principal (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61-300.

If property is transferred from the nominee to the third-party principal and one or more of the foregoing requirements are not met, the transaction is not exempt and is taxable to the extent of the entire selling price.

(2) "Nominee" means a person who acts as an agent on behalf of another person in the purchase of real property.

NEW SECTION

WAC 458-61-553 Nonprofit organizations. Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, by virtue of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

AMENDATORY SECTION (Amending WSR 87-12-016 (Order PT 87-4), filed 5/27/87)

WAC 458-61-555 Option to purchase. The real estate excise tax ~~((does not apply))~~ applies to a conveyance of real property upon the exercise of an option to purchase. The tax does not apply to the grant of ((an)) the option ((to purchase real property when such option does not accompany a lease)) and the real estate excise tax affidavit is not required. ((See WAC 458-61-510.))

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-590 Rescission of sale. The real estate excise tax does not apply to ~~((the reconveyance of property from vendee to vendor where no consideration passes otherwise.))~~ a reconveyance of property pursuant to a rescission. In order to qualify for exemption under this section, all consideration paid toward the selling price must be returned by the grantor to the grantee. A grantor may retain interest paid by the grantee without disqualifying the rescission. In addition, the payment of a reasonable reimbursement for site improvements will not disqualify the rescission.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-610 Rerecord. The real estate excise tax does not apply to the rerecording of documents to correct legal description, change of contract terms, or spelling of name of party to the transaction. An affidavit is required for the rerecording and must refer to the prior affidavit number and the recorded document number for the prior transaction and ~~((it also must furnish))~~ a complete explanation of why such rerecording is necessary must be attached to the affidavit.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-640 Sheriff's sale. The real estate excise tax does not apply to any sale of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county treasurer. ~~((RCW 82.45.010))~~

The tax applies to the sale of the right of redemption and the certificate of purchase that result from the sheriff's sale. In the case of the sale or assignment of right of redemption, the taxable consideration includes any payment given or promised to be given and further includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-650 Tenants in common and joint tenants. (1) The real estate excise tax applies to the transfer of real property which results in the creation of a tenancy in common or a joint tenancy with right of survivorship where no consideration passes otherwise.

(2) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax.

~~((1))~~ (3) The physical partition of real property by tenants in common by agreement or as the result of a court decree is not a taxable transaction. A physical partition of property occurs upon the physical division of the property into two or more parcels in accordance with the owners' interests. In order to qualify for this exemption, the partition must be in proportion to the tenants' interests in the property.

~~((2))~~ (4) The sale of the interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

(a) Any consideration given;

(b) Any consideration promised to be given; plus

(c) The amount of any debt remaining unpaid on the property at the time of sale multiplied by that fraction of interest in the real property being sold.

AMENDATORY SECTION (Amending WSR 82-15-070 (Order PT 82-5), filed 7/21/82)

WAC 458-61-660 Timber, standing. (1) ~~((application of the))~~ The real estate excise tax applies to the sale of timber ((is based upon whether or not)) if the ownership of

the timber is transferred while the timber ~~((was))~~ is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See WAC 458-61-548, Native American, when the timber is standing within the borders of a Native American Reservation.

~~((1) The sale of standing timber is a taxable transaction.))~~

(2) The ~~((seller's))~~ grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester where the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax ~~((In this instance))~~ if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

AMENDATORY SECTION (Amending WSR 86-16-080 (Order PT 86-3), filed 8/6/86)

WAC 458-61-670 Trade-in credit. (1) Where a single family residential dwelling is being transferred as the entire or part consideration for the purchase of another single family residential dwelling and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the same property by the broker or party.

The subsequent transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party, the difference shall be paid, but if the tax initially paid is greater, no refund shall be allowed.

(2) The affidavit upon which the trade-in credit is claimed must show all of the following:

- (a) The prior affidavit number where the tax was paid on the original (trade-in) transaction;
- (b) The county auditor's recorded document number for the original transaction, if such was recorded;
- (c) The transaction date of the original transaction; and
- (d) The disclosure that both properties involved in the original trade-in transaction are single family dwellings. ~~((RCW 82.45.105))~~

(3) ~~((Note:))~~ The ~~((above))~~ trade-in credit is allowed toward the subsequent sale of the residence "brought in" on trade - not toward the tax liability of the sale of the residence for which it was traded.~~((3))~~

WSR 93-14-079
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3588—Filed June 30, 1993, 3:05 p.m., effective July 1, 1993, 12:01 a.m.]

Date of Adoption: June 30, 1993.

Purpose: To implement changes to the Medicaid payment system for nursing facilities adopted by the 1993 state legislature, effective July 1, 1993.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-96-756 Enhancement cost area rate and 388-96-775 Public review of rate-setting methods and standards; and amending chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Statutory Authority for Adoption: RCW 74.09.120 and 74.46.800.

Other Authority: ESSB 5724 and ESSB 5966.

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: Amendments to the Medicaid payment system for nursing facilities comply with ESSB 5724 (chapter 13, Laws of 1993) and ESSB 5966 (chapter 3, Laws of 1993) making amendments to the Medicaid payment system, effective July 1, 1993.

Effective Date of Rule: July 1, 1993, 12:01 a.m.

June 30, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (a) Decision-making;
- (b) Planning;
- (c) Evaluating performance;
- (d) Controlling resources and operations; and
- (e) External financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

(3) "Administration and management" means activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" - See WAC 388-96-501.

(5) "Ancillary care" means services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

EMERGENCY

(6) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace.

(a) Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter.

(b) Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee takes:

(i) Formal steps necessary required to declare a default; and

(ii) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised provided the pledge agreement:

(A) Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (10)(b) of this section; and

(B) Prior to default, does not grant the pledgee the power to:

(I) Vote or direct the vote of the pledged ownership interest; or

(II) Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(11) "Capitalization" means the recording of an expenditure as an asset.

(12) "Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

(14) "Change of ownership" means a change in the individual or legal organization responsible for the daily operation of a nursing home.

(a) Events which change ownership include but are not limited to the following:

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Title to the nursing home business enterprise is transferred by the contractor to another party;

(iii) Where the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation; or

(v) Any other event occurs which results in a change of operating entity.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating decisions;

(ii) If the contractor is a corporation, some or all of its stock is transferred; or

(iii) The real property or personal property assets associated with the nursing home change ownership or are leased, or a lease of them is terminated, without a change of operating entity.

(15) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" means a contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "Contractor" means an entity which contracts with the department to deliver care services to medical care recipients in a facility. The entity is responsible for operational decisions.

(18) "Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" means the local community services office of the department.

(20) "Department" means the department of social and health services (DSHS) and employees.

(21) "Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" means an asset the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) An asset purchased using donated funds is not a donated asset.

(23) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(25) "Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(27) "Fair market value" means:

(a) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell; or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is determined.

(28) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to:

- (a) Balance sheet;
- (b) Statement of operations;
- (c) Statement of changes in financial position; and
- (d) Related notes.

(29) "Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "fiscal year" may also refer to a state fiscal year extending from July 1 through

June 30 of the following year and comprising the first or second half of a state fiscal biennium.

(30) "Gain on sale" means the actual total sales price of all tangible and intangible nursing home assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

(31) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the Financial Accounting Standards Board (FASB).

(32) "Generally accepted auditing standards (GAAS)" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(33) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and

(b) An asset over the fair market value of the asset.

(34) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

~~((35)) ("ICF" means:~~

~~(a) An intermediate care facility when referring to a nursing home;~~

~~(b) When referring to a level of care, intermediate care; and~~

~~(c) When referring to a patient, a patient requiring intermediate care.~~

~~((36))~~ "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

~~((37))~~ (36) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

~~((38)) "Intermediate care facility" means a licensed facility certified to deliver intermediate care services to medical care recipients.~~

~~((39))~~ (37) "Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

~~((40))~~ (38) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

~~((41)) "Levels of care" means the classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.~~

~~((42))~~ (39) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

~~((43))~~ (40) "Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

~~((44))~~ (41) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and ~~((SNF and/or ICF))~~ nursing facility, or a boarding home and ~~((SNF and/or ICF))~~ nursing facility. ~~((A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.))~~

~~((45))~~ (42) "Net book value" means the historical cost of an asset less accumulated depreciation.

~~((46))~~ (43) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital which shall be five percent of the ~~((allowable costs of each))~~ product of the sum of the contractor's per patient day component rates in nursing services, food, administrative, operational, and property, multiplied by the contractor's prior calendar year reported patient days as adjusted for the following July 1 rate setting for the contractor ((for the previous calendar year)). Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

~~((47))~~ (44) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

~~((48))~~ (45) "Nonallowable costs" means the same as "unallowable costs."

~~((49))~~ (46) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

~~((50))~~ (47) "Nursing ~~((home))~~ facility" means a home, place, or institution, licensed under chapter 18.51 RCW, where skilled nursing and/or intermediate care services are delivered.

~~((51))~~ (48) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~((52))~~ (49) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

~~((53))~~ (50) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form the beneficial ownership takes.

~~((54))~~ (51) "Patient day" means a calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when the patient is assigned a bed and a patient medical record is opened.

~~((55))~~ (52) "Per diem (per patient day) costs" means total allowable costs for a fiscal period divided by total patient days for the same period.

~~((56))~~ (53) "Professionally designated real estate appraiser" means an individual:

(a) Regularly engaged in the business of providing real estate valuation services for a fee;

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports;

(ii) Passing of written examination on valuation practice and theory; and

(iii) Requirement to subscribe and adhere to certain standards of professional practice as the organization prescribes.

~~((57))~~ (54) "Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

~~((58))~~ (55) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; ~~((or))~~

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of education or training, and meeting all requirements of state law~~((:))~~; or

(i) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((59))~~ (56) "Recipient" means a medical care recipient.

~~((60))~~ (57) "Records" means data supporting all financial statements and cost reports including, but not limited to:

(a) All general and subsidiary ledgers;

(b) Books of original entry;

(c) Invoices;

(d) Schedules;

(e) Summaries; and

(f) Transaction documentation, however maintained.

~~((61))~~ (58) "Regression analysis" means a statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

~~((62))~~ (59) "Related care" includes:

(a) The director of nursing services;

(b) Activities and social services programs;

(c) Medical and medical records specialists; and

(d) Consultation provided by:

- (i) Medical directors;
- (ii) Pharmacists;
- (iii) Occupational therapists;
- (iv) Physical therapists;
- (v) Speech therapists; and
- (vi) Other therapists; and
- (vii) Mental health professionals as defined in law and regulation.

~~((63))~~ (60) "Related organization" means an entity under common ownership and/or control, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

~~((64))~~ (61) "Relative" includes:

- (a) Spouse;
- (b) Natural parent, child, or sibling;
- (c) Adopted child or adoptive parent;
- (d) Stepparent, stepchild, stepbrother, stepsister;
- (e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
- (f) Grandparent or grandchild; and
- (g) Uncle, aunt, nephew, niece, or cousin.

~~((65))~~ (62) "Restricted fund" means a fund for which the use of the principal and/or income is restricted by agreement with or direction of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds generally fall into three categories:

- (a) Funds restricted by the donor to specific operating purposes;
- (b) Funds restricted by the donor for additions to property, plant, and equipment; and
- (c) Endowment funds.

~~((66))~~ (63) "Secretary" means the secretary of the department of social and health services (DSHS).

~~((67))~~ "Skilled nursing facility" means a licensed facility certified to deliver skilled nursing care services to medical care recipients.

~~(68)~~ "SNF" means:

- ~~(a) When referring to a facility, a skilled nursing facility;~~
- ~~(b) When referring to a level of care, skilled nursing care; and~~
- ~~(c) When referring to a patient, a patient requiring skilled nursing care.~~

~~(69))~~ (64) "Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

- (a) Administrative and nursing salaries;
- (b) Utility costs;
- (c) Taxes;
- (d) Insurance;
- (e) Repairs and maintenance; and
- (f) Training costs.

Start-up costs do not include expenditures for capital assets.

~~((70))~~ (65) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

~~((71))~~ (66) "Unallowable costs" means costs which do not meet every test of an allowable cost.

~~((72))~~ (67) "Uniform chart of accounts" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

~~((73))~~ (68) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

~~((74))~~ (69) "Working capital" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-023 Conditions of participation. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing ~~(home)~~ or multiservice facility shall:

(1) Obtain a state certificate of need approval pursuant to chapter 70.38 RCW where required;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide ~~((SNF and/or ICF))~~ nursing facility services;

(4) Hold a current contract to provide ~~((SNF and/or ICF))~~ nursing facility services; and

(5) Obtain and continuously maintain Medicare certification, under 42 USC 1395 (Title XVIII of the Social Security Act), as amended, ~~((for no less than fifteen percent))~~ for a portion of the licensed beds of the facility.

(6) Comply with all provisions of the contract, chapter 74.46 RCW, and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

AMENDATORY SECTION (Amending Order 2799, filed 5/24/89)

WAC 388-96-210 Scope of field audits. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each contractor for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all ~~((Hd))~~ peer group cost center limit adjustments as provided in subsections (4) and (5) of this section and other desk review adjustments previously made to the reported costs being audited, that is, made to such costs for the purpose of establishing a contractor's July 1 medicaid rate following the cost report period under audit.

(4) Beginning with 1992 audits, in auditing cost reports for all calendar years ending six months before the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center without inflating or deflating such limits by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(5) Beginning with 1993 audits, in auditing cost reports for all calendar years ending six months after the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center, calculated on adjusted cost report data for the preceding report year ending six months prior to the start of the new biennium but inflated or deflated by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(6) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-226 Shifting provisions. In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in a cost center to cover a deficit and/or underpayment in another cost center up to the amount of the savings, provided:

(1) Contractors may not shift more than twenty percent of the rate in a cost center into that cost center;

(2) Contractors may not shift into the property cost center;

(3) Beginning January 1, 1988, contractors may not shift out of the nursing services cost center;

(4) Beginning January 1, 1988, contractors may shift savings and/or overpayments in the food cost center only to cover deficits and/or underpayments in the nursing services cost center; and

(5) Beginning January 1, 1988, contractors shall shift payments in the enhancement cost center shown to have been spent for legislatively authorized enhancements, funding for which terminated June 30, 1990, to nonadministrative wages and benefits to the nursing services and administration

and operations cost centers, as appropriate. Such funds shall be shifted for no other purpose~~((:));~~

(6) Beginning January 1, 1993, contractors shall not shift from the operational cost center to the administrative cost center;

(7) For calendar years 1992 and 1993 only, and for final settlement purposes only, a contractor may shift, as authorized in this section, rate payments into the appropriate cost center without regard to the peer group median cost plus percentage limit for that cost center used by the department to establish the facility's July 1 rate following the period being settled.

(8) Beginning with final settlements for calendar year 1994 and following, a contractor may not shift rate payments into any cost center, for settlement or any other purpose, if the total rate payment in that cost center, after shifting, would exceed the contractor's peer group median cost plus percentage limit for that cost center previously used by the department in establishing that facility's July 1 rate in that cost center following the period being settled.

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 2573, filed 12/23/87)

WAC 388-96-228 Cost savings. (1) ~~((Contractors shall refund all payments in excess of allowable costs:~~

~~(a) Received prior to July 1, 1983;~~

~~(b) For medical care recipients; and~~

~~(c) For patient care, food, administration and operations, and property cost areas, taking into account any authorized shifting.~~

~~(2) Beginning July 1, 1983, contractors shall be permitted to retain a portion of payments received in the administration and operations and property cost areas for recipients, in excess of allowable costs for those recipients.))~~ Beginning with settlements for calendar year 1993 and following, contractors may not retain cost savings if the sum of the reported costs in the property and administrative cost centers exceeds audited allowable costs in those cost centers by a total of ten cents or more per patient day. For facilities that qualify, cost savings will be determined according to the following procedures:

(a) Based upon the latest information available, the department shall, by December 31st of each year, notify contractors of the fiftieth percentile rates in the ~~((administration and operations))~~ administrative and property cost areas for the period July 1st through December 31st.

(b) A contractor shall be permitted to retain, after allowable shifting, seventy-five percent of cost savings in the ~~((administration and operations))~~ administrative cost area or the property cost area, multiplied by medical care recipient days of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is at or below the fiftieth percentile rate.

(c) A contractor shall be permitted to retain, after allowable shifting, fifty percent of cost savings in the ~~((administration and operations))~~ administrative cost area or property cost area, multiplied by medical care recipient days

of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is above the fiftieth percentile rate.

~~((d) Contractors may not retain cost savings for calendar year 1985 and subsequently if the sum of the reported costs in the property cost center and the administration and operations cost center exceed audited allowable costs in those cost centers by ten cents or more per patient day.))~~

(3) The department shall recover cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to the ratio of medical care recipients to other patients at the facility.

(4) For the 1983 cost reporting period, the department shall compute cost savings but shall prorate allowable savings by the proportion of medicaid patient days reported for July 1st through December 31st to the total number of medicaid patient days reported for the year.

(5) The department shall compute cost savings calculated for the final settlement on closing cost reports using property costs without consideration of any gain or loss on the sale of assets in the report year.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-505 Offset of miscellaneous revenues.

(1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the property ~~((and administration and operations))~~, administrative, and operational cost areas only. In the property cost area, the amount of reduction will be determined by dividing a facility's allowable property costs by total patient days and multiplying the result by total hold-room days. In the administrative cost area, the amount of the bed hold revenue shall be determined by dividing a facility's allowable administrative costs by total patient days and multiplying the result by total hold-room days. In the ~~((administration and operations))~~ operational cost area, the amount of reduction will be determined by dividing allowable administration and operations costs minus dietary ~~((;))~~ and laundry ~~((; and nursing supply))~~ costs by the total patient days and multiplying the result by total hold-room days.

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in ~~((SNF or ICF))~~ nursing facility services (e.g., costs of

vending machines and services specified in chapter 388-86 WAC not included in ~~((SNF or ICF))~~ nursing facility services) are nonallowable costs.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84.)

WAC 388-96-508 Travel expenses for members of trade association boards of directors. Travel expenses for members of trade association boards of directors otherwise meeting the requirements of this chapter will be allowable for twelve meetings per calendar year subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84.)

WAC 388-96-509 Boards of directors fees. Fees paid to members of boards of directors of corporations operating nursing homes shall be ~~((included in any tests or limits on management or administrative compensation or expense))~~ subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 1613, filed 2/25/81)

WAC 388-96-513 Limit on costs to related organizations. (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere subject to any applicable cost center limit established by this chapter. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-521 Start-up costs. Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable in the ~~((administration and operations))~~ administrative cost area, subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

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 2025, filed 9/16/83)

WAC 388-96-523 Organization costs. (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable in the ~~((administration and operations))~~ administrative cost area, subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs, as limited by subsection (1) of this section, include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(4) Expenses for travel in the states of Idaho, Oregon, and Washington and the province of British Columbia associated with education and training will be allowable if the expenses meet the requirements of this chapter.

(5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-529 Total compensation—Owners, relatives, and certain administrative personnel. ~~((For purposes of the tests in WAC 388-96-531, 388-96-533, and 388-96-535))~~ Subject to any applicable cost center limit established by this chapter, total compensation shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties. In the absence of a contract, total compensation shall include gross salary or wages and benefits (e.g., health insurance) made available to all employees, but excluding payroll taxes paid by the contractor.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-531 Owner or relative—Compensation. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed any applicable cost center limit((s)) set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) The department shall allow prudent and cost-conscious costs of compensation for administrative personnel, subject to ~~((the))~~ any applicable cost center limit((s)) promulgated ~~((pursuant to subsection (5) of this section))~~ by this chapter.

(2) ~~((The department shall allow total compensation of the licensed administrator for services actually rendered to a nursing home on a full time basis (at least forty hours per week, including reasonable vacation, holiday, and sick time) at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) The amount in the table promulgated pursuant to subsection (5) of this section corresponding to the number of beds in the nursing home.))~~ Compensation of the licensed administrator shall be allowable only if the department is given written notice of the administrator's employment within ten days after the employment begins.

(3) ~~((The department shall allow total compensation of not more than one full time licensed assistant administrator if there are at least eighty beds in the nursing home, at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) Seventy five percent of the appropriate amount in the table promulgated pursuant to subsection (5) of this section.~~

(4) ~~The department shall allow total compensation of not more than one full time registered administrator in training at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) Sixty percent of the appropriate amount in the table promulgated pursuant to subsection (5) of this section.~~

~~(5)~~ TABLE

~~Maximum Allowable Total Compensation for Licensed Administrators Calendar Year 1987~~

Bed-Size		
1	79	\$33,672
80	159	\$37,265
160	and up	\$39,615

~~(6) The department shall determine maximum total compensation for licensed administrators of nursing facilities in the various bed size categories in subsequent years based on tables to be issued annually in writing. For 1987 and subsequent years, tables shall reflect calendar year 1986 maximums increased by any inflation adjustment authorized by the legislature.~~

~~(7) If the licensed administrator, licensed assistant administrator, or registered administrator in training regularly work fewer than forty hours per week, the department shall allow compensation at the lower of:~~

~~(a) Actual compensation received, or~~

~~(b) The appropriate amount in the table promulgated in subsection (5) of this section:~~

~~(i) Multiplied by the actual hours worked, plus reasonable vacation, holiday, and sick time normally available to employees working similar hours; and~~

~~(ii) Divided by forty hours per week for each week covered by the cost report. Further discounting is required if the person was not licensed or registered and/or worked for less than the entire report period.~~

~~(8)) The contractor shall maintain time records which are adequate for audit for the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in such records verification of the actual hours of service performed for the nursing home.~~

~~((9) The department shall limit total reimbursement for administrative and management services to allowable compensation for administrative personnel set forth in this section. The department shall apply this policy regardless of the provisions of any employment, management or consultation agreement, or other arrangement existing between the contractor and persons or organizations providing such services. The department shall further limit reimbursement for payroll taxes for administrative personnel to such taxes associated with allowable compensation only for administrative personnel as set forth in this section.~~

~~(10)) (4) The department shall not consider costs of an administrator-in-training for the purpose of setting the ((administration and operations)) administrative prospective rate. The department shall reimburse the costs of an approved administrator-in-training program by an adjustment to current rate. To obtain an adjustment, the contractor shall submit a request for an increase in current rate together with necessary documentation which shall include:~~

~~(a) A copy of the department of licensing approval of the administrator-in-training program, and~~

~~(b) A schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of~~

the program, the department shall reduce the current rate by an amount corresponding to the cost of the program.

(5) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of administrative personnel compensation limits previously contained in this section, beginning with report year 1992.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-535 Management agreements, management fees, and central office services. (1) If a contractor intends to enter into a management agreement with an individual or firm managing the nursing home as an agent of the contractor, the contractor shall send a copy of the agreement to the department at least sixty days before the agreement is to become effective. A contractor shall send a copy of any amendment to a management agreement to the department at least thirty days in advance of the date the amendment is to become effective. The department shall not allow management fees for periods prior to the time the department receives a copy of the applicable agreement. When necessary for the health and safety of medical care recipients, the department may waive the sixty-day notice requirement in writing.

(2) The department shall allow management fees only if:

(a) A written management agreement both:

(i) Creates a principal and/or agent relationship between the contractor and the manager; and

(ii) Sets forth the items, services, and activities to be provided by the manager.

(b) Documentation demonstrates the services contracted for were actually delivered, were nonduplicative of other services rendered to the facility directly or indirectly, and the services were necessary to care for the residents of the facility. Fees are allowable only for such necessary, nonduplicative services to the extent they are of the nature and magnitude that prudent and cost-conscious management would pay.

(3) Allowable fees for all general management services of any kind referenced in this section, including corporate or business entity management and board of director's fees and including management fees not allocated to specific services, are ~~((limited))~~ subject to ((:

~~(a) The maximum allowable compensation under WAC 388-96-533 of the licensed administrator and, if the facility has at least eighty beds, of an assistant administrator, less~~

~~(b) Actual compensation received by the licensed administrator and by the assistant administrator and administrator in training, if any. In computing maximum allowable compensation under WAC 388-96-533 for a facility with at least eighty set up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed)) any applicable cost center limit established by this chapter.~~

(4) A management fee paid to or for the benefit of a related organization shall be allowable ~~((to the extent the fee does not exceed the lesser of:~~

EMERGENCY

~~(a) The limits set out in subsection (3) of this section; or~~

~~(b)) at the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the department shall comply with WAC 388-96-534 in measuring such costs.~~

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including the management expense not allocated to specific services, shall be subject to ((the management fee limits determined in subsections (3) and (4) of this section)) any cost center limit established by this chapter.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility shall be considered allowable costs if the visit does not exceed three weeks. ~~((Travel and housing expenses necessary for visits in excess of three weeks are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.))~~

(7) Bonuses paid to employees at a contractor's nursing facility shall be considered compensation. ~~((Bonuses paid to employees:~~

~~(a) At a contractor's central office or elsewhere other than at the nursing facility, and~~

~~(b) Who are not engaged in nonmanagerial services such as accounting, are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.))~~

(8) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of management fee limits previously contained in this section, beginning with report year 1992.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91.)

WAC 388-96-569 Retirement of depreciable assets.

(1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

(3) For rate setting effective July 1, 1991 ~~((and following))~~ through June 30, 1993, if a medicaid contractor or lessor related to a lessee medicaid contractor, as defined in this chapter, sells any or all of the nursing facility's tangible and/or intangible assets, including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, the department shall recover depreciation reimbursement paid to the selling contractor or lessee related to the selling lessor. However, the department shall recover depreciation reimbursement

only to the extent there was a gain on sale as defined in this chapter. Further, the department shall recover depreciation reimbursement for depreciation from July 1, 1991, forward only.

(4) Recovery of depreciation reimbursement as authorized in this section shall apply to all transfers of assets by sale on or after July 1, 1991, unless pursuant to an enforceable agreement in place prior to July 1, 1991, and on file with the department's rates management office on or before December 31, 1991.

(5) Recovery of depreciation reimbursement shall be from the buyer whether or not such buyer operates the nursing facility or is a medicaid contractor. If recovery cannot be made from the buyer in whole or in part, the amount due shall be recovered from the selling contractor or selling lessor related to the contractor. If the buyer leases some or all of the assets purchased to a related party or organization as defined in this chapter, the department may recover directly from such related party or organization. The total amount subject to recovery shall be due and payable immediately after transfer of the assets by sale. However, the department may establish a repayment schedule to recover depreciation reimbursement for a period not to exceed six months after the transfer by sale.

(6) If repayment is not made immediately or commenced and maintained in accordance with a repayment schedule agreeable to the department, the department shall deduct the recovery from the monthly payments, if any, for medicaid services made to the buyer, or from payments, if any, made to a contractor related to the buyer as defined in this chapter. Such method of recovery shall be in addition to all other means of recovering debt to the state authorized by law.

(7) The depreciation base of depreciable assets and the cost basis of nondepreciable assets for all partial or whole medicaid rate periods after the sale shall be established or continued in accordance with the provisions of this chapter. Neither shall be adjusted to reflect any liability for recovery of depreciation reimbursement. Upon request, the department shall provide to any prospective buyer or seller of nursing facility assets the total depreciation reimbursement paid from July 1, 1991 through June 30, 1993 to the selling contractor or lessee related to the selling lessor.

AMENDATORY SECTION (Amending Order 2270, filed 8/19/85)

WAC 388-96-580 Operating leases of office equipment. Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. Beginning January 1, 1985, office equipment rental costs shall be reimbursed in the administration and operations cost center. Office equipment may include items typically used in administrative or clerical functions such as telephones ~~((or PBX equipment))~~, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day. Effective with July 1, 1993 rate setting, office equipment rental costs shall be reimbursed in the administrative cost center.

EMERGENCY

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90)

WAC 388-96-713 Rate determination. (1) Each contractor's reimbursement rate will be determined prospectively once each ~~((calendar year))~~ state biennium as provided in this chapter to be effective July 1 of the first fiscal year of each biennium. Rates shall be adjusted as provided in this chapter to be effective July 1 of the second year of each biennium and may be adjusted more frequently to take into account program changes.

(2) ~~((If the contractor participated in the program for at least six months of the prior calendar year, its nursing services, administration and operations, property and return on investment rates will be determined based on the contractor's allowable costs in the prior period.))~~ If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92.)

WAC 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients shall consist of the total of ~~((five))~~ six component rates, each covering one cost area. The ~~((five))~~ six cost areas are:

- (1) Nursing services;
- (2) Food;
- (3) ~~((Administration and operations))~~ Administrative;
- (4) Operational;
- (5) Property; and
- ~~((5))~~ (6) Return on investment.

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90.)

WAC 388-96-719 Method of rate determination. (1) ~~((The department shall take data used in determining rates from the most recent complete, desk reviewed annual cost report submitted by contractors.~~

~~(2) The department shall exclude data containing obvious errors from the determination of predicted costs and rate upper limits for WAC 388-96-735.~~

(3) The department shall apply inflation adjustments as follows:

~~(a) For July rate setting, a percentage adjustment determined by the legislature shall be applied to allowable costs in the nursing services and administration and operations cost areas if the cost report for a contractor covers all twelve months of the cost report period. If the cost report covers less than twelve months, the department shall reduce the inflation factor to reflect the shorter period.~~

~~(b) The department shall apply an inflation factor of 2.5 percent to the January 1, 1983, food cost area rate for all contractors to determine the July 1, 1983, food cost center rate. For July rate setting in subsequent years, the department shall apply the adjustment factor determined annually by the legislature to the January 1, 1983, rate.~~

~~(c) The department shall not increase property, return on investment, or enhancement rates for inflation adjustments determined by the legislature in biennial budget acts.~~

~~(4))~~ The principles contained in this section are inherent in rate setting effective with July 1, 1993 and following nursing facility prospective rates.

(2) Reimbursement rates shall be established or adjusted prospectively, on a per patient day basis, once each calendar year, to be effective July 1, and shall follow a two-year cycle corresponding to each state fiscal biennium; provided that, a nursing facility's rate for the first fiscal year of any biennium, unless the operator qualifies as a "new contractor" under the provisions of this chapter, must be established upon its own prior calendar year cost report data covering at least six months.

(3) A contractor's rates in the nursing services, food, administrative, and operational cost centers for the first year of the state fiscal biennium (first fiscal year) shall be adjusted downward or upward for economic trends and conditions when set effective July 1 of the first fiscal year in accordance with subsections (4), (5) and (6) of this section, and adjusted again downward or upward for economic trends and conditions effective July 1 of the second year of the state fiscal biennium (second fiscal year) in accordance with subsections (7), (8) and (9) of this section.

(4) The July 1 cost center rates referenced in subsection (3) of this section shall, for the first fiscal year of each biennium, be adjusted by the change in the Implicit Price Deflator for Personal Consumption Expenditures Index published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis ("IPD Index").

(5) The period used to measure the change in the IPD Index shall be the calendar year preceding the July 1 commencement of the state fiscal biennium (first calendar year). The change in the IPD Index shall be calculated by:

(a) Consulting the latest quarterly IPD Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable expenditure levels as of December 31 of the first calendar year;

(b) Subtracting from the expenditure levels taken from the quarterly IPD Index described in subsection (5)(a) of this section the expenditure levels taken from the IPD Index for the quarter occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section; and

(c) Dividing the difference by the level of expenditures from the quarterly IPD Index occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section.

(6) In applying the change in the IPD Index to establish first fiscal year nursing services, food, administrative and operational cost center rates for a contractor having at least six months, but less than twelve months, of cost report data from the prior calendar year, the department shall prorate the downward or upward adjustment by a factor obtained by dividing the contractor's actual calendar days of report data by two, adding three hundred sixty-five, and dividing the resulting figure by five hundred forty-eight.

(7) For the second year of each state fiscal biennium, a contractor's July 1 cost center rates referenced in subsection (2) of this section shall be the July 1 component rates for the

EMERGENCY

first year of the state fiscal biennium, adjusted downward by any decrease, or upward by one and one-half times any increase, in the Nursing Home Input Price Index without Capital Costs published by the Health Care Financing Administration of the United States Department of Health and Human Services ("HCFA Index").

(8) The period used to measure the change in the HCFA Index shall, subject to subsection (9) of this section, be the calendar year preceding the July 1 commencement of the state fiscal biennium (first fiscal year). The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the first calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (8)(a) of this section the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (8)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (8)(a).

(9) In the event the change in the HCFA Index measured over the calendar year ending six months after the July 1 commencement of the state fiscal biennium (second calendar year), is twenty-five percent greater or less than the change in the HCFA Index measured over the first calendar year, the department shall use any HCFA Index decrease, or one and one-half times any HCFA increase, from the second calendar year to adjust downward or upward, respectively, nursing facilities' nursing services, food, administrative, and operational component rates for July 1 of the second fiscal year of the biennium. The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the second calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the second calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (9)(a) of this subsection the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (9)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (9)(a).

(10) The department shall compute the occupancy level for each facility by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, return on investment, property (~~and administration and operations~~), administrative, and operational prospective rates and (~~limits~~) limits utilizing patient days at the eighty-five percent occupancy level. The department shall use actual occupancy level for facilities at or above eighty-five percent occupancy.

~~((5))~~ (11) If a nursing home provides residential care to individuals other than (~~skilled or intermediate care patients~~) those receiving nursing facility care:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection ~~((4))~~ (10) of this section by including such other residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. No exception shall be granted unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92.)

WAC 388-96-722 Nursing services cost area rate.

(1) ~~((The department shall pay the nursing services cost area reimbursement rate for the necessary and ordinary costs of providing routine nursing and related care to recipients.))~~ The nursing services cost center shall include for reporting and auditing purposes all costs relating to the direct provision of nursing and related care, including fringe benefits and payroll taxes for nursing and related care personnel and for the cost of nursing supplies. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) In addition to other limits contained in this chapter, the department shall subject nursing service costs to ~~((two reasonableness tests:~~

~~((a))~~ a test for nursing staff hours (~~and~~

~~((b))~~ A test for cost increases between the current and preceding report period) according to the procedures set forth in subsection (3) of this section.

(3) The test for nursing staff hours referenced in subsection (2) ~~((a))~~ of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time; and

(b) The average patient debility score for the corresponding facilities as computed by the department. The department shall compute the regression every two years which shall be effective for the entire biennium, beginning July 1, 1993, and shall take data for the regression from:

(i) Correctly completed cost reports; and

(ii) Patient assessments completed by nursing facilities and transmitted to the department in accordance with the minimum data set (MDS) format and instructions, as may be corrected after departmental audit or other investigation, for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associated with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce

costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

~~(4) ((The test for cost increases referenced in subsection (2)(b) of this section shall compare:~~

~~(a) The percentage change in allowable nursing services cost for the facility between the most recent cost report period and the next prior cost report period, excluding actual cost incurred relating to, but not to exceed an amount equal to, any prospective rate revision granted under WAC 388-96-774 in each cost report year;~~

~~(b) Against the percentage change in the medical care component of the consumer price index for all urban consumers between July of the most recent cost report period and July of the next prior cost report period. The department shall limit facilities reporting increases greater than the medical care component of the consumer price index to a rate determined by their adjusted patient care costs for the period immediately preceding the most recent cost report period, inflated by the medical care component of the consumer price index.~~

~~(5) In calculating and applying the test for cost increases, the department shall measure the allowable nursing services cost increase between the most recent and the next prior cost report periods on a total cost basis and on a per-patient day cost basis only. The department shall utilize for each contractor the basis showing the lesser increase.~~

~~(6)) For all rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter (~~and as tested for reasonableness within this section~~), shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement (commonly referred to as "nursing pool" services), in excess of the amount of compensation which would have been paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.~~

~~((7)) (5) Staff of like classification shall mean only the nursing classifications of registered nurse, licensed practical nurse or nurse assistant. The department shall not recognize particular individuals, positions or subclassifications within each classification for whom pool staff may be substituting or augmenting. The department shall derive the facility average hourly wage for each classification by dividing the total allowable regular and overtime salaries and wages, including related taxes and benefits, paid to facility staff in each classification divided by the total allowable hours worked for each classification. All data used to calculate the average hourly wage for each classification shall be taken from the cost report on file with the department's rates management office for the most recent cost report period.~~

~~((8) The department shall suspend application of the cost increase limitation, authorized by subsections (2)(b) and (4) of this section, for the July 1, 1991, through June 30, 1992, rate period only. The limitations shall remain in effect for all other rate periods and the suspension shall not affect application of the nursing hours lid, authorized by subsections (2)(a) and (3) of this section, which shall remain in effect for all rate periods.))~~

~~(6) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the nursing services cost center in accordance with this section.~~

~~(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:~~

~~(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and~~

~~(ii) Those not located within such an area (Non-MSA facilities).~~

~~(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted nursing services cost from the prior cost report year, which shall include all costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.~~

~~(c) The median or fiftieth percentile nursing facility cost in nursing services for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted nursing services cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the nursing services cost area prior to issuing new July 1 rates.~~

~~(7) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, nursing services component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:~~

~~(a) The facility's adjusted per patient day nursing services cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or~~

~~(b) The median nursing services cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased~~

by the change in the IPD Index as authorized by WAC 388-96-719.

(8) Adjustments previously made to current fund nursing services costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 nursing services rate higher than that provided in subsection (7) of this section.

(9) For July 1, 1993 rate setting only, if a nursing facility is impacted by the peer group median cost plus twenty-five percent limit in its nursing services cost, such facility shall not receive a per patient day prospective rate in nursing services for July 1, 1993 lower than the same facility's prospective rate in nursing services as of June 30, 1993, as reflected in departmental records as of that date, inflated by any increase in the IPD Index authorized by WAC 388-96-719.

(10) For July 1, 1993 rate setting only, nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's nursing services rate established under subsection (7) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in nursing services, but only up to the facility's peer group median cost plus twenty-five percent limit.

(11) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted nursing services cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in nursing services based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's nursing services rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(12) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(13) Neither the per patient day peer group median plus twenty-five percent limit for nursing services cost nor the test for nursing staff hours authorized in this section shall apply to the pilot facility designated to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan. The AIDS pilot facility shall be the only facility exempt from these limits.

(14) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in nursing services for the second

fiscal year of each biennium shall be that facility's nursing services rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(15) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 nursing services rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-727 Food cost area rate. (1) ~~((The food cost area rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for recipients.~~

~~(2) Reimbursement for the food cost center shall be at the January 1, 1983, rate, adjusted for inflation utilizing the inflation factor specified in WAC 388-96-719 (3)(b).))~~ The food cost center shall include for cost reporting purposes all costs of bulk and raw food and beverages purchased for the dietary needs of the nursing facility residents.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the food cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted food cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility food cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted food cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the food cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, food component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day food cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility food cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund food costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 food rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's food rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in food, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted food cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in food based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's food rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in food for the second fiscal year of each biennium shall be that facility's food rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 food rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 2172, filed 12/4/84)

WAC 388-96-735 ((Administration and operations))

Administrative cost area rate. (1) The ((administration and operations cost area reimbursement rate will reimburse for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, and providing dietary service (other than the cost of food and beverages), medical supplies, taxes, and insurance)) administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology. Such costs shall be identical to the cost report line items categorized on the 1992 calendar year report under "general and administrative" within the administration and operations (A&O) combined cost center existing for reporting purposes prior to January 1, 1993, with the exception of nursing supplies and purchased and allocated medical records. The department shall issue cost reporting instructions identifying administrative costs for 1993 and following cost report years.

(2) ((Each contractor's allowable, inflation adjusted, per patient day administration and operations cost shall be determined.

(3) Costs for contractors having submitted correct and complete cost reports by the time July rates are initially to be established shall be ranked from highest to lowest. The eighty-fifth percentile of the ranking shall be determined.

(4) Administration and operations rates for individual providers shall be the lower of the provider's allowable cost or the eighty-fifth percentile.

(5) Beginning July 1, 1984, allowable costs for administration and operations for rate setting purposes shall include allowable retained savings for the preceding report year.

(6) Beginning January 1, 1985, the administration and operations cost area rate will include reimbursement for the necessary and ordinary lease costs of office equipment as specified in WAC 388-96-580.) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the administrative cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted administrative cost from the prior cost report year, excluding the costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are

contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility administrative cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted administrative cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the administrative cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, administrative component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day administrative cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility administrative cost for the facility's peer group plus ten percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund administrative costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year adjustment, a July 1 administrative rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's administrative rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted administrative cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 administrative rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that

facility's administrative rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's administrative rate for the second fiscal year of each biennium shall be that facility's administrative rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 administrative rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

NEW SECTION

WAC 388-96-737 Operational cost area rate. (1)

The operational cost center shall include for cost reporting purposes all allowable costs having a direct relationship to the daily operation of the nursing facility (but not including nursing services and related care, food, administrative, or property costs), whether such operating costs are incurred at the facility or are allocated in accordance with a department-approved joint cost allocation methodology.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the operational cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted operational cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility operational cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted operational cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the operational cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, operational component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day operational cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility operational cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund operational costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year adjustment, a July 1 operational rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, operational rate adjustments, granted under authority of WAC 388-96-774 and commencing January 1, 1993 through June 30, 1993, shall be added to a facility's operational rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect operational rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's operational rate, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted operational cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 operational rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's operational rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's operational rate for the second fiscal year of each biennium shall be that facility's operational rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 operational rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-745 Property cost area reimbursement rate. (1) The department shall determine the property cost area rate for each facility (~~by dividing~~) annually, to be effective July 1, regardless of whether the July 1 rate is for the first or second year of the biennium, in accordance with this section and any other applicable provisions of this chapter.

~~((2))~~ (2) The department shall divide the allowable prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

~~((a))~~ (a) The retained savings from the property cost center as provided in WAC 388-96-228, by

~~((b))~~ (b) Total patient days for the facility in the prior period.

(3) Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

~~((4))~~ (4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated patient day level.

~~((5))~~ (5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need, the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

~~((6))~~ (6) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

- (c) Interest on building funds during period of construction and processing fee or service charge;
- (d) Sales tax on labor and materials;
- (e) Site preparation (including excavation for foundation and backfill);
- (f) Utilities from structure to lot line;
- (g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);
- (h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;
- (i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

((5)) (7) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from one of the three tables which follow. The department shall derive the limit from the accompanying table which corresponds to the number of total nursing home beds for the proposed new construction, remodel or expansion. The limit will be the sum of the basic construction cost limit plus the common use area limit which corresponds to the type and class of the new construction, remodel or expansion. The limits calculated using the tables shall be adjusted forward from September 1990 to the average date of construction, to reflect the change in average construction costs. The department shall base the adjustment on the change shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE CONSTRUCTION COST LIMITS		COMMON-USE AREA COST LIMITS	
74 BEDS & UNDER			
Building Class	Base per Bed Limit	Base Limit	
A-Good	\$50,433	\$278,847	
A-Avg	\$41,141	\$227,469	
B-Good	\$48,421	\$267,718	
B-Avg	\$40,042	\$221,392	
C-Good	\$35,887	\$198,421	
C-Avg	\$27,698	\$153,143	
C-Low	\$21,750	\$120,258	
D-Good	\$33,237	\$183,765	
D-Avg	\$25,716	\$142,182	
D-Low	\$20,298	\$112,227	

BASE CONSTRUCTION COST LIMITS		COMMON-USE AREA COST LIMITS		
75 TO 120 BEDS				
Building Class	Base Limit	Add per Bed Over 74	Base Limit	Add per Bed Over 74
A-Good	\$3,732,076	\$48,210	\$278,847	\$2,808
A-Avg	\$3,044,442	\$39,327	\$227,469	\$2,291
B-Good	\$3,583,131	\$46,286	\$267,718	\$2,696
B-Avg	\$2,963,112	\$38,277	\$221,392	\$2,230
C-Good	\$2,655,654	\$34,305	\$198,421	\$1,998
C-Avg	\$2,049,668	\$26,477	\$153,143	\$1,542
C-Low	\$1,609,531	\$20,792	\$120,258	\$1,211
D-Good	\$2,459,506	\$31,771	\$183,765	\$1,851
D-Avg	\$1,902,956	\$24,582	\$142,182	\$1,442
D-Low	\$1,502,048	\$19,403	\$112,227	\$1,130

BASE CONSTRUCTION COST LIMITS			COMMON-USE AREA COST LIMITS	
121 BEDS AND OVER				
Building Class	Base Limit	Add per Bed Over 120	Base Limit	Add per Bed Over 120
A-Good	\$5,949,745	\$42,359	\$408,015	\$2,106
A-Avg	\$4,853,505	\$34,555	\$332,855	\$1,718
B-Good	\$5,712,287	\$40,669	\$391,734	\$2,022
B-Avg	\$4,723,848	\$30,142	\$323,972	\$1,672
C-Good	\$4,233,692	\$23,264	\$290,329	\$1,499
C-Avg	\$3,267,618	\$18,268	\$224,092	\$1,157
C-Low	\$2,565,943	\$27,916	\$175,971	\$ 908
D-Good	\$3,920,989	\$21,599	\$268,911	\$1,388
D-Avg	\$3,033,727	\$17,048	\$208,493	\$1,081
D-Low	\$2,394,592	\$19,403	\$164,220	\$ 848

((6)) (8) When some or all of a nursing home's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance shown in the attached tables for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limit in the table. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes from the Marshall and Swift Publication.

((7)) (9) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

- (a) Actual cost per square foot, including allocations; or
- (b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments.

((8)) (10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for ~~((individual))~~ each Medicaid ((facilities)) nursing facility a return on investment ~~((allowances))~~ rate composed of a financing allowance and a variable return allowance. A facility's

EMERGENCY

return on investment (ROI) rate shall be determined annually in accordance with this section, to be effective July 1, regardless of whether the rate is for the first or second fiscal year of the state biennium. No nursing facility's ROI rate, in either the financing allowance or the variable return allowance, shall be established July 1 or revised subsequently to reflect rate adjustments granted in any cost center to current fund costs under the authority of WAC 388-96-774 and commencing after the prior cost report period, except for adjustments to fund capitalized additions or replacements.

(2) The department shall determine the financing allowance by:

(a) Multiplying the net invested funds of each facility by ten percent and dividing by the contractor's total patient days effective for July 1, 1991, and all following rate settings. In computing the allowance for the working capital portion of net invested funds, the department shall include in a contractor's costs from the prior report year used to establish the contractor's component rates in nursing services, food, administrative, operational, and property, all adjustments for economic trends and conditions granted under authority of WAC 388-96-719 and all costs current-funded under authority of WAC 388-96-774 and commencing during such prior report year. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less than twelve months, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset results in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level; and

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. As such, subject to provisions contained in this chapter, capitalized cost of leased land, regardless of the type of lease, shall be the lessor's historical capitalized cost. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased on or after July 18, 1984, capitalized cost of land shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter.

(c) A contractor shall retain that portion of ROI rate payments at settlement representing the contractor's financing allowance only to the extent reported net invested funds,

upon which the financing allowance is based, are substantiated by the department.

(3) The department shall determine the variable return allowance according to the following procedure:

(a) Once every two years at the start of each biennium, beginning with July 1, 1993 rate setting, the department shall, without utilizing the MSA and Non-MSA peer groups used to calculate other Medicaid component rates, rank all facilities in numerical order from highest to lowest based upon the combined average per diem allowable costs for ((the sum of the administration and operations and property cost centers for)) the nursing services, food, administrative, and operational cost centers taken from the ((preceding)) prior cost report period. The department shall use adjusted costs taken from cost reports having at least six months of data, shall not include adjustments for economic trends and conditions granted under authority of WAC 388-96-719, and shall include costs current-funded under authority of WAC 388-96-774 and commencing in the prior cost report year. In the case of a new contractor, ((property and administration and operations)) nursing services, food, administrative, and operational cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor. ((The department shall adjust the new contractor's costs to the cost year used to establish the most recent variable return ranking for all providers using inflation factors authorized by provisions of this chapter.))

(b) The department shall compute the variable return allowance by multiplying the ((total prospective rate)) sum of the nursing services, food, administrative and operational rate components for each nursing facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. The department shall assign facilities in the highest quarter a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(c) The percentages so determined and assigned to each facility for July 1 rate setting for the first fiscal year of each state biennium, shall continue to be assigned without modification for July 1 rate setting for the second fiscal year of each biennium. Neither the break points separating the four groups nor facility ranking shall be adjusted to reflect future rate adjustments granted to contractors for any purpose under WAC 388-96-774, or granted for any other reason in the course of the biennium.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates,

divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease agreement existing on January 1, 1980, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, per a provision of the lease agreement existing on January 1, 1980, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

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

NEW SECTION

WAC 388-96-757 Reimbursement for veterans' homes. (1) Notwithstanding any other provision of this chapter, reimbursement rates for any nursing facility operated by the state of Washington, Department of Veterans Affairs (DVA) shall, for the 1993/1995 biennium (July 1, 1993 through June 30, 1994 rate setting), be established according to the following procedures:

(a) DVA shall submit separately for each facility an opening-year budget utilizing the 1992 cost report form and instructions designed for all medicaid nursing facilities reimbursed for services under this chapter;

(b) Each facility budget shall be reviewed and adjusted by staff of the department's office of rates management, aging and adult services administration, utilizing rules of allowability for medicaid costs contained in this chapter;

(c) The total prospective medicaid rate for each DVA-operated facility to be effective July 1, 1993 (or effective upon the subsequent opening date of each facility), through June 30, 1995, shall be established at the lower of:

(i) Each facility's budgeted costs submitted by DVA, as reviewed and adjusted by department staff; or

(ii) One hundred fifty dollars per patient day in all cost centers combined.

(d) In the event the limit of one hundred fifty dollars at any DVA facility is exceeded by the total budgeted costs remaining after department review of the facility budget, the department will divide the one hundred fifty dollars limited amount among the costs centers in the following priority: nursing services, food, operational, administrative, property and return on investment (ROI).

(e) Once the rates are established and in effect, DVA may seek rate increases at any time during the 1993/1995 biennium to current-fund additional costs exceeding the rates, but only as authorized under the procedures and substantive criteria in WAC 388-96-774 as employed for all medicaid facilities reimbursed under this chapter.

(f) Any adjustments for economic trends and conditions in any cost center, effective July 1, 1994 for medicaid contractors under the provisions of this chapter, shall be extended to the DVA facilities as well.

(g) The DVA facilities shall submit annual facility cost reports on department forms, and according to department instructions applicable to all facilities, for 1993 and for 1994, and settlements for each of these years shall be completed for each DVA facility, with final payment being made at the lower of cost or rate, after all allowable cost center shifting, as for all medicaid facilities reimbursed under this chapter.

(2) For July 1, 1995 rate setting and following, all rate-setting principles applicable to the DVA facilities shall be developed by the department.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing (~~home~~) facility which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a (~~standard~~) Metropolitan Statistical Area (MSA), as defined and

determined by the United States (~~Bureau of the Census~~) Office of Management and Budget or other applicable federal office, and three acres for nursing (~~homes~~) facilities located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; or

(f) Other reasons exist which are deemed sufficient by the department.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-764 Activities assistants. Costs associated with the employment of activities assistants working under the direction of a qualified activities specialist are allowable in the nursing services cost center subject to any applicable cost center limit contained in this chapter.

AMENDATORY SECTION (Amending Order 2105, filed 5/30/84)

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable, subject to any applicable cost center limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which patients may be legally entitled, such as private insurance or Medicare, were first fully utilized.

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90)

WAC 388-96-768 Minimum wage. (1) Effective January 1, 1988, contractors shall adjust and maintain wages for all employees to conform to no less than the minimum hourly wage established by the legislature. This wage is four dollars and seventy-six cents an hour beginning January 1, 1988, and five dollars and fifteen cents an hour beginning January 1, 1989. (~~If moneys are appropriated by the legislature, costs to prospectively fund these minimum wage requirements shall be reimbursed in the enhancement cost center.~~)

(2) Minimum wage requirements set forth in this section shall not apply to an employee who:

(a) The department of labor and industries determines is entitled to payments for temporary and total disability; and

(b) A physician authorizes to return to available work other than the employee's usual work.

(3) The employee shall be paid the minimum wage or more when resuming usual work.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-96-756	Enhancement cost area rate.
WAC 388-96-775	Public review of rate-setting methods and standards.

WSR 93-16-003
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3593—Filed July 22, 1993, 12:31 p.m., effective July 23, 1993, 12:01 a.m.]

Date of Adoption: July 22, 1993.

Purpose: Chapter 388-88 WAC, new sections are WAC 388-88-096, 388-88-150, 388-88-155, 388-88-170, 388-88-180, and 388-88-190. To comply with federal regulations implementing the preadmission screening and annual resident review (PASARR) requirements for nursing facilities. These regulations were published in the November 30, 1992, Federal Register and were effective January 29, 1993.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-88-080, 388-88-099, 388-88-102, 388-88-130, and 388-88-145; and amending WAC 388-88-095, 388-88-097, and 388-88-098.

Statutory Authority for Adoption: RCW 34.05.350.

Other Authority: 42 CFR 483.100 through 483.138.

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 comply with federal 42 CFR 483.100 through 483.138.

Effective Date of Rule: July 23, 1993, 12:01 a.m.

July 22, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending WSR 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-095 Nursing facility placement. (1) Nursing facility care (~~must~~) shall be requested by a person's attending physician or Christian Science practitioner before the person's admission to a medicaid-certified facility.

(2) A medicaid certified nursing facility shall not admit any person unless an identification screen is completed as required under WAC 388-88-097.

(3) A person identified as having a serious mental illness or a developmental disability, as defined (~~in WAC 388-88-097(5))~~ under 42 CFR § 483.102 or as subsequently amended, shall be assessed under WAC 388-88-097 before

the person's (~~(placement in)~~) admission to a medicaid-certified nursing facility.

(4) A medicaid applicant or recipient shall not be admitted to a medicaid-certified nursing facility unless the department has assessed and determined the person needs nursing facility care as defined under WAC 388-88-081.

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

~~((5))~~ (6) There shall be no retroactive payment authorized for any medicaid applicant or recipient admitted to a nursing facility in violation of this section.

NEW SECTION

WAC 388-88-096 Pre-admission screening and annual resident review (PASARR). (1) The department shall assess a nursing facility applicant or resident having a serious mental illness or developmental disability according to the preadmission screening and annual resident review requirements under 42 CFR § 431 and § 483. Under the PASARR, the department, through a designee, shall determine whether a nursing facility applicant or resident having a serious mental illness or developmental disability needs nursing facility care and specialized services under 42 CFR § 438.106. The department shall determine need for nursing facility care using the nursing facility care definition under WAC 388-88-081. Need for specialized services shall be determined as follows:

(a) For a nursing facility applicant or resident likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall verify whether the person has a serious mental illness and, if so, shall recommend whether the applicant needs specialized services;

(b) For a nursing facility applicant or resident likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall verify whether the person has a developmental disability. For a nursing facility applicant or resident verified by a psychologist as having a developmental disability, staff of the division of developmental disabilities shall assess and make a final determination as to whether the person requires specialized services.

(2) "Specialized services" for a person with mental retardation or related conditions is defined under 42 CFR § 483.120 (a)(2), § 483.120(2), § 483.440 (a)(1). Specialized services does not include services to maintain a generally independent person who is able to function with little supervision or in the absence of a treatment program.

(3) "Specialized services" for a person having a serious mental illness is defined under 42 CFR § 483.120 (a)(1). Specialized services are generally considered acute psychiatric inpatient care, emergency respite care or stabilization and crisis services.

(4) The department's designee may exempt a nursing facility applicant or resident from PASARR if the person:

(a) Is admitted directly from an acute care hospital after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

(b) Is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(c) Has a severe physical illness such as coma, ventilator dependence, functioning at a brain stem level, or diagnoses which result in level of impairment so severe that the person could not be expected to benefit from specialized services, which may include:

(i) Chronic obstructive pulmonary disease;

(ii) Parkinson's disease;

(iii) Huntington's disease;

(iv) Amyotrophic lateral sclerosis; or

(v) Congestive heart failure.

(d) Has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(5) If a resident has continuously resided in a nursing facility for at least thirty months, and is determined by the department not to require nursing facility services, but to require specialized services for a serious mental illness or developmental disability, the department shall:

(a) Offer the resident the choice of remaining in the facility or of receiving services in an alternative appropriate setting;

(b) Inform the resident of the institutional and noninstitutional alternatives covered under the state medicaid plan for the resident;

(c) Clarify the effect on eligibility for medicaid services under the state plan if the resident chooses to leave the facility, including its effect on readmission to the facility.

AMENDATORY SECTION (Amending WSR 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-097 Preadmission screening. (1) (~~An applicant~~) A person requesting admission to a medicaid-certified nursing facility shall be screened (~~(prior to)~~) before admission to identify whether the (~~(applicant)~~) person may have a serious mental illness or a developmental disability as defined under 42 CFR 483.102 or as subsequently amended. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. The nursing facility shall place a copy of the completed form (~~(shall be placed)~~) in each resident's clinical record (~~(at the nursing facility)~~).

(2) (~~(Any)~~) A nursing facility applicant identified through the identification screen as likely to have a serious mental illness or a developmental disability shall not be admitted to a medicaid-certified nursing facility unless the person:

(a) (~~(In the case of a medicaid applicant, the department determines the applicant requires nursing facility care, under WAC 388-88-081; and~~

~~(b))~~) (~~(The applicant)~~) Has been assessed under the preadmission screening and annual resident review (PASARR), as described under WAC 388-88-096(-);

(b) Has been transferred from one nursing facility to another nursing facility; or

(c) Has been exempted by the department from PASARR because the person:

~~((3))~~ An applicant identified as likely to have a serious mental illness or a developmental disability shall be exempt

from the PASARR requirement under subsection (2)(b) of this section if:

(a) The department or its designee determines the applicant:

(i) Is admitted directly from an acute care hospital after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

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

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

(A) Chronic obstructive pulmonary disease;

(B) Severe Parkinson's disease;

(C) Huntington's Chorea;

(D) Amyotrophic lateral sclerosis; or

(E) Congestive heart failure.

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

((+v)) (i) Has been admitted to the nursing facility for respite care, under WAC 248-14-298; or

((+vi)) (ii) Cannot accurately be diagnosed because of delirium; or

((+b) The applicant is:

(+)) (iii) Has been readmitted to a nursing facility from an acute care hospital ((-or)) .

((+ii) Admitted from one nursing facility to another nursing facility.))

((+4) Under the PASARR, the department, through a designee, shall determine whether the applicant needs nursing facility care and specialized services. Need for nursing facility care shall be determined under WAC, 388-88-081. Need for specialized services shall be determined as follows:

(a) For an applicant likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall verify whether the applicant has a serious mental illness and, if so, shall recommend whether the applicant needs specialized services;

(b) For an applicant likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall verify whether the applicant has a developmental disability. For any applicant verified by a psychologist as having a developmental disability, the department shall assess and make a final determination as to whether the applicant requires specialized services.

(5) A medicaid client shall not be admitted to a medicaid-certified nursing facility unless the department determines that the client requires nursing facility care, per WAC 388-88-081.

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

(a) "Applicant" shall mean any individual seeking admission to a nursing facility;

(b) "Serious mental illness" means a person has a current primary or secondary diagnosis of a major mental disorder, as defined in the *Diagnostic and Statistical Manual of Mental Disorders*, third edition, limited to schizophrenia;

paranoid, major affective, schizoaffective disorder, and atypical psychosis, and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

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

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

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

(A) Related conditions attributable to:

(I) Cerebral palsy or epilepsy; or

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

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

(C) It is likely to continue indefinitely; and

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

(I) Self care;

(II) Understanding and use of language;

(III) Learning;

(IV) Mobility;

(V) Self direction; and

(VI) Capacity for independent living.

(d) "Specialized services" for a person with mental retardation or related conditions means a continuous program for each person which includes:

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

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

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

Specialized services does not include services to maintain a generally independent person able to function with little supervision or in the absence of a treatment program; and

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending WSR 92-08-074, filed 3/30/92, effective 4/30/92)

WAC 388-88-098 Identification screening for current residents. (1) ~~((By July 1, 1989, every))~~ Each ~~medicaid certified nursing facility shall have a ((complete an))~~ completed ~~identification screen ((;))~~ for each resident ~~to identify ((residents)) a resident's ((likely to have))~~ likelihood of having ~~a serious mental illness or a developmental disability as defined ((in WAC 388-88-097(5))~~

~~((a)))~~ under 42 CFR § 483.102 or as subsequently amended. The nursing facility shall record this information on a form designated by the department((;

~~((b))~~ For every resident of the nursing facility, except for a resident for whom a pre-admission screen has been completed under WAC 388-88-097).

(2) ~~The nursing facility shall ((be responsible for reviewing and updating a resident's identification screen to ensure that it accurately reflects the resident's current condition.))~~

(a) Record the identification screen information or subsequent changes on the resident assessment instrument according to the schedule required under 42 CFR § 483.20;

~~((3))~~ The original of the (b) Maintain the identification screen form and applicable PASARR assessment information ((shall be maintained)) in the resident's ((medical)) clinical record((;

~~((4))~~ The nursing facility shall notify the department or designee of those residents identified through the identification screen as likely to have a serious mental illness or a developmental disability and); and

(c) Refer each resident to the department or department's designee when the resident requires a PASARR assessment under WAC 388-88-096.

~~((5))~~ (4) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

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

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

NEW SECTION

WAC 388-88-150 PASARR determination and appeal rights. (1) A nursing facility applicant or resident who has been adversely impacted by a PASARR determination may appeal the department's determination of:

(a) Not in need of nursing facility care as defined under WAC 388-88-081 and 42 CFR § 483.130 (m)(2),(5), or (6);

(b) Not in need of specialized services as defined under WAC 388-88-096 and 42 CFR § 483.130 (m)(1),(2),(3), or (6); or

(c) Need for specialized services as defined under WAC 388-88-096, 42 CFR § 483.130 (4), and (5) and 42 CFR § 483.132 (a)(4).

(2) The nursing facility shall assist the nursing facility applicant or resident, or the person's representative, as needed in requesting a hearing to appeal the department's PASARR determination.

(3) If the department's PASARR determination requires that a resident be transferred or discharged, the department shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative thirty days or more before the date of transfer or discharge;

(b) Attach a hearing request form to the transfer or discharge notice;

(c) Inform the resident, in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge;

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice; and

(iii) That the resident shall be ineligible for medicaid nursing home payment:

(A) Thirty days after the receipt of written notice of transfer or discharge; or

(B) If the resident appeals under subsection (1)(a) of this section, thirty days after the final order is entered upholding the department's decision to transfer or discharge a resident.

(4) Aging and adult field services may grant extension of a resident's medicaid nursing home payment after the time specified in subsection (3)(c)(iii) of this section, when the department determines a location appropriate to the resident's medical and other needs is not available.

(5) The department shall:

(a) Send a copy of the required notice to the resident's attending physician, the nursing facility and, where appropriate, the resident's family member;

(b) Suspend transfer or discharge pending the outcome of the appeal when the resident's appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged; and

(c) Provide assistance to the resident for relocation necessitated by the department's PASARR determination.

(6) Resident appeals of PASARR determinations shall be in accordance with 42 CFR § 431 Subpart E, Chapter 388-08 WAC, and the procedures defined in this section. In the event of a conflict between a provision in this chapter and a provision in Chapter 388-08 WAC, the provision in this chapter shall prevail.

NEW SECTION

WAC 388-88-155 Utilization review. (1) To assure appropriate use of medicaid services, the medicaid certified nursing facility shall:

(a) Be responsible to determine whether each resident's health has improved sufficiently so the resident no longer needs nursing facility care;

(b) Base such determination on an accurate, comprehensive assessment process and documentation by the resident's physician.

(2) When a nursing facility determines that a resident who is a medicaid applicant or recipient no longer needs nursing facility care, except for residents the department is responsible to assess for PASARR under WAC 388-88-096(1), the nursing facility shall initiate transfer or discharge in compliance with WAC 388-88-180 and 42 C.F.R. § 483.12 or as subsequently amended.

(3) When a nursing facility initiates a transfer or discharge of a medicaid recipient under subsection (2) of this section:

(a) The resident shall be ineligible for medicaid nursing home payment:

(i) Thirty days after the receipt of written notice of transfer or discharge; or

(ii) If the resident appeals the facility determination, thirty days after the final order is entered upholding the nursing home's decision to transfer or discharge a resident.

(b) Aging and adult field services may grant extension of a resident's medicaid nursing facility payment after the time specified in subsection (3)(a) of this section, when aging and adult field services staff determine:

(i) The nursing facility is making a good faith effort to relocate the resident; and

(ii) A location appropriate to the resident's medical and other needs is not available.

(4) Department designees may review any assessment or determination made by a nursing facility of a resident's need for nursing facility care.

NEW SECTION

WAC 388-88-170 Discharge planning and coordination. (1) A resident has the right to reside in the least restrictive care setting available and appropriate to meet the resident's individual care needs. Therefore, the nursing home shall:

(a) Utilize a formal resident discharge planning system with identical policies and practices for all residents regardless of source of payment;

(b) Inform the resident in writing of the nursing home's discharge planning system when the resident is admitted or as soon as practical thereafter, including:

(i) Specific resources available to assist the resident in locating a lesser care setting;

(ii) The name of the nursing home's discharge coordinator; and

(iii) In the case of a medicaid-certified nursing facility, the address and telephone number for the local aging and adult field services office.

(2) The nursing home shall prepare a detailed, written transfer or discharge plan for each resident determined to

have potential for transfer or discharge within the next three months. The nursing home shall:

(a) In the case of a medicaid resident, coordinate the plan with aging and adult field services staff;

(b) Develop and implement the plan with the active participation of the resident and, where appropriate, the resident's representative;

(c) Ensure the plan is an integral part of the resident's comprehensive plan of care and, as such, includes measurable objectives and timetables for completion;

(d) Incorporate in the plan relevant factors to include, but not be limited to, the resident's preferences, support system, assessments and plan of care, and the availability of appropriate resources to match the resident's preferences and needs;

(e) Identify in the plan specific options for more independent placement; and

(f) Provide in the plan for the resident's continuity of care and mitigation of potential transfer trauma, including, but not limited to, pretransfer visit to the new location whenever possible.

(3) For a resident whose transfer or discharge is not anticipated in the next three months, the nursing home shall:

(a) Document the specific reasons transfer or discharge is not anticipated in that timeframe;

(b) Review the resident's potential for transfer or discharge at the time of comprehensive care plan review; and

(c) Initiate discharge planning:

(i) When the resident's situation or status indicate transfer or discharge potential within the next three months; and

(ii) At the request of the resident or the resident's representative.

(4) Each resident has the right to request transfer or discharge and to choose a new location. If the resident's choice of new location is available and appropriate to the resident's medical and other care needs, the nursing home shall coordinate the resident's transfer or discharge. The resident, resident's representative or nursing facility may request assistance from aging and adult field services in the transfer or discharge planning and implementation process.

(5) The nursing home shall coordinate all transfers and discharges, and communicate resident information in written form to the resident's new location. The nursing home shall ensure such information, at a minimum, includes:

(a) A brief recap of the resident's stay;

(b) A final summary of the resident's status at the time of transfer or discharge; and

(c) A post transfer or discharge plan of care.

(6) The nursing home shall ensure information in subsection (5) of this section is made available for release only to authorized persons and agencies with the consent of the resident or legal representative where appropriate.

NEW SECTION

WAC 388-88-180 Transfer and discharge rights, procedures, and appeals. (1) The Medicare certified skilled nursing facility and the medicaid certified nursing facility shall comply with all applicable federal requirements under 42 C.F.R. § 483.10 and § 483.12, or as subsequently amended regarding resident transfer and discharge rights.

EMERGENCY

(2) The Medicare certified skilled nursing facility and the medicaid certified nursing facility that initiates transfer or discharge shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice; and

(d) Assist the resident, or the resident's representative, as needed in requesting a hearing to appeal the transfer or discharge decision;

(3) The Medicare-certified skilled nursing facility or the medicaid nursing facility shall suspend transfer or discharge pending the outcome of the appeal when the resident's appeal is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.

(4) The medicaid certified nursing facility shall send a copy of the federally required transfer or discharge notice to:

(a) The resident's attending physician;

(b) Aging and adult field services in cases where the nursing facility has determined the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

(c) The appropriate nursing home services district manager when the transfer or discharge is for any of the following reasons:

(i) The resident's needs cannot be met in the facility;

(ii) The health or safety of individuals in the facility is endangered; or

(iii) The resident has failed to pay for, or to have paid under Medicare or medicaid, a stay at the facility.

(5) The state appeals process for facility transfers and discharges mandated by sections 1819 (e)(3) and 1919 (e)(3) of the Federal Social Security Act and federal regulations promulgated thereunder, is set forth in chapter 388-08 WAC and in this chapter. In such appeals, the following shall apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 388-08 WAC, the provision in this chapter shall prevail;

(b) The resident shall be the appellant and the skilled nursing facility or the nursing facility shall be the respondent;

(c) The department shall be notified of the appeal and may choose whether to participate in the proceedings. The role of the department is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) When a nursing home's decision to transfer or discharge a resident from a nursing home is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by the nursing home.

NEW SECTION

WAC 388-88-190 Relocation due to decertification, license revocation, closure. (1) When the department or the federal Health Care Financing Administration terminates or does not renew a nursing home's medicaid certification, or the department revokes or suspends the nursing home's license or orders emergency closure of a nursing home, the department shall:

(a) Notify residents and, when appropriate, resident representatives of the action; and

(b) Upon request by the resident or the nursing home, assist with the resident's relocation and specify the location of possible alternative locations.

(2) When a resident's relocation occurs due to a nursing home's voluntary closure, or voluntary termination of its medicaid contract:

(a) The nursing home shall send written notification, sixty days before closure or contract termination, to the appropriate nursing home services district manager and to all residents; and

(b) The department may provide a resident assistance with relocation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-88-080	Utilization review.
WAC 388-88-099	Specialized service assessments for current residents.
WAC 388-88-102	Discharge planning and resident relocation.
WAC 388-88-130	Completion of resident assessment instrument.
WAC 388-88-145	Notice of relocation determination and appeal rights.

**WSR 93-16-004
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)**

[Order 3594—Filed July 22, 1993, 12:32 p.m., effective July 23, 1993, 12:01 a.m.]

Date of Adoption: July 22, 1993.

Purpose: Revises the schedule of charges in the Washington Administrative Code for the daily per diem cost for patients residing at each of the three state-operated mental health facilities, i.e., Western State Hospital, Eastern State Hospital, and Child Study and Treatment Hospital.

EMERGENCY

Citation of Existing Rules Affected by this Order:
Amending WAC 275-16-030 Schedule of charges.

Statutory Authority for Adoption: RCW 43.20B.325.

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: RCW 43.20B.325 requires that charges for hospitalization of patients in state mental health hospitals be based on the cost of operations. The revised daily per diem rate includes the operating costs resulting from the completion of a major construction project which included the remodeling and updating of several patient wards. It also includes the annualization of salary increases which were effective January 1, 1993, and inflationary changes from the prior year.

Effective Date of Rule: July 23, 1993, 12:01 a.m.

July 22, 1993

Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3434, filed 8/6/92, effective 9/6/92)

WAC 275-16-030 Schedule of charges. Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals. The department shall require patient's hospitalization charges due and payable on or before the tenth day of each calendar month for services rendered to department patients during the preceding month, based ~~((upon))~~ on the following schedule:

(1) COSTING AND BILLING RATES

		Child Study and	
	Western State Hospital	Treat- ment Center	Eastern State Hospital

(a) INPATIENT SERVICES -

Hospital Costs Per Day	\$(272.50 - 341.00 - 280.00))		
	<u>286.20</u>	<u>342.30</u>	<u>293.70</u>
Physician Costs	*	((14.50))	*
		<u>N/A</u>	

*The department ~~((shall))~~ shall ~~((bill))~~ bill the client for physician costs on a fee ~~((for))~~ - for ~~((service))~~ - service basis.

(b) OUTPATIENT SERVICES -
Per diem

Outpatient Day Treatment	—	—	—
Per Day	—	((79.44))	—
		<u>37.26</u>	
Per Hour	—	((13.24))	—
		<u>6.21</u>	

(c) ANCILLARY SERVICES -
Per relative value unit^{1/}

Radiology	12.11	12.11	12.55
Pathology	1.13	1.13	.46
Medical Clinics	4.53	4.53	9.00
Electroencephalogram	2.17	2.17	—
Electrocardiogram	.39	.39	.81
Physical Therapy	10.66	10.66	15.14
Occupational Therapy	—	—	27.04
Speech Therapy	—	—	25.36
Dental	43.55	43.55	44.83
Podiatry	—	—	1.30

(d) RESIDENTIAL SERVICES -

	Pals	Portal
Costs Per Day	((148.12))	94.35
	<u>171.00</u>	

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost of services.

^{1/}California Medical Association. *Relative Value Studies*. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

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 93-16-006
EMERGENCY RULES
COUNTY ROAD
ADMINISTRATION BOARD**

[Filed July 22, 1993, 3:04 p.m., effective August 5, 1993]

Date of Adoption: August 5, 1993.

Purpose: Update land area ratio determination as it affects biennial regional fund allocations.

Citation of Existing Rules Affected by this Order:
Amending WAC 136-110-020.

Statutory Authority for Adoption: RCW 36.79.060.

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: Updated census data causes a change in the rural-urban land area ratio in the state. As fund allocations and resultant project approvals are based on this data, which are determined at the first CRABoard meeting in each biennium, accuracy and fairness require this action.

Effective Date of Rule: August 5, 1993.

July 21, 1993
Vern E. Wagar
Executive Director

EMERGENCY

[AMENDATORY SECTION (Amending Order 56, filed 7/30/84)]

July 22, 1993
Linda L. Lethlean
Deputy Assistant Director
Property Tax

WAC 136-110-020 Computation of land area ratio.

~~((The rural land areas of each region, and the ratio which they bear to the total rural land area of the state are shown as follows:~~

REGION	RURAL LAND AREA SQUARE MILES	% OF TOTAL RURAL LAND AREA
Puget Sound	5,005	7.71
Northwest	8,069	12.43
Northeast	26,711	41.14
Southeast	14,748	22.72
Southwest	10,387	16.00
TOTAL	64,920	100.00

The ratio which the total county rural land area of each region bears to the total rural land area of all counties of the state shall be computed from information provided by the Secretary of Transportation as of July 1, 1993 and each two years thereafter.

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

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

WSR 93-16-012

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed July 22, 1993, 3:44 p.m., effective July 25, 1993]

Date of Adoption: July 22, 1993.

Purpose: To implement chapters 79 and 327, Laws of 1993, by amending and adding sections to existing chapter 458-16 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 458-16-210, 458-16-240, 458-16-300, and 458-16-310.

Statutory Authority for Adoption: RCW 84.36.030, 84.36.037, and 84.36.805.

Other Authority: Chapters 79 and 327, Laws of 1993.

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: New provisions of law regarding property tax exemptions of nonprofit nonsectarian organizations, veterans organizations, public meeting halls or places, community meeting halls, and community celebration facilities are effective July 25, 1993. These rules govern the procedures required by taxpayers to comply and by Department of Revenue to administer these tax exemptions.

Effective Date of Rule: July 25, 1993.

AMENDATORY SECTION (Amending WSR 88-02-010 (Order PT 83-5 [PT 87-10]), filed 12/28/87)

WAC 458-16-210 Nonprofit(~~(, nonsectarian)) organizations or associations for nonsectarian purposes.~~

(1) Introduction. This section explains the property tax exemption available under the provisions of RCW 84.36.030(1) to nonprofit organizations or associations organized and conducted for nonsectarian purposes.

(2) Definitions. For purposes of this section, the following definitions apply:

(a) "Character building" means social services or programs that are designed for the general public good, that assist people with general living skills, that develop interview and job seeking skills, and that assist people in working towards independent living and self sufficiency. For example, a "character building" organization, association, or corporation may provide instruction in such areas as patenting, child care, child development, or leadership.

(b) "Benevolent" refers to social services or programs that are directed at persons of all ages, that arise from or are prompted by motives of charity or a sense of benevolence, that marked by a kindly disposition to promote the happiness and prosperity of others, by generosity in and pleasure at doing good works, or that are organized for the purpose of doing good. For example, a benevolent organization may provide a food bank, a soup kitchen, or counseling services at cost.

(c) "Protective" refers to activities that are meant to cover, to guard, or to shield other persons from injury or destruction or to save others from financial loss. For example, a protective organization may provide housing for battered women or for the developmentally disabled or may assist juveniles with behavioral problems by providing encouragement, support, and training.

(d) "Rehabilitative or rehabilitation" refers to activities designed to restore individuals to a former capacity, to a condition of health, or to useful or constructive activity. For example, a rehabilitative organization may assist persons to overcome alcohol or substance abuse, or to overcome the affects of a physical injury, stroke, or heart attack.

(e) "Social service" means a philanthropic activity to assist the sick, the destitute, or the unfortunate. The term includes "social work"; "social work" includes "counseling".

(i) For purposes of this exemption, the nonprofit organization, association, or corporation must annually provide services at a reduced rate to at least fifteen percent of the total number of people assisted.

(ii) "Counseling" means the giving of advice by qualified persons after an individual's problem has been ascertained and assisting the individual in solving the problem or referring the individual to another agency or person who is qualified to deal with the individual's problem. The term does not include answering telephone inquiries about everyday necessities such as bus service, transportation, unemployment, restaurants, libraries, entertainment, or postal services.

EMERGENCY

~~((F)) (3) Exemption.~~ The real and personal property owned by ~~((nonsectarian))~~ a nonprofit organization~~((s))~~ or association is exempt from taxation~~((, provided that: (a))~~ if ~~((F))~~ the organization or association is ~~((nonprofit and is))~~ organized and conducted primarily for nonprofit and nonsectarian purposes, ~~((b) the)~~ Such property ~~((is, except as provided in RCW 84.36.805 and subsections (2) and (4) of this section,))~~ shall be used for character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages ~~((or used by a student loan agency and (e) if these organizations were not conducting these activities the government would provide this service)).~~

~~((These are the primary uses and the word "fraternal" is not among them, therefore,))~~ (a) Property owned by a fraternal organization~~((s))~~ or association ~~((whose main function is fraternal would))~~ does not qualify for an exemption under this section.

(b) This exemption extends to the property of nonprofit, nonsectarian organizations ~~((which are))~~ or associations that is used for and integrally related to character building, benevolent, protective, or rehabilitative social services ~~((and those which are actually related to those purpose(s))).~~

(c) If any portion of the organization's or association's property ~~((of the organization))~~ is used for a commercial rather than a nonprofit, nonsectarian purpose~~((s,))~~ that portion must be segregated and taxed.

(d) The sale of donated merchandise shall not be considered a commercial use of the property if the proceeds are dedicated to a purpose associated with a nonprofit, nonsectarian organization or association. For example, ~~((F))~~ thrift store operations~~((s))~~ that are restricted to the sale of "donated merchandise" will not jeopardize ~~((the))~~ this exemption if the claimant can verify the proceeds are directed to an exempt purpose.

(e) This exemption shall also include the real and personal property owned by a nonprofit organization, association, or corporation and used for the solicitation or collection of gifts, donations, or grants if such an organization:

(i) is organized and conducted for nonsectarian purposes;

(ii) is affiliated with a state or national organization that authorizes, approves, or sanctions volunteer charitable fund-raising organizations;

(iii) is qualified for exemption under section 501 (c)(3) of the federal internal revenue code;

(iv) is governed by a volunteer board of directors; and

(v) does one or both of the following:

(A) uses the gifts, donations and grants for character building, benevolent, protective, or rehabilitative social services directed at persons of all ages;

(B) distributes gifts, donations, or grants each year to at least five other nonprofit organizations, associations, or corporations that are organized and conducted for nonsectarian purposes and provide character building, benevolent, protective, or rehabilitative social services directed at persons of all ages.

~~((Organizations claiming exemption on property used to provide short term emergency shelter to homeless persons will upon request provide complete financial information regarding the claimed property, and will also provide the~~

policy used in screening clients, the maximum term of stay, the fee schedule and the number of persons housed.))

~~((2))~~ The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. ~~((RCW 84.36.805): PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of (a) of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.~~

(3) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(4) The use of the property for fund raising activities sponsored by the exempt organization does not subject the property to tax if the fund raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.))

(4) Additional requirements. Any organization or association that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-160. WAC 458-16-160 sets forth additional conditions and requirements that must be compiled with to obtain a property tax exemption pursuant to RCW 84.36.030.

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

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

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

AMENDATORY SECTION (Amending WSR 86-12-034 (Order PT 86-2), filed 5/30/86)

WAC 458-16-240 Veterans organizations. (1)

Introduction. This section explains the property tax exemption available under the provisions of RCW 84.36.030(4) for real and personal property owned by organizations and societies of veterans of any war of the United States.

(2) Definitions. For purposes of this section, the following definitions apply:

(a) "Inadvertent use or inadvertently used" means any unintentional or accidental use of exempt property by an individual, organization, association, or a corporation to promote business activities through either carelessness, lack of attention, lack of knowledge, mistake, surprise, or excusable neglect.

(b) "Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles.

(c) "Property" means real and personal property owned by organizations or societies of war veterans.

(f) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the amount of the maintenance and operation expenses attributable to the portion of the property loaned or rented.

~~((1))~~ **(3) Exemption.** Property ~~((of veterans))~~ owned by organizations or societies of war veterans, which are recognized by the department of defense and nationally chartered, ~~((are))~~ is exempt~~((ed))~~ from taxation. ~~((To qualify, these organizations shall have as their general purpose and objectives; (a) the preservation of war memories and associations, and (b) consecration of their efforts toward mutual helpfulness and patriotic or community services.))~~

(a) The general purposes and objectives of such organizations or societies shall be:

(i) to preserve memories and associations incident to war service; and

(ii) to devote their members' efforts to mutual helpfulness and to patriotic and community service to state and nation.

(b) ~~((To be exempt the))~~ In order to qualify for this exemption, the property must be ~~((, except as provided in RCW 84.36.805 and subsections (2) and (4) of this section,))~~ used ~~((for))~~ in a manner reasonably necessary to carry out the purposes and objectives of the organization or society of war veterans. For example, a building owned by a chapter of the veterans of foreign wars that is used to hold meetings to plan a Veterans Day celebration may qualify for exemption.

~~((2))~~ The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attrib-

able to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805); PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of (a) of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operation expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(3) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(4) The use of the property for fund raising activities sponsored by the exempt organization does not subject the property to tax if the fund raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.)

(4) Use of property for pecuniary gain or to promote business activities. If exempt property owned by an organization or society of veterans exempt under subsection (3) of this section is used for pecuniary gain or to promote business activities, the exemption is nullified for the assessment year unless:

(a) the exempt property is used for pecuniary gain no more than three days a year;

(b) the amount of rent or donations collected for the use, loan, or rental of the exempt property is reasonable and does not exceed the maintenance and operation expenses that were created by the corresponding use, loan, or rental; or

(c) the exempt property is inadvertently used by an individual, organization, association, or a corporation to promote business activities if the inadvertent use is not a pattern of use. A "pattern of use" is presumed when an

inadvertent use is repeated within the same assessment year or within two or more successive assessment years.

(5) Additional requirements. Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-160. WAC 458-16-160 sets forth additional conditions and requirements that must be compiled with to obtain a property tax exemption pursuant to RCW 84.36.030.

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

AMENDATORY SECTION (Amending WSR 81-21-010 (Order PT 81-14), filed 10/8/81)

WAC 458-16-300 Public meeting ~~(facilities)~~ hall — Public meeting place — Community meeting hall. (1)

Introduction. This section explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public meeting hall, public meeting place, or community meeting hall.

(2) Definitions. For purposes of this section, the following definitions apply:

(a) "Inadvertent use or inadvertently used" means any unintentional or accidental use of exempt property by an individual, organization, association, or a corporation to promote business activities through either carelessness, lack of attention, lack of knowledge, mistake, surprise, or excusable neglect.

(b) "Public gathering" means any social function that the general public could, if invited, attend. For example, a public gathering includes, but is not limited to, a wedding, reception, funeral, reunion, or meeting of any organization, association, or corporation that is open to nonmembers. The term does not mean a meeting to which only members of a specific organization, association, or corporation are allowed to attend.

(c) "Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles.

(d) "Owner" means a nonprofit organization, association, or corporation.

(e) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(f) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the amount of the maintenance and operation expenses attributable to the portion of the property loaned or rented.

(3) Exemption. Real and personal property owned by a nonprofit organization, association, or corporation and used exclusively ~~(for)~~ as a public assembly hall, ~~(or)~~ public meeting place~~(s)~~, or community meeting hall shall be exempt from taxation ~~(in accordance with)~~ under the following ~~(rules)~~ conditions:

~~((1) In order to qualify, the following conditions must be met:)~~

(a) ~~(It is owned by a nonprofit organization;)~~ **Exclusive use.** The property is used exclusively for public gatherings and is available to any individual, organization,

association, or corporation that may desire to use the property. The owner may impose any conditions or restrictions reasonably necessary to safeguard the property and to promote the purposes of this exemption. However, membership to a particular organization, association, or corporation shall not be a prerequisite to use the property.

(b) **Exemption for real property - area.** The area ~~((to be))~~ of real property exempt~~((ed))~~ under this section ~~((does))~~ shall not exceed one acre~~((s))~~. This area shall include the building(s), the land under the building(s), and any additional area needed for parking.

(c) **Public disclosure required.** The ~~((owning organization has publicized fee))~~ owner of the property shall publish a schedule~~((s))~~ of fees, a policy on the availability of the facility, and any restrictions on the use of the facility~~((s))~~.

~~((d) The rental fee charged does not exceed the maintenance and operating expenses created by the users thereof;~~

~~((e) It is not used to promote business or pecuniary gain, except fund raising activities conducted by nonprofit organizations; and)~~

~~((f))~~ (d) **Annual summary required.** The ~~((applicant has provided to))~~ owner shall provide the department ~~((on an annual basis))~~ of revenue a detailed summary containing the following information regarding the use of all property during the preceding year it claims to be exempt under this section:

(i) ~~((A schedule of all users and the purpose of their use for the previous year; and))~~ the name of any person, organization, association, or corporation that used the property;

(ii) ~~((A detailed statement of income and expenses for the previous year;))~~ the date(s) on which the property was used;

(iii) the purpose for which the property was used;

(iv) the income derived from the rental of the property; and

(v) the expenses incurred relating to the use of the property.

~~((2) Other community meeting halls whose owners))~~ (e) **Entities that schedule regular meetings.** Any property owned by a ~~((n))~~ nonprofit organization, association, or corporation that schedules regular meetings of ~~((their organizations))~~ its members or shareholders will also qualify for ~~((the))~~ this exemption if ~~((they))~~:

(i) the owner meets the conditions set forth in subsections ~~((1))~~ (3)(a) through (d) of this section~~((, and;))~~;

~~((a) The scheduled uses by the owner do not exceed twenty five percent of the useable time and such facility is available for public gatherings and for meetings of other organizations or persons at all other times; and)~~

(ii) the owner does not use the property more than twenty-five percent of the useable time; and

~~((b))~~ (iii) ~~((F))~~ the facility is used an equal number or greater number of times for public gatherings ~~((an equal or greater number of times as the owning organization))~~ than the number of times it is used by the owner.

~~((3) Public gathering shall mean any gathering that is open to the general public and shall include meetings of organizations which allow attendance by nonmembers.~~

(4) Facilities used more than fifty percent of the time for meetings of organizations which disallow attendance by nonmembers do not qualify for this exemption.

~~(5) The loss of the exemption for a year will not subject the property to the provisions of RCW 84.36.810, provided that if the loss of the exemption was due to sale or transfer of the property or due to false information, RCW 84.36.810 shall apply.)~~

(f) Property not included within this exemption.

Property that is used more than fifty percent of the time by a nonprofit organization, association, or corporation that allows only members to attend its activities does not qualify for this exemption.

(4) Use of property for pecuniary gain or to promote business activities. If a public meeting hall, public meeting place, or community meeting hall exempt under subsection (3) of this section is used for pecuniary gain or to promote business activities, the exemption is nullified for the assessment year unless:

(a) the exempt property is used for pecuniary gain no more than three days a year;

(b) the amount of rent or donations collected for the use, loan, or rental of the exempt property is reasonable and does not exceed the maintenance and operation expenses that were created by the corresponding use, loan, or rental; or

(c) the exempt property is inadvertently used by an individual, organization, association, or a corporation to promote business activities if the inadvertent use is not a pattern of use. A "pattern of use" is presumed when an inadvertent use is repeated within the same assessment year or within two or more successive assessment years.

(5) Additional requirements. Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-160. WAC 458-16-160 sets forth additional conditions and requirements that must be compiled with to obtain a property tax exemption pursuant to RCW 84.36.037.

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

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

AMENDATORY SECTION (Amending WSR 81-21-010 (Order PT 81-14), filed 10/8/81)

WAC 458-16-310 Community celebration facilities.

(1) Introduction. This section explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events.

(2) Definitions. For purposes of this section, the following definitions apply:

(a) "Inadvertent use or inadvertently used" means any unintentional or accidental use of exempt property by an individual, organization, association, or corporation to promote business activities through either carelessness, lack of attention, lack of knowledge, mistake, surprise, or excusable neglect.

(b) "Public gathering" means any social function that the general public could, if invited, attend. For example, a public gathering includes, but is not limited to, a wedding, reception, funeral, reunion, or meeting of any organization, association, or corporation that is open to nonmembers. The term does not mean a meeting to which only members of a specific organization, association, or corporation are allowed to attend.

(c) "Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles.

(d) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(e) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the amount of the maintenance and operation expenses attributable to the portion of the property loaned or rented.

(3) Exemption. Real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events shall be exempt from taxation ~~((in accordance with))~~ under the following ~~((rules))~~ conditions:

~~((1)) It is owned by a nonprofit organization;~~

~~((2)) (a) Exemption for real property - area.~~ The area ~~((to be))~~ of real property to be exempt ~~((ed does))~~ shall not exceed twenty-nine acres ~~((;))~~.

~~((3)) (b) Primary use.~~ The property has been primarily used for annual community celebration events for ~~((the last))~~ at least ten years ~~((;))~~.

(c) Essentially unimproved property. The property is essentially unimproved except for restroom facilities and covered shelters. A "covered shelter", for example, may consist of a covered area that is unenclosed but allows some protection from the elements or it may provide a sheltered eating area with or without a picnic table or outside grill, or both.

~~((4)) (d) Purpose.~~ The purpose of the property is to provide a facility for ~~((the))~~ an annual ~~((gathering;))~~ community celebration.

~~((5)) (e) Public disclosure required.~~ The ~~((owning organization has publicized fee))~~ owner of the property shall publish a schedule ~~((s))~~ of fees, a policy on the availability of the facility, and any restrictions on the use of the facility ~~((;))~~. The owner may impose conditions and restrictions that are reasonably necessary to safeguard the property and to promote the purposes of this exemption.

~~((6)) The rental fee charged does not exceed the maintenance and operating expenses created by the users thereof;~~

~~((7)) It is not used to promote business or pecuniary gain, except fund raising activities conducted by nonprofit organizations;~~

~~((8)) Any enclosed structures other than restroom facilities will not qualify; and)~~

~~((9)) (f) Annual summary required.~~ The ~~((applicant has provided to))~~ owner shall annually provide the department ~~((on an annual basis))~~ of revenue a detailed summary containing the following information regarding the use of all property during the preceding year it claims to be exempt under this section:

~~((a)) A schedule of all users and the purpose of their use, for the previous year)) (i) the name of any person,~~

organization, association, or corporation that used the property; ~~((and))~~

~~((b)) A detailed statement of income and expenses for the previous year.)) (ii) the date(s) on which the property was used;~~

(iii) the purpose for which the property was used;

(iv) the income derived from the rental of the property;
and

(v) the expenses incurred relating to the use of the property.

(4) Use of property for pecuniary gain or to promote business activities. If a community celebration facility that is exempt under subsection (3) of this section is used for pecuniary gain or to promote business activities, the exemption is nullified for the assessment year unless:

(a) the exempt property is used for pecuniary gain no more than three days a year;

(b) the amount of rent or donations collected for the use, loan, or rental of the exempt property is reasonable and does not exceed the maintenance and operation expenses that were created by the corresponding use, loan, or rental; or

(c) the exempt property is inadvertently used by an individual, organization, association, or a corporation to promote business activities if the inadvertent use is not a pattern of use. A "pattern of use" is presumed when an inadvertent use is repeated within the same assessment year or within two or more successive assessment years.

(5) Additional requirements. Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-160. WAC 458-16-160 sets forth additional conditions and requirements that must be compiled with to obtain a property tax exemption pursuant to RCW 84.36.037.

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 458-16-165 Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption. (1) **Introduction.** Nonprofit organizations, associations, and corporations may obtain a property tax exemption under the provisions of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480. To be exempt from property taxation, the nonprofit organization, association, or corporation these statutes must also comply with the requirements contained in RCW 84.36.805 and RCW 84.36.840, except those exempted under RCW 84.36.020 and 84.36.030. This section explains the conditions and requirements set forth in RCW 84.36.805 and 84.36.840.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Expenses of maintenance and operation" means items of expense allowed under generally accepted accounting principles.

(b) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the

amount of the expenses of maintenance and operation attributable to the portion of the property loaned or rented.

(c) "Personal service contract" means a contract between a nonprofit organization, association, or corporation and an independent contractor under which the independent contractor provides a service on the organization's, association's, or corporation's tax exempt property. (See example contained in subsection (3)(c) of this section).

(3) **Exclusive use.** Unless the applicable statute states otherwise, the exempt property shall be exclusively used for the actual operation of the nonprofit organization, association, or corporation that applied for and received the property tax exemption and the amount of exempt property shall not exceed an area reasonably necessary for that purpose.

(a) **Loan or rental of exempt property.** The loan or rental of the property or a portion of the property does not subject the property to tax if the rents or donations received for the use of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented and the property would be exempt from tax if owned by the organization to which it is loaned or rented, except for property owned by organizations and societies of war veterans, public assembly halls, public meeting places, community meeting halls, and community celebration facilities.

(i) If the property is loaned or rented and the lessor or lessee intends to produce revenue from the loan or rental, the subject property shall not be exempt. Such property must be segregated and taxed whether or not the revenue is devoted to exempt purposes.

(ii) Example. If a room or floor within a building owned by a nonprofit hospital is rented to a social service agency and the social service agency intends to use this area to produce revenue, the rented portion of the building must be segregated from the remainder of the building that is being used for exempt purposes. The segregated and rented portion of the building will then be subject to ad valorem property taxes.

(b) **Fund raising activities.** The use of exempt property for fund-raising activities sponsored by an exempt organization, association, or corporation does not subject the property to taxation if the fund-raising activities are consistent with the purposes for which the exemption was granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length and that disburses fifty-one percent or more of the profits realized from the activity to the exempt organization association, or corporation that owns the property.

(c) **Personal service contract - exempt programs.** Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(i) The program is compatible and consistent with the purposes of the exempt organization, association, or corporation.

(ii) The exempt organization, association, or corporation maintains separate financial records as to all receipts and expenses related to the program.

(iii) A summary of all receipts and expenses of the program will be provided to the department of revenue upon request.

(iv) Example. A school may decide to offer aerobic classes to promote general health and fitness. To qualify for

the property tax exemption, all brochures and bulletins that advertise these classes must show that the school is sponsoring the classes. The school shall contract with an aerobic instructor, an independent contractor, to provide the classes for a predetermined fee. All fees collected from the participants of the classes must be received by the school; the school, in turn, will absorb all costs related to the classes.

(d) **Personal service contract - nonexempt programs.** Programs provided under a personal service contract (i) that require the contractor to reimburse the organization for program expenses or (ii) in which the instructor is paid a fee based on the number of people that attend the program will be viewed as a rental agreement and will subject the property to ad valorem tax.

(4) **Irrevocable dedication required.** The property must be irrevocably dedicated to the purpose for which the exemption was granted. Upon liquidation, dissolution, or abandonment by a nonprofit organization, association, or corporation, said property shall not directly or indirectly benefit any shareholder or individual except a nonprofit organization, association, or corporation that is entitled to a property tax exemption.

Exception. If, under the terms of a loan or rental agreement, a nonprofit organization, association, or corporation receives the benefit of the property tax exemption, the property need not be irrevocably dedicated if it is loaned or rented to a nonprofit organization, association, or corporation for use as:

- (a) a nonprofit day care center (RCW 84.36.040);
- (b) a library (RCW 84.36.040);
- (c) an orphanage (RCW 84.36.040);
- (d) a home or hospital for the sick or infirm (RCW 84.36.040);
- (e) an outpatient dialysis facility (RCW 84.36.040);
- (f) a nonprofit home for the aging (RCW 84.36.041)
- (g) a nonpermanent shelter to low-income homeless persons or victims of domestic violence (RCW 84.36.043); or
- (h) a facility used to produce or perform musical, dance, artistic, dramatic, or literary works (RCW 84.36.060).

(5) **No discrimination allowed.** The facilities located on and the services offered on the exempt property shall be available to all persons regardless of race, color, national origin, or ancestry.

(6) **Compliance with licensing or certification requirements.** The nonprofit organization, association, or corporation shall comply with all applicable licensing and certification requirements when a law or regulation of the federal, state, or local government requires it.

(7) **Property sold subject to an option to repurchase.** If property is sold to a nonprofit organization, association, or corporation subject to an option to repurchase by the seller, the property shall not qualify for exempt status.

(8) **Duty to produce financial records.** In order to determine whether an organization, association, or corporation is exempt under the provisions of chapter 84.36 RCW and before the exemption is renewed each year, the organization, association, or corporation claiming a property tax exemption under chapter 84.36 shall file a signed statement, made under oath, with the department of revenue on forms furnished by the director or his/her designee, that its income and receipts, including donations, have been applied to the

actual expenses of maintenance and operation or for its capital expenditures and to no other purpose. This signed statement shall also include a statement of the receipts and disbursements of such an organization, association, or a corporation.

(a) The provisions of this subsection do not apply to an organization, association, or corporation either applying for or receiving exemption under RCW 84.36.020 or 84.36.030.

(b) When an organization, association, or corporation has been granted exemption from ad valorem taxation, this signed statement must be submitted on or before April 1 each year. If this statement is not received on or before April 1, the department shall remove the tax exemption from the property. However, the department shall allow a reasonable extension of time for filing if the tax exempt organization, association, or corporation has submitted a written request for this extension on or before the required filing date and for good cause shown therein.

WSR 93-16-015
EMERGENCY RULES
BOARD FOR
VOLUNTEER FIREFIGHTERS
[Filed July 23, 1993, 12:19 p.m.]

Date of Adoption: July 23, 1993.

Purpose: Provides a method of calculating fees to be charged for emergency workers' disability and pension coverage under the Volunteer Fire Fighters' Relief and Pension Act, chapter 41.24 RCW.

Statutory Authority for Adoption: RCW 41.24.290(2).

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: Provisions of chapter 331, Laws of 1993 require fees to be assessed beginning July 25, 1993, to ensure disability and medical coverage for emergency workers in case of injury or death in the line of duty.

Effective Date of Rule: Immediately.

July 23, 1993
Joseph H. Faubion
Executive Secretary

NEW SECTION

WAC 491-10-010 Emergency medical service districts—Fees. The fees for coverage of emergency workers under the relief provisions of Chapter 41.24 RCW shall be based on the actual cost from the most recent actuarial valuation rounded to the nearest \$10.00. These fees shall be paid by the emergency medical service district.

The fees for coverage of emergency workers under the pension provisions of Chapter 41.24 RCW shall be based on the actual cost from the most recent actuarial valuation rounded to the nearest \$10.00. Fifty percent of the fee shall be paid by the emergency medical service district and fifty percent of this fee shall be paid by the emergency worker.

WSR 93-16-031
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 93-71—Filed July 26, 1993, 4:50 p.m.]

Date of Adoption: July 26, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-24-02000V.

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 land limitations. The Columbia River mouth closed area protects milling salmon.

Effective Date of Rule: Immediately.

Judith Freeman
 for Robert Turner
 Director

NEW SECTION

WAC 220-24-02000W 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 28, 1993 through 11:59 p.m. July 31, 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 fisheries provided for herein must be sold by 11:59 p.m. August 1, 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 220-24-02000V	Commercial salmon troll.
	(93-69)

WSR 93-16-034
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Filed July 27, 1993, 4:11 p.m.]

Date of Adoption: July 27, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-36-02100L and 220-40-02100U.

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: Biological opinion and incidental take permit for marbled murrelets has been completed and the fisheries may proceed as scheduled.

Effective Date of Rule: Immediately.

July 27, 1993
 Robert Turner
 Director

REPEALER

The following sections of the Washington Administrative Code are repealed as of 6:00 p.m., July 27, 1993.

WAC 220-36-02100L	Salmon—Grays Harbor— Summer fishery
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WAC 220-40-02100U Salmon—Willapa Bay—
Summer fishery

WSR 93-16-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3607—Filed July 28, 1993, 11:08 a.m., effective August 1, 1993, 12:01 a.m.]

Date of Adoption: July 28, 1993.

Purpose: State law (SB 5723) changed the amount that can be recovered from the estate of a deceased person for the cost of medical care. The department may recover the medical care costs except when there is a surviving spouse or minor or disabled child, or for heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects not to exceed \$2000.

Citation of Existing Rules Affected by this Order: Amending WAC 388-81-047 Recovery from estates.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: SB 5723.

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: State law change (SB 5723).

Effective Date of Rule: August 1, 1993, 12:01 a.m.

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3338, filed 3/10/92, effective 4/10/92)

WAC 388-81-047 Recovery from estates. (1) The department shall recover the cost of ~~((medical care))~~ public assistance benefits provided under a program under chapter 74.09 RCW provided to a ~~((recipient))~~ client, who was sixty-five years ~~((old))~~ of age or older, upon the ~~((recipient's))~~ client's death, except:

- (a) ~~((Where))~~ When there is a surviving spouse; or
- (b) ~~((Where))~~ When there is a surviving child ~~((who is))~~:

- (i) Twenty years of age and under; or
- (ii) Blind or disabled as defined ~~((in))~~ under chapter 388-92 WAC; or

(c) ~~((Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include: (i) The first fifty thousand dollars of the estate value at the time of death; and (ii) Sixty five percent of the remainder))~~ For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

(2) The department shall assert and enforce a claim against the estate of the deceased ~~((recipient))~~ client for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the ~~((recipient))~~ client just ~~((prior to))~~ before the client's death.

(a) The department shall file the lien ~~((shall be filed))~~ with the county auditor of the county in which the property is located; and

(b) The department shall deem the lien ~~((shall be deemed))~~ effective as of the date of the ~~((recipient's))~~ client's death; and

(c) The department's recovery of property shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined ~~((in))~~ under subsection (1)(b) of this section, is discovered or contacts the department ~~((prior to))~~ before recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death.

WSR 93-16-047
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3597—Filed July 28, 1993, 11:09 a.m., effective July 29, 1993, 12:01 a.m.]

Date of Adoption: July 28, 1993.

Purpose: Rescind WSR 93-13-121 filed June 22, 1993. Medical assistance administration does not want an emergency filed on WAC 388-81-065 Medical care client co-payment because a final rule filed July 28, 1993, will be effective September 1, 1993, and no emergency filing needed.

Citation of Existing Rules Affected by this Order: Rescinding WAC 388-81-065 Medical care client co-payment.

Effective Date of Rule: July 29, 1993, 12:01 a.m.

July 28, 1993

Rosemary Carr

Acting Director

Administrative Services

WSR 93-16-055
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3608—Filed July 29, 1993, 10:55 a.m., effective August 1, 1993, 12:01 a.m.]

Date of Adoption: July 29, 1993.

Purpose: Amendments delete financial responsibility from WAC 388-83-130 and move them to WAC 388-83-046. WAC 388-83-046 revised to meet the intent of the *Sneede vs. Kizer* 9th Circuit Court decision which changes

EMERGENCY

financial responsibility rules and how medical care family units are formed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-046 Relative financial responsibility for AFDC-related programs, 388-83-130 Eligibility—Special situations, and 388-99-020 eligibility determination—Medically needy in own home.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: *Sneede vs. Kizer* 9th Circuit Court decision, D.C. #CV-89-1932-TEH.

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: 9th Circuit Court decision.

Effective Date of Rule: August 1, 1993, 12:01 a.m.

July 29, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3546, filed 5/12/93, effective 6/12/93)

WAC 388-83-046 Relative financial responsibility for ~~((SSI nonrelated clients))~~ AFDC-related programs. (1) When determining ~~((program))~~ eligibility for medical care programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship; ~~((and))~~

(b) A relative to be financially responsible only as follows:

(i) The natural or adoptive parent or stepparent ~~((or parent))~~ to a child under ~~((age))~~ nineteen years of age living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when all family members are not eligible for a categorically needy medical care program:

(i) A child with countable income or resources;

(ii) A child in common of unmarried parents;

(iii) Each unmarried parent of a child in common with such parent's separate children, if any; or

(iv) A nonresponsible caretaker relative.

(d) Family members, other than those described under subsection (1)(c), in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and the spouses' children living in the same household ~~((when none are SSI-related, with the following exceptions:~~

~~(a) Pregnant minor as described under WAC 388-83-130; or~~

~~(b) Excluded child as described under WAC 388-83-130)) unless the exceptions in this section are met. See WAC 388-92-025 for the financial responsibility requirements for SSI-related clients.~~

(3) When determining eligibility for medical care, the department shall not consider the countable income or resources of a child available to any person other than the child.

(4) The department shall consider the income of a parent of a child under nineteen years of age;

(a) Living in the same household, available to the child, whether or not actually contributed, as follows:

(i) A parent's income shall be allocated to each child for whom the parent is financially responsible; and

(ii) A parent shall be allowed one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU. The department shall allocate income in excess of one hundred percent of the FPL on a prorated basis to all children under nineteen years of age in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child under nineteen years of age:

(a) Living in the same household, available to the child whether or not actually contributed. A parent's countable resources shall be:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent who is not legally liable for support of the stepchildren;

(b) Grandparent;

(c) Legal guardian other than the parent of the client;

(d) Alien sponsor; or

(e) Sibling.

(7) The department shall determine each MAU's medical care eligibility using:

(a) The MAU's countable income and resources; and

(b) Household size for the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-28-435 when such vehicle is owned by a person in the MAU.

AMENDATORY SECTION (Amending Order 3516, filed 2/24/93, effective 3/27/93)

WAC 388-83-130 Eligibility—Special situations. (1) ~~((In determining eligibility for medical services, the department shall:~~

~~(a) Consider parent's income available whether or not actually contributed, when determining:~~

~~(i) Eligibility of a non-SSI-related person under nineteen years of age residing in the same family unit with parents; or~~

~~(ii) SSI-related eligibility of a person under eighteen years of age residing in the same family unit with parents.~~

~~(b) In determining a pregnant minor's medical eligibility, the department shall:~~

- ~~(i) Not consider the income of her natural, adoptive or stepparents unless the income is actually contributed; and~~
- ~~(ii) Consider a pregnant minor as living on her own.~~

~~(2)) The department shall not allow the AFDC earned income exemption of thirty dollars plus one-third of remainder to a client((s)):~~

~~(a) Applying solely for medical assistance, except for ((families)) a family applying for medical assistance who received AFDC or FIP cash assistance in any of the four preceding months; and~~

~~(b) After the client receives the thirty dollars plus one-third income disregard for a maximum of four consecutive months. A client is not eligible for the disregard until the client does not receive AFDC or FIP cash assistance for twelve consecutive months.~~

~~((3) For family units determined ineligible for AFDC or FIP cash assistance solely due to the requirements of WAC 388-24-050 or 388-77-210 that certain siblings be included in the assistance unit, at the applicant's option, such individuals and their income may be excluded from the assistance unit when determining eligibility of the remaining assistance unit members for categorically needy medical assistance.~~

~~(4) For family units determined ineligible for AFDC or FIP financial assistance solely due to the requirements of WAC 388-28-500(4) or 388-77-285 that income of the nonapplying parents of a minor parent be considered available to the assistance unit of the minor parent and such minor's child or children, such income shall be disregarded when determining eligibility of such minor's child or children.~~

~~(5)) (2) The department shall consider an AFDC ((and FIP children sixteen and seventeen years of age,)) client terminated from cash assistance((;)) as eligible for Medicaid ((on the same basis as dependent children)) when termination was solely due to the AFDC client:~~

~~(a) ((AFDC or FIP children)) Ceasing to attend school; or~~

~~(b) ((AFDC children)) Refusing to participate in the Job Opportunities and Basic Skills Training (JOBS) program.~~

~~((6) The department shall consider a person eligible for Medicaid when the person is denied AFDC or FIP cash assistance solely because:~~

~~(a) Of income and resources deemed available from the following person who is not a member of the AFDC or FIP unit, unless actually available to the assistance unit:~~

- ~~(i) Stepparent who is not legally liable for support of stepehildren;~~
- ~~(ii) Grandparent;~~
- ~~(iii) Legal guardian who is not a parent;~~
- ~~(iv) Alien sponsor; or~~
- ~~(v) Sibling.~~

~~(b) Of counting a sibling's income or resources or both to determine AFDC or FIP cash assistance when the sibling is residing in the same residence, unless the sibling actually contributes or makes available the income or resources or both to the AFDC or FIP assistance unit; and~~

~~(c) After July 1, 1989, a member of the family transferred a resource without receiving adequate compensation))~~

(3) The department shall not consider the transfer of a

resource when determining Medicaid eligibility for a person who is not institutionalized. If the ((family member)) client is institutionalized, refer to chapter 388-95 WAC.

~~((7) The department shall consider a person eligible for Medicaid when the person is denied SSI cash assistance solely because of income and resources deemed available from an alien sponsor.))~~

AMENDATORY SECTION (Amending Order 3522, filed 3/10/93, effective 4/10/93)

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

(a) One person	\$ 467
(b) Two persons	\$ 592
(c) Three persons	\$ 667
(d) Four persons	\$ 742
(e) Five persons	\$ 858
(f) Six persons	\$ 975
(g) Seven persons	\$ 1,125
(h) Eight persons	\$ 1,242
(i) Nine persons	\$ 1,358
(j) Ten persons and above	\$ 1,483

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

(a) AFDC eligibility for families and children ((in a nondesignated FIP geographic area)). The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except ((for families)) as described under WAC 388-83-130 ((2)(a))(1); and

(b) SSI/SSP eligibility for aged, blind, or disabled persons((; and (e) FIP eligibility for families and children)).

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

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

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

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

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

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

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

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

EMERGENCY

income and the MNIL from the total excess countable income for the base period.

(6) ~~((H))~~ When countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The department shall determine the base period under WAC 388-99-055.

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

(a) In the same household, available to the ~~((applicant))~~ client, whether or not actually contributed, unless the exception in subsection (7)(c) of this section is met; ~~((and))~~

(b) Not in the same household, only to the extent ~~((of what is actually))~~ the income and/or resources are contributed; and

(c) Under WAC 388-83-046, when the family unit includes a child with income or resources, unmarried parents with a child in common, or a nonresponsible caretaker relative.

(8) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under ~~((chapter 388-92))~~ WAC 388-92-025 and 388-92-027.

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

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

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

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

**WSR 93-16-063
EMERGENCY RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed July 30, 1993, 8:21 a.m.]

Date of Adoption: July 27, 1993.

Purpose: Adopt a new rule and amend existing rule to implement Initiative 134.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-038.

Statutory Authority for Adoption: RCW 42.17.370.

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: Initiative 134 (contributions limits law) is in effect now and candidates and political committees need guidance now for this election cycle.

Effective Date of Rule: Immediately.

July 29, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-038 Definition—Aggregate. The term "aggregate" means, for purposes of

(1) a candidate for state office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;

(2) a candidate for local or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;

(3) a bona fide political party or legislative caucus committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(4) a political committee, the total amount of contributions received by the committee from the date of organization;

(5) a continuing political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(6) a contributor, the total amount of all contributions from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) a person making independent campaign expenditures, the total amount of expenditures made to a person or vendor during the period for which the report is submitted;

(8) the special reports required by RCW 42.17.105 and .175, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) an employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition during the preceding calendar year;

(10) the sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in 42.17.200(1);

(11) RCW 42.17.245, the total amount of all time and demand deposits in each financial institution on December 31;

(12) RCW 42.17.395(4), the total amount of monetary penalty that the commission may impose for multiple violations of the act.

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

NEW SECTION

WAC 390-17-050 Independent expenditure—Definition. The definition of "independent expenditure" in RCW 42.17.630(10) shall apply to that term as used throughout chapter 42.17 RCW, except for RCW 42.17.100. "Candidate" as that term is used in RCW 42.17.630(10) shall have the meaning set forth in RCW 42.17.020(5).

EMERGENCY

WSR 93-16-071
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 30, 1993, 3:44 p.m., effective August 1, 1993]

Date of Adoption: July 30, 1993.

Purpose: To increase filing fees from \$12.50 to \$25.00 for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid.

Citation of Existing Rules Affected by this Order: Amending WAC 296-127-040 and 296-127-045.

Statutory Authority for Adoption: RCW 39.12.070.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Immediate adoption is necessary in order to meet the legislative intent of increased enforcement and compliance activity.

Effective Date of Rule: August 1, 1993.

July 30, 1993
 Mark O. Brown
 Director

AMENDATORY SECTION (Amending WSR 90-24-053, filed 12/3/90, effective 1/3/91)

WAC 296-127-040 Statement of intent to pay prevailing wages. (1) All statements of intent to pay prevailing wages submitted to the industrial statistician of the department shall be accompanied by a fee of ~~((twelve))~~ twenty-five dollars ~~((and fifty cents))~~ for each statement. Fees shall be made payable to the department of labor and industries.

(2) Any agency, division, or department of the state of Washington which through agreement with the department certifies statements of intent for its own contracts shall provide to the industrial statistician each month the number of statements of intent certified and quarterly shall send a fee of ~~((ten))~~ twenty dollars for each statement of intent to pay prevailing wages it has certified. This fee shall be sent to the industrial statistician and be made payable to the department of labor and industries.

AMENDATORY SECTION (Amending WSR 90-24-053, filed 12/3/90, effective 1/3/91)

WAC 296-127-045 Affidavit of wages paid. (1) All affidavits of wages paid submitted to the industrial statistician of the department shall be accompanied by a fee of ~~((twelve))~~ twenty-five dollars ~~((and fifty cents))~~ for each affidavit of wages paid. All fees shall be made payable to the department of labor and industries.

(2) Any agency, division, or department of the state of Washington which through agreement with the department certifies affidavits of wages paid for its own contracts shall provide to the industrial statistician each month the number of affidavits of wages paid it has certified and quarterly shall send a fee of ~~((ten))~~ twenty dollars for each affidavit of

wages paid it has certified. This fee shall be sent to the industrial statistician and be made payable to the department of labor and industries.

WSR 93-16-075
EMERGENCY RULES
DEPARTMENT OF HEALTH
 (Examining Board of Psychology)
 [Order 383B—Filed August 2, 1993, 1:48 p.m.]

Date of Adoption: July 16, 1993.

Purpose: Amend WAC 246-924-100 Qualifications for granting of license by reciprocity, amendment is to correct a citation within the body of the rule that incorrectly refers to the statute on exemptions rather than the statute on reciprocity.

Citation of Existing Rules Affected by this Order: Amending WAC 246-924-100 Qualifications for granting of license by reciprocity.

Statutory Authority for Adoption: RCW 18.83.050(5).

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: There are numerous applicants who are applying for licensure as a psychologist who are referring to the above WAC when filling out their application. The WAC incorrectly cites the wrong statute for its authority and needs to be corrected immediately.

Effective Date of Rule: Immediately.

July 16, 1993
 Kathleen O'Shaunessy, Ph.D.
 Chair

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

WAC 246-924-100 Qualifications for granting of license by reciprocity. (1) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170 (1) and (2) shall:

(a) Provide evidence of meeting the educational requirements set forth in ~~((RCW 18.83.200))~~ RCW 18.83.070 in effect at the time the applicant entered his/her doctoral program;

(b) Pass the oral examination administered by the board pursuant to RCW 18.83.050.

(2) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170(3) shall:

(a) Pass the oral examination administered by the board pursuant to RCW 18.83.050.

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 93-16-078
RESCISSION OF EMERGENCY RULES
COUNTY ROAD
ADMINISTRATION BOARD
[Filed August 3, 1993, 8:25 a.m.]

Purpose: Rescinding WSR 93-16-006 filed on July 22, 1993. The County Road Administration Board will refile after adoption by the County Road Administration Board at the August 5-6 board meeting.

Citation of Existing Rules Affected by this Order: Rescinding WAC 136-110-020.

August 2, 1983 [1993]
Vern E. Wagar
Executive Director

WSR 93-16-081
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Filed August 3, 1993, 2:33 p.m.]

Date of Adoption: August 3, 1993.

Purpose: To clear up confusion about a factor used to determine the responsiveness of bidders on state contracts.

Citation of Existing Rules Affected by this Order: Amending WAC 326-30-051 (4)(b) and 326-40-060 (4)(b).

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: This action is necessitated by the imminent opening of bids on several major state contracts. Bidders need to know how proposed suppliers will be counted toward participation goals. The state's ability to provide this information in a timely manner is delayed by unforeseen circumstances.

Effective Date of Rule: Immediately.

August 3, 1993
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-20-124, filed 10/7/92)

WAC 326-30-051 Counting participation toward agency and educational institution goals. (1) The office will count an agency's or educational institution's expenditures to certified businesses toward goal attainment only when the work performed by the business on a contract is within the scope of work included in the standard industrial classification (SIC) codes under which the business is listed in the directory of certified businesses published by, or in the records of, the office.

(2) Prime contractors and consultants.

(a) Where a certified business performs a commercially useful function in the work of the contract, the dollar value of expenditures to the business for such work will be

counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(b) Where a certified business is a partner in a joint venture, and the business performs a commercially useful function in the work of the contract, only the dollar value of expenditures to the certified business which is commensurate with its interest in the joint venture will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(3) Subcontractors and subconsultants.

(a) Where a certified business performs a commercially useful function in the work of a subcontract, the dollar value of expenditures to the business for such work will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(b) Where a certified business is a subcontractor on a heavy construction, highway, or street construction project, expenditures to the certified business shall not be counted toward goal attainment if the business subcontracts more than twenty-five percent of the total amount of its own subcontract to a noncertified business.

(4) Suppliers.

(a) Where a certified business is the manufacturer or a regular dealer of goods or materials required under a contract, one hundred percent of the dollar value of expenditures to the business for such materials or supplies will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(b) Where a certified business is a broker or a packager of goods or materials required under a contract, ~~effective July 1, 1993, twenty~~ one hundred percent of the dollar value of expenditures to the business will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(5) Where a certified business is a hauler, trucker, or delivery service, but is not also a regular dealer or the manufacturer of the goods or materials required on the job site, the dollar value of expenditures to the business for fees charged to deliver the goods or materials required will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(6) Where a certified business provides bonds or insurance specifically required for the performance of a contract, the dollar value of expenditures to the business for the fee or commission charged for providing the bonds or insurance will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(7) Where a certified business is a travel agency, shipping or transportation broker, or other business performing similar functions, twenty percent of the dollar value of expenditures to the business to provide a bona fide service in the procurement of transportation will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

EMERGENCY

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 WSR 92-20-124, filed 10/7/92)]

WAC 326-40-060 Determining compliance at time of award. (1) The participation of a certified business at any level of a contract or procurement may be counted when the work to be performed is a commercially useful function within the context of the contract or procurement. If, at the time of award, the business is projected to perform work classified in SIC codes different from those listed for the business in the records of the office, the business may be given the opportunity to update its listing, with the office's approval, prior to the agency or educational institution's reporting of expenditures made to the business.

(2) Prime contractors and consultants.

(a) Award to certified businesses. When a contract is awarded, which is to be performed solely by a certified business, one hundred percent of the total contract value can be counted toward the contract goal according to the certification status of the business.

(b) Award to certified prime contractors and consultants with noncertified subcontractor and subconsultant. When a contract is awarded to a certified prime contractor with a noncertified subcontractor, one hundred percent of the total contract value can be counted toward the contract goal according to the certification status of the prime contractor; provided, the certified prime contractor performs a commercially useful function in the work of the contract.

(c) Award to noncertified prime contractor or consultant with a certified subcontractor or subconsultant. When a part of the contract is performed by a certified subcontractor or subconsultant, the dollar value of only that percentage of the total contract performed by the certified business can be counted toward the contract goal according to the certification status of the firm; provided, the certified business performs a commercially useful function in the work of the contract.

(d) Award to a certified prime contractor or consultant with a certified subcontractor or subconsultant. When a contract is awarded to a certified prime contractor with a certified subcontractor, one hundred percent of the total contract value may be counted toward the contract goal according to the certification status of the certified prime contractor or consultant; provided, the certified prime contractor or consultant performs a commercially useful function in the work of the contract.

(e) Award to a joint venture. When a contract is awarded to a joint venture that is approved pursuant to WAC 326-40-100, the dollar value, on a percentage basis, of the portion of the work performed by the certified business may be counted toward the contract goal according to the certification status of the business; provided, the certified business performs a commercially useful function in the work of the contract.

(f) Award to a minority woman. When a contract is awarded which is to be performed totally or in part by a certified minority woman, and the business performs a commercially useful function, the dollar value of the work

performed by the business may be counted toward either contract goal, but not both.

(g) Award to a combination business enterprise (CBE). When a contract is awarded which is to be performed totally or in part by a CBE, and the business performs a commercially useful function, one-half of the dollar value may be counted toward the contract MBE goal and one-half may be counted toward the contract WBE goal. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the CBE's total participation may be counted toward the single goal.

(3) Subcontractors and subconsultants.

(a) Where a subcontract is awarded to a certified business that performs a commercially useful function in the work of a contract, one hundred percent of the dollar value of the work performed by the certified business may be counted toward the contract goal according to the certification status of the business.

(b) Where a subcontract is awarded to a certified business on a heavy construction, highway, or street construction project, expenditures to the certified business shall not be counted toward the contract goal if the business subcontracts more than twenty-five percent of the total amount of its own subcontract to a noncertified business.

(4) Suppliers.

(a) Where a certified business is the manufacturer or a regular dealer of materials or supplies required under a contract, one hundred percent of the dollar value of the materials or supplies to be provided may be counted toward the contract goal according to the certification status of the business.

(b) Where a certified business is a broker or a packager of materials or supplies required under a contract, ~~effective July 1, 1993, twenty one hundred~~ percent of the dollar value charged for ~~a bona fide service~~ the commercially useful function it performs in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract may be counted toward the contract goal according to the certification status of the business.

(5) Where a certified business is a hauler, trucker, or delivery service, but not also a regular dealer or the manufacturer of the materials or supplies required on the job site, only the dollar value of the fees charged to deliver the materials or supplies required may be counted toward the contract goal according to the certification status of the business.

(6) Where a certified business is a travel agency, shipping or transportation broker, or other business performing similar functions, twenty percent of the dollar value charged for providing a bona fide service in the procurement of transportation may be counted toward the contract goal according to the certification status of the business.

(7) Where a certified business provides bonds or insurance specifically required for the performance of a contract, the dollar value charged for providing the bonds or insurance may be counted toward the contract goal according to the certification status of the business.

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

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 93-16-082
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 93-73—Filed August 3, 1993, 3:08 p.m.]

Date of Adoption: August 3, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-24-02000W; 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: A harvestable surplus of salmon is available for the troll fleet, and these rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans.

Effective Date of Rule: Immediately.

August 3, 1993
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-24-02000X 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)(a) Fishing is authorized from 12:01 a.m., August 4, 1993 through 11:59 p.m. August 6, 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.

(b) All salmon taken in the fishery provided for in this subsection must be sold by 11:59 p.m. August 7, 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.

(c) No vessel may land more than 50 coho salmon in the fishery provided for in this subsection.

(d) Lawful terminal gear during the fishing period provided for in this subsection 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.

(2)(a) In waters north of Carroll Island (48 00 18 N) it is lawful to fish for and possess all salmon species other than chinook and coho salmon from 12:01 a.m. August 8, 1993 through 11:59 p.m. August 25, 1993.

(b) All salmon taken in the fishery provided for in this subsection must be sold by 11:59 p.m. August 26, 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.

(c) Lawful terminal gear during the fishing period provided for in this subsection is restricted to barbless bare blued single shank, single point hooks only. Flashers are legal.

(3) In the fisheries authorized in this section:

(a) 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. Except that frozen salmon taken in this fishery may be landed pursuant to WAC 220-20-015.

(b) It is unlawful to fish for or possess salmon taken for commercial purposes with gear other than troll gear.

(c) 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.

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 220-24-02000W Commercial salmon troll.
(93-71)

WSR 93-16-001
NOTICE OF PUBLIC MEETINGS
MARINE OVERSIGHT BOARD
 [Memorandum—July 21, 1993]

On January 14, 1993, a list of meetings to be held by the board were filed with your office under WSR 93-03-040. The following public meeting dates have been rescheduled or cancelled:

October 15, 1993	Rescheduled for October 22, 1993 (see below)
January 21, 1994	Rescheduled for January 7, 1994 (see below)
April 15, 1994	Cancelled

New public meeting dates as approved by the board at their July 16, 1993, meeting are as follows:

September 17, 1993	New meeting
October 22, 1993	Rescheduled from October 15, 1993 (see above)
December 3, 1993	New meeting
January 7, 1994	Rescheduled from January 21, 1994 (see above)
March 18, 1994	New meeting
May 20, 1994	New meeting

All of the new meetings are scheduled to begin at 1 p.m. and to be held at the Seattle-Tacoma International Airport, Theater, Door No. 5132, Ticketing Level (behind MarkAir ticketing area). Contact: Staff Director, Olympia, (206) 664-9130, SCAN 366-9130, FAX (206) 664-8761.

Please note that the July 15, 1994, meeting already scheduled under WSR 93-03-040 remains the same.

WSR 93-16-014
NOTICE OF PUBLIC MEETINGS
JOINT CENTER
FOR HIGHER EDUCATION
 [Memorandum—July 20, 1993]

The board of the Joint Center for Higher Education voted unanimously at its July 14th regular meeting to cancel the August 11, 1993, board meeting.

WSR 93-16-068
NOTICE OF PUBLIC MEETINGS
HIGHLINE COMMUNITY COLLEGE
 [Memorandum—July 28, 1993]

The following information regarding the regular monthly meetings of the Community College District 9 board of trustees for the period July 1993 through June 1994 is forwarded in compliance with RCW 42.30.075. All meetings begin at 8:00 a.m. with a study session followed by the regular meeting at 10:00 a.m.

July 15, 1993	
August	No meeting
September 16, 1993*	
October 14, 1993	
November 4, 1993*	

December 9, 1993
January 13, 1994
February 10, 1994
March 10, 1994
April 14, 1994
May 12, 1994
June 9, 1994

* Not the regularly scheduled second Thursday of the month.

WSR 93-16-077
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—July 28, 1993]

The Eastern Washington University board of trustees will hold a two day workshop on Monday and Tuesday, August 9 and 10, 1993, at the Pence Union Building Commuter Lounge on the Cheney campus.

The workshop will run from 2:00 p.m. to 5:30 p.m. on Monday, August 9 and run from 9:00 a.m. to 12:00 p.m. on Tuesday, August 10.

The following is the agenda for the workshop: Eastern's future role and posture in Spokane; and future direction for intercollegiate athletics.

WSR 93-16-094
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—August 4, 1993]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, August 19, 1993, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

WSR 93-16-109
ATTORNEY GENERAL'S OPINION
 [Filed August 4, 1993, 11:30 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 the opinion request will be published in the state register. If you would like additional information about the Attorney General's opinions process or any opinion request summarized in the register call the Attorney General's Office at (206) 753-4114, or write to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, WA 98504-0100.

During the period covered by this register there are no opinion requests for which the Attorney General's Office seeks public input.

MISCELLANEOUS

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
4-24-010	REP	93-12-064	4-25-400	NEW-P	93-08-090	16-10-020	NEW-W	93-06-008
4-24-020	REP-P	93-08-089	4-25-400	NEW	93-12-063	16-10-020	NEW-P	93-06-076
4-24-020	REP	93-12-064	4-25-510	NEW-P	93-08-091	16-10-020	NEW	93-10-046
4-24-021	REP-P	93-08-089	4-25-510	NEW	93-12-077	16-10-030	NEW-P	93-04-113
4-24-021	REP	93-12-064	4-25-511	NEW-P	93-08-092	16-10-030	NEW-W	93-06-008
4-24-030	REP-P	93-08-089	4-25-511	NEW	93-12-076	16-10-030	NEW-P	93-06-076
4-24-030	REP	93-12-064	4-25-520	NEW-P	93-08-093	16-10-030	NEW	93-10-046
4-24-040	REP-P	93-08-089	4-25-520	NEW	93-14-050	16-46-005	NEW-P	93-16-088
4-24-040	REP	93-12-064	4-25-530	NEW-P	93-08-094	16-46-010	AMD-P	93-16-088
4-24-041	REP-P	93-08-089	4-25-530	NEW	93-12-075	16-46-020	AMD-P	93-16-088
4-24-041	REP	93-12-064	4-25-540	NEW-P	93-08-095	16-46-030	AMD-P	93-16-088
4-24-050	REP-P	93-08-089	4-25-540	NEW	93-12-074	16-46-035	NEW-P	93-16-088
4-24-050	REP	93-12-064	4-25-550	NEW-P	93-08-096	16-46-040	AMD-P	93-16-088
4-24-060	REP-P	93-08-089	4-25-550	NEW	93-12-073	16-46-045	NEW-P	93-16-088
4-24-060	REP	93-12-064	4-25-551	NEW-P	93-08-097	16-46-050	REP-P	93-16-088
4-24-070	REP-P	93-08-089	4-25-551	NEW	93-12-072	16-46-060	REP-P	93-16-088
4-24-070	REP	93-12-064	4-25-710	NEW-P	93-08-098	16-46-070	AMD-P	93-16-088
4-24-080	REP-P	93-08-089	4-25-710	NEW	93-12-071	16-54-010	AMD-P	93-16-089
4-24-080	REP	93-12-064	4-25-720	NEW-P	93-08-099	16-54-020	AMD-P	93-16-089
4-24-090	REP-P	93-08-089	4-25-720	NEW	93-12-070	16-54-035	AMD-P	93-16-089
4-24-090	REP	93-12-064	4-25-721	NEW-P	93-08-100	16-54-135	AMD-P	93-16-089
4-24-101	REP-P	93-08-089	4-25-721	NEW	93-12-069	16-70-005	NEW-P	93-16-090
4-24-101	REP	93-12-064	4-25-730	NEW-P	93-08-101	16-70-010	AMD-P	93-16-090
4-24-110	REP-P	93-08-089	4-25-730	NEW	93-12-068	16-70-020	AMD-P	93-16-090
4-24-110	REP	93-12-064	4-25-740	NEW-P	93-08-102	16-78-001	REP-P	93-16-091
4-24-120	REP-P	93-08-089	4-25-740	NEW	93-12-067	16-78-002	REP-P	93-16-091
4-24-120	REP	93-12-064	4-25-755	NEW-P	93-08-103	16-78-003	REP-P	93-16-091
4-24-131	REP-P	93-08-089	4-25-755	NEW	93-12-066	16-78-010	REP-P	93-16-091
4-24-131	REP	93-12-064	4-25-760	NEW-P	93-08-104	16-78-020	REP-P	93-16-091
4-24-140	REP-P	93-08-089	4-25-760	NEW	93-12-065	16-78-030	REP-P	93-16-091
4-24-140	REP	93-12-064	10-04-020	AMD-P	93-07-097	16-88-010	NEW-P	93-16-092
4-24-150	REP-P	93-08-089	10-04-020	AMD	93-10-098	16-88-020	NEW-P	93-16-092
4-24-150	REP	93-12-064	10-08-150	AMD-P	93-07-096	16-88-030	NEW-P	93-16-092
4-25-010	REP-P	93-08-089	10-08-150	AMD	93-10-097	16-88-040	NEW-P	93-16-092
4-25-010	REP	93-12-064	16-08-021	AMD-P	93-07-021	16-201-010	NEW-P	93-12-044
4-25-040	REP-P	93-08-089	16-08-021	AMD-E	93-07-022	16-201-020	NEW-P	93-12-044
4-25-040	REP	93-12-064	16-08-021	AMD	93-10-059	16-201-025	NEW-P	93-12-044
4-25-140	REP-P	93-08-089	16-08-022	NEW-P	93-07-021	16-201-028	NEW-P	93-12-044
4-25-140	REP	93-12-064	16-08-022	NEW-E	93-07-022	16-201-030	NEW-P	93-12-044
4-25-141	REP-P	93-08-089	16-08-022	NEW	93-10-059	16-201-040	NEW-P	93-12-044
4-25-141	REP	93-12-064	16-08-141	AMD-P	93-07-021	16-201-050	NEW-P	93-12-044
4-25-142	REP-P	93-08-089	16-08-141	AMD-E	93-07-022	16-201-060	NEW-P	93-12-044
4-25-142	REP	93-12-064	16-08-141	AMD	93-10-059	16-201-070	NEW-P	93-12-044
4-25-190	REP-P	93-08-089	16-08-151	AMD-P	93-07-021	16-201-080	NEW-P	93-12-044
4-25-190	REP	93-12-064	16-08-151	AMD-E	93-07-022	16-201-100	NEW-P	93-12-044
4-25-191	REP-P	93-08-089	16-08-151	AMD	93-10-059	16-201-110	NEW-P	93-12-044
4-25-191	REP	93-12-064	16-10-010	NEW-P	93-04-113	16-201-120	NEW-P	93-12-044
4-25-260	REP-P	93-08-089	16-10-010	NEW-W	93-06-008	16-201-130	NEW-P	93-12-044
4-25-260	REP	93-12-064	16-10-010	NEW-P	93-06-076	16-201-140	NEW-P	93-12-044
4-25-360	REP-P	93-08-089	16-10-010	NEW	93-10-046	16-201-150	NEW-P	93-12-044

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
16-201-160	NEW-P	93-12-044	16-229-015	NEW-P	93-12-044	16-561-110	NEW-P	93-16-070
16-201-170	NEW-P	93-12-044	16-229-020	NEW-P	93-12-044	16-561-120	NEW-P	93-16-070
16-201-180	NEW-P	93-12-044	16-229-025	NEW-P	93-12-044	16-570-040	AMD-P	93-07-085
16-201-190	NEW-P	93-12-044	16-229-030	NEW-P	93-12-044	16-570-040	AMD	93-11-032
16-201-200	NEW-P	93-12-044	16-229-040	NEW-P	93-12-044	16-602-020	AMD-P	93-15-099
16-201-210	NEW-P	93-12-044	16-229-050	NEW-P	93-12-044	16-602-040	NEW-E	93-12-039
16-201-220	NEW-P	93-12-044	16-229-060	NEW-P	93-12-044	16-602-040	NEW-P	93-15-100
16-201-230	NEW-P	93-12-044	16-229-070	NEW-P	93-12-044	16-674-002	REP	93-03-079
16-201-240	NEW-P	93-12-044	16-229-080	NEW-P	93-12-044	16-674-010	AMD	93-03-079
16-201-250	NEW-P	93-12-044	16-229-090	NEW-P	93-12-044	16-674-020	REP	93-03-079
16-201-260	NEW-P	93-12-044	16-229-100	NEW-P	93-12-044	16-674-060	NEW	93-03-079
16-201-270	NEW-P	93-12-044	16-229-110	NEW-P	93-12-044	16-674-070	NEW	93-03-079
16-201-280	NEW-P	93-12-044	16-229-120	NEW-P	93-12-044	16-674-080	NEW	93-03-079
16-201-290	NEW-P	93-12-044	16-229-130	NEW-P	93-12-044	16-674-090	NEW	93-03-079
16-218-001	AMD-P	93-12-134	16-229-140	NEW-P	93-12-044	16-674-100	NEW	93-03-079
16-218-001	AMD	93-15-069	16-229-150	NEW-P	93-12-044	44-01-010	AMD-E	93-14-081
16-218-010	AMD-P	93-12-134	16-229-160	NEW-P	93-12-044	44-01-020	AMD-E	93-14-081
16-218-010	AMD	93-15-069	16-229-170	NEW-P	93-12-044	44-01-030	AMD-E	93-14-081
16-218-02001	AMD-P	93-12-134	16-229-180	NEW-P	93-12-044	44-01-100	AMD-E	93-14-081
16-218-02001	AMD	93-15-069	16-229-200	NEW-P	93-12-044	44-01-110	AMD-E	93-14-081
16-218-030	NEW-P	93-12-134	16-229-210	NEW-P	93-12-044	44-01-120	AMD-E	93-14-081
16-218-030	NEW	93-15-069	16-229-220	NEW-P	93-12-044	44-01-130	AMD-E	93-14-081
16-219-010	NEW-P	93-12-128	16-229-230	NEW-P	93-12-044	44-01-140	AMD-E	93-14-081
16-219-010	NEW	93-16-017	16-229-240	NEW-P	93-12-044	44-01-150	AMD-E	93-14-081
16-219-015	NEW-P	93-12-128	16-229-250	NEW-P	93-12-044	44-01-160	AMD-E	93-14-081
16-219-015	NEW-E	93-13-038	16-229-260	NEW-P	93-12-044	44-01-170	AMD-E	93-14-081
16-219-015	RESCIND	93-13-045	16-229-270	NEW-P	93-12-044	44-10-030	AMD-E	93-07-017
16-219-015	NEW-E	93-13-046	16-229-280	NEW-P	93-12-044	50-14-020	AMD-P	93-11-087
16-219-015	NEW	93-16-017	16-229-300	NEW-P	93-12-044	50-14-020	AMD	93-13-142
16-219-020	NEW-P	93-12-128	16-229-310	NEW-P	93-12-044	50-14-030	AMD-P	93-11-087
16-219-020	NEW-E	93-13-038	16-229-400	NEW-P	93-12-044	50-14-030	AMD	93-13-142
16-219-020	RESCIND	93-13-045	16-229-410	NEW-P	93-12-044	50-14-040	AMD-P	93-11-087
16-219-020	NEW-E	93-13-046	16-229-420	NEW-P	93-12-044	50-14-040	AMD	93-13-142
16-219-020	NEW	93-16-017	16-229-430	NEW-P	93-12-044	50-14-050	AMD-P	93-11-087
16-219-025	NEW-P	93-12-128	16-229-440	NEW-P	93-12-044	50-14-050	AMD	93-13-142
16-219-025	NEW-E	93-13-038	16-229-450	NEW-P	93-12-044	50-14-060	AMD-P	93-11-087
16-219-025	RESCIND	93-13-045	16-229-470	NEW-P	93-12-044	50-14-060	AMD	93-13-142
16-219-025	NEW-E	93-13-046	16-229-480	NEW-P	93-12-044	50-14-070	AMD-P	93-11-087
16-219-025	NEW	93-16-017	16-230	AMD-C	93-16-018	50-14-070	AMD	93-13-142
16-219-030	NEW-P	93-12-128	16-230-250	AMD-E	93-12-038	50-14-080	AMD-P	93-11-087
16-219-030	NEW-E	93-13-038	16-230-250	AMD-P	93-12-129	50-14-080	AMD	93-13-142
16-219-030	RESCIND	93-13-045	16-230-260	AMD-E	93-12-038	50-14-090	AMD-P	93-11-087
16-219-030	NEW-E	93-13-046	16-230-260	AMD-P	93-12-129	50-14-090	AMD	93-13-142
16-219-030	NEW	93-16-017	16-230-270	AMD-E	93-12-038	50-14-100	AMD-P	93-11-087
16-228-900	REP-P	93-04-114	16-230-270	AMD-P	93-12-129	50-14-100	AMD	93-13-142
16-228-900	REP-W	93-06-007	16-230-280	REP-E	93-12-038	50-14-110	AMD-P	93-11-087
16-228-900	REP-P	93-06-075	16-230-280	REP-P	93-12-129	50-14-110	AMD	93-13-142
16-228-900	REP	93-10-047	16-230-281	NEW-E	93-12-038	50-14-130	AMD-P	93-11-087
16-228-905	NEW-P	93-04-114	16-230-281	NEW-P	93-12-129	50-14-130	AMD	93-13-142
16-228-905	NEW-W	93-06-007	16-230-290	AMD-E	93-12-038	50-20-130	AMD-P	93-13-144
16-228-905	NEW-P	93-06-075	16-230-290	AMD-P	93-12-129	50-20-130	AMD	93-16-033
16-228-905	NEW	93-10-047	16-230-300	REP-E	93-12-038	50-30-030	AMD-P	93-13-143
16-228-910	NEW-P	93-04-114	16-230-300	REP-P	93-12-129	50-30-030	AMD	93-16-032
16-228-910	NEW-W	93-06-007	16-354-020	AMD-P	93-13-090	50-48-100	AMD-P	93-05-052
16-228-910	NEW-P	93-06-075	16-400-210	AMD-E	93-04-078	50-48-100	AMD	93-07-113
16-228-910	NEW	93-10-047	16-400-210	AMD-P	93-04-103	51-04-015	AMD-W	93-14-017
16-228-915	NEW-P	93-04-114	16-400-210	AMD	93-07-105	51-04-015	AMD-P	93-16-110
16-228-915	NEW-W	93-06-007	16-403-220	AMD-P	93-13-141	51-04-018	AMD-W	93-14-017
16-228-915	NEW-P	93-06-075	16-409-015	AMD-W	93-05-022	51-04-018	AMD-P	93-16-110
16-228-915	NEW	93-10-047	16-409-065	REP-W	93-05-022	51-04-020	AMD-W	93-14-017
16-228-920	NEW-P	93-04-114	16-409-075	AMD-W	93-05-022	51-04-020	AMD-P	93-16-110
16-228-920	NEW-W	93-06-007	16-415	PREP	93-07-053	51-04-025	AMD-W	93-14-017
16-228-920	NEW-P	93-06-075	16-432	PREP	93-07-053	51-04-025	AMD-P	93-16-110
16-228-920	NEW	93-10-047	16-461-011	NEW-P	93-08-060	51-04-030	AMD-W	93-14-017
16-228-925	NEW-P	93-04-114	16-461-011	NEW-W	93-12-047	51-04-030	AMD-P	93-16-110
16-228-925	NEW-W	93-06-007	16-462-030	AMD-P	93-13-091	51-04-060	AMD-W	93-14-017
16-228-925	NEW-P	93-06-075	16-532-120	AMD-P	93-06-083	51-04-060	AMD-P	93-16-110
16-228-925	NEW	93-10-047	16-532-120	AMD	93-09-014	51-11-0101	AMD-P	93-08-077
16-228-930	NEW-P	93-04-114	16-555-010	AMD-P	93-04-094	51-11-0101	AMD-W	93-08-084
16-228-930	NEW-W	93-06-007	16-555-010	AMD	93-10-063	51-11-0200	AMD-P	93-08-077
16-228-930	NEW-P	93-06-075	16-555-020	AMD-P	93-04-094	51-11-0201	AMD-P	93-08-077
16-228-930	NEW	93-10-047	16-555-020	AMD	93-10-063	51-11-0401	AMD-P	93-08-077
16-229-010	NEW-P	93-12-044	16-561-100	NEW-P	93-16-070	51-11-0401	AMD-W	93-08-084

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
51-11-0402	AMD-P	93-16-113	51-11-1144	NEW-P	93-08-077	51-11-1513	NEW-P	93-08-077
51-11-0502	AMD-P	93-08-077	51-11-1150	NEW-P	93-08-077	51-11-1513	NEW-C	93-16-111
51-11-0502	AMD-W	93-08-084	51-11-1160	NEW-P	93-08-077	51-11-1520	NEW-P	93-08-077
51-11-0502	AMD-W	93-16-112	51-11-1201	NEW-P	93-08-077	51-11-1521	NEW-P	93-08-077
51-11-0502	AMD-P	93-16-113	51-11-1201	NEW-W	93-08-084	51-11-1522	NEW-P	93-08-077
51-11-0503	AMD-P	93-08-077	51-11-1210	NEW-P	93-08-077	51-11-1530	NEW-P	93-08-077
51-11-0503	AMD-W	93-08-084	51-11-1301	NEW-P	93-08-077	51-11-1531	NEW-P	93-08-077
51-11-0505	AMD-P	93-08-077	51-11-1301	NEW-W	93-08-084	51-11-1532	NEW-P	93-08-077
51-11-0505	AMD-W	93-08-084	51-11-1302	NEW-P	93-08-077	51-11-1532	NEW-C	93-16-111
51-11-0525	AMD-P	93-16-113	51-11-1302	NEW-W	93-08-084	51-11-1601	NEW-W	93-08-084
51-11-0527	AMD-P	93-16-113	51-11-1303	NEW-P	93-08-077	51-11-1602	NEW-W	93-08-084
51-11-0528	AMD-P	93-08-077	51-11-1303	NEW-W	93-08-084	51-11-1603	NEW-W	93-08-084
51-11-0528	AMD-W	93-08-084	51-11-1310	NEW-P	93-08-077	51-11-1604	NEW-W	93-08-084
51-11-0529	AMD-P	93-08-077	51-11-1310	NEW-C	93-16-111	51-11-1605	NEW-W	93-08-084
51-11-0529	AMD-W	93-08-084	51-11-1311	NEW-P	93-08-077	51-11-1606	NEW-W	93-08-084
51-11-0531	AMD-P	93-08-077	51-11-1311	NEW-C	93-16-111	51-11-1607	NEW-W	93-08-084
51-11-0531	AMD-W	93-08-084	51-11-1312	NEW-P	93-08-077	51-11-1608	NEW-W	93-08-084
51-11-0532	AMD-P	93-08-077	51-11-1313	NEW-P	93-08-077	51-11-1701	NEW-P	93-08-077
51-11-0532	AMD-W	93-08-084	51-11-1314	NEW-P	93-08-077	51-11-1701	NEW-W	93-08-084
51-11-0538	AMD-P	93-08-077	51-11-1320	NEW-P	93-08-077	51-11-1801	NEW-W	93-08-084
51-11-0538	AMD-W	93-08-084	51-11-1321	NEW-P	93-08-077	51-11-1901	NEW-W	93-08-084
51-11-0539	AMD-P	93-08-077	51-11-1322	NEW-P	93-08-077	51-11-1902	NEW-W	93-08-084
51-11-0539	AMD-W	93-08-084	51-11-1323	NEW-P	93-08-077	51-11-2000	NEW-W	93-08-084
51-11-0540	AMD-P	93-08-077	51-11-1330	NEW-P	93-08-077	51-11-2001	NEW-P	93-08-077
51-11-0540	AMD-W	93-08-084	51-11-1331	NEW-P	93-08-077	51-11-2001	NEW-W	93-08-084
51-11-0542	AMD-P	93-08-077	51-11-1332	NEW-P	93-08-077	51-11-2002	NEW-P	93-08-077
51-11-0542	AMD-W	93-08-084	51-11-1333	NEW-P	93-08-077	51-11-2002	NEW-W	93-08-084
51-11-0601	AMD-P	93-08-077	51-11-1334	NEW-P	93-08-077	51-11-2003	NEW-P	93-08-077
51-11-0601	AMD-W	93-08-084	51-11-1334	NEW-C	93-16-111	51-11-2003	NEW-W	93-08-084
51-11-0601	AMD-W	93-16-112	51-11-1401	NEW-P	93-08-077	51-11-2004	NEW-P	93-08-077
51-11-0601	AMD-P	93-16-113	51-11-1401	NEW-W	93-08-084	51-11-2004	NEW-W	93-08-084
51-11-0602	AMD-P	93-16-113	51-11-1402	NEW-P	93-08-077	51-11-2005	NEW-P	93-08-077
51-11-0603	AMD-P	93-16-113	51-11-1402	NEW-W	93-08-084	51-11-2005	NEW-W	93-08-084
51-11-0605	AMD-P	93-08-077	51-11-1410	NEW-P	93-08-077	51-11-2006	NEW-P	93-08-077
51-11-0605	AMD-W	93-08-084	51-11-1411	NEW-P	93-08-077	51-11-2006	NEW-W	93-08-084
51-11-0606	AMD-P	93-08-077	51-11-1412	NEW-P	93-08-077	51-11-2006	NEW-C	93-16-111
51-11-0606	AMD-W	93-08-084	51-11-1412	NEW-C	93-16-111	51-11-2007	NEW-P	93-08-077
51-11-0607	AMD-P	93-08-077	51-11-1413	NEW-P	93-08-077	51-11-2007	NEW-W	93-08-084
51-11-0607	AMD-W	93-08-084	51-11-1414	NEW-P	93-08-077	51-11-2008	NEW-P	93-08-077
51-11-0608	AMD-P	93-08-077	51-11-1414	NEW-C	93-16-111	51-11-2008	NEW-W	93-08-084
51-11-0608	AMD-W	93-08-084	51-11-1415	NEW-P	93-08-077	51-11-2009	NEW-P	93-08-077
51-11-0625	AMD-P	93-16-113	51-11-1415	NEW-C	93-16-111	51-11-2009	NEW-W	93-08-084
51-11-0626	AMD-P	93-16-113	51-11-1420	NEW-P	93-08-077	51-11-99901	NEW-S	93-10-004
51-11-0627	AMD-P	93-16-113	51-11-1421	NEW-P	93-08-077	51-11-99902	NEW-S	93-10-004
51-11-0628	AMD-P	93-16-113	51-11-1422	NEW-P	93-08-077	51-11-99903	NEW-S	93-10-004
51-11-0629	AMD-P	93-16-113	51-11-1423	NEW-P	93-08-077	51-11-99904	NEW-S	93-10-004
51-11-0630	AMD-P	93-16-113	51-11-1424	NEW-P	93-08-077	51-13-101	AMD	93-02-056
51-11-0631	AMD-P	93-08-077	51-11-1430	NEW-P	93-08-077	51-13-202	AMD	93-02-056
51-11-0631	AMD-W	93-08-084	51-11-1431	NEW-P	93-08-077	51-13-300	AMD	93-02-056
51-11-0700	AMD-P	93-08-077	51-11-1432	NEW-P	93-08-077	51-13-302	AMD	93-02-056
51-11-1000	AMD-P	93-08-077	51-11-1433	NEW-P	93-08-077	51-13-303	AMD	93-02-056
51-11-1006	AMD-P	93-16-113	51-11-1434	NEW-P	93-08-077	51-13-304	AMD	93-02-056
51-11-1100	NEW-P	93-08-077	51-11-1435	NEW-P	93-08-077	51-13-401	AMD	93-02-056
51-11-1101	NEW-W	93-08-084	51-11-1436	NEW-P	93-08-077	51-13-402	AMD	93-02-056
51-11-1102	NEW-W	93-08-084	51-11-1437	NEW-P	93-08-077	51-13-502	AMD	93-02-056
51-11-1103	NEW-W	93-08-084	51-11-1440	NEW-P	93-08-077	51-13-503	AMD	93-02-056
51-11-1104	NEW-W	93-08-084	51-11-1441	NEW-P	93-08-077	55-01-001	AMD-E	93-14-089
51-11-1105	NEW-W	93-08-084	51-11-1442	NEW-P	93-08-077	55-01-010	AMD-E	93-14-089
51-11-1106	NEW-W	93-08-084	51-11-1450	NEW-P	93-08-077	55-01-020	AMD-E	93-14-089
51-11-1107	NEW-W	93-08-084	51-11-1451	NEW-P	93-08-077	55-01-030	AMD-E	93-14-089
51-11-1108	NEW-W	93-08-084	51-11-1452	NEW-P	93-08-077	55-01-040	AMD-E	93-14-089
51-11-1109	NEW-W	93-08-084	51-11-1453	NEW-P	93-08-077	55-01-050	AMD-E	93-14-089
51-11-1110	NEW-P	93-08-077	51-11-1454	NEW-P	93-08-077	55-01-060	AMD-E	93-14-089
51-11-1120	NEW-P	93-08-077	51-11-1454	NEW-C	93-16-111	55-01-070	AMD-E	93-14-089
51-11-1130	NEW-P	93-08-077	51-11-1501	NEW-P	93-08-077	55-01-080	AMD-E	93-14-089
51-11-1131	NEW-P	93-08-077	51-11-1501	NEW-W	93-08-084	55-01-030	AMD	93-07-117
51-11-1132	NEW-P	93-08-077	51-11-1502	NEW-W	93-08-084	67-35-030	AMD	93-10-067
51-11-1133	NEW-P	93-08-077	51-11-1503	NEW-W	93-08-084	67-35-040	AMD-P	93-06-048
51-11-1134	NEW-P	93-08-077	51-11-1504	NEW-W	93-08-084	67-35-040	AMD	93-09-013
51-11-1140	NEW-P	93-08-077	51-11-1505	NEW-W	93-08-084	67-35-055	REP-P	93-06-048
51-11-1141	NEW-P	93-08-077	51-11-1510	NEW-P	93-08-077	67-35-055	REP	93-09-013
51-11-1142	NEW-P	93-08-077	51-11-1511	NEW-P	93-08-077	67-35-056	REP-P	93-06-048
51-11-1143	NEW-P	93-08-077	51-11-1512	NEW-P	93-08-077	67-35-056	REP	93-09-013

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
98-60-010	NEW-P	93-03-063	131-47-040	NEW-P	93-14-052	131-47-160	NEW-E	93-14-053
98-60-010	NEW	93-07-040	131-47-040	NEW-E	93-14-053	137-47-165	NEW-E	93-09-047
98-60-020	NEW-P	93-03-063	131-47-045	NEW-E	93-09-047	131-47-165	NEW-P	93-14-052
98-60-020	NEW	93-07-040	131-47-045	NEW-P	93-14-052	131-47-165	NEW-E	93-14-053
98-60-030	NEW-P	93-03-063	131-47-045	NEW-E	93-14-053	131-48-010	NEW-E	93-14-010
98-60-030	NEW	93-07-040	131-47-050	NEW-E	93-09-047	131-48-020	NEW-E	93-14-010
98-60-040	NEW-P	93-03-063	131-47-050	NEW-P	93-14-052	131-48-030	NEW-E	93-14-010
98-60-040	NEW	93-07-040	131-47-050	NEW-E	93-14-053	131-48-040	NEW-E	93-14-010
98-60-050	NEW-P	93-03-063	131-47-055	NEW-E	93-09-047	131-48-050	NEW-E	93-14-010
98-60-050	NEW	93-07-040	131-47-055	NEW-P	93-14-052	131-48-060	NEW-E	93-14-010
98-70-010	AMD-P	93-03-062	131-47-055	NEW-E	93-14-053	131-48-070	NEW-E	93-14-010
98-70-010	AMD	93-07-041	131-47-060	NEW-E	93-09-047	131-48-080	NEW-E	93-14-010
118-04-010	REP-P	93-15-087	131-47-060	NEW-P	93-14-052	131-48-090	NEW-E	93-14-010
118-04-020	NEW-P	93-15-087	131-47-060	NEW-E	93-14-053	131-48-100	NEW-E	93-14-010
118-04-030	REP-P	93-15-087	131-47-065	NEW-E	93-09-047	131-48-110	NEW-E	93-14-010
118-04-040	NEW-P	93-15-087	131-47-065	NEW-P	93-14-052	131-48-120	NEW-E	93-14-010
118-04-050	REP-P	93-15-087	131-47-065	NEW-E	93-14-053	131-48-130	NEW-E	93-14-010
118-04-060	NEW-P	93-15-087	131-47-070	NEW-E	93-09-047	131-48-140	NEW-E	93-14-010
118-04-070	REP-P	93-15-087	131-47-070	NEW-P	93-14-052	132G-116-010	REP	93-02-063
118-04-080	NEW-P	93-15-087	131-47-070	NEW-E	93-14-053	132G-116-020	AMD	93-02-063
118-04-090	REP-P	93-15-087	131-47-075	NEW-E	93-09-047	132G-116-025	NEW	93-02-063
118-04-100	NEW-P	93-15-087	131-47-075	NEW-P	93-14-052	132G-116-030	AMD	93-02-063
118-04-110	REP-P	93-15-087	131-47-075	NEW-E	93-14-053	132G-116-035	NEW	93-02-063
118-04-120	NEW-P	93-15-087	131-47-080	NEW-E	93-09-047	132G-116-040	REP	93-02-063
118-04-130	REP-P	93-15-087	131-47-080	NEW-P	93-14-052	132G-116-045	NEW	93-02-063
118-04-140	REP-P	93-15-087	131-47-080	NEW-E	93-14-053	132G-116-050	REP	93-02-063
118-04-150	REP-P	93-15-087	131-47-085	NEW-E	93-09-047	132G-116-055	NEW	93-02-063
118-04-160	NEW-P	93-15-087	131-47-085	NEW-P	93-14-052	132G-116-060	REP	93-02-063
118-04-170	REP-P	93-15-087	131-47-085	NEW-E	93-14-053	132G-116-080	AMD	93-02-063
118-04-180	NEW-P	93-15-087	131-47-090	NEW-E	93-09-047	132G-116-090	AMD	93-02-063
118-04-190	REP-P	93-15-087	131-47-090	NEW-P	93-14-052	132G-116-095	NEW	93-02-063
118-04-200	NEW-P	93-15-087	131-47-090	NEW-E	93-14-053	132G-116-100	REP	93-02-063
118-04-210	REP-P	93-15-087	131-47-095	NEW-E	93-09-047	132G-116-105	NEW	93-02-063
118-04-220	NEW-P	93-15-087	131-47-095	NEW-P	93-14-052	132G-116-110	REP	93-02-063
118-04-230	REP-P	93-15-087	131-47-095	NEW-E	93-14-053	132G-116-115	NEW	93-02-063
118-04-240	NEW-P	93-15-087	131-47-100	NEW-E	93-09-047	132G-116-120	REP	93-02-063
118-04-250	REP-P	93-15-087	131-47-100	NEW-P	93-14-052	132G-116-125	NEW	93-02-063
118-04-260	NEW-P	93-15-087	131-47-100	NEW-E	93-14-053	132G-116-130	REP	93-02-063
118-04-270	REP-P	93-15-087	131-47-105	NEW-E	93-09-047	132G-116-135	NEW	93-02-063
118-04-280	NEW-P	93-15-087	131-47-105	NEW-P	93-14-052	132G-116-140	REP	93-02-063
118-04-290	REP-P	93-15-087	131-47-105	NEW-E	93-14-053	132G-116-145	NEW	93-02-063
118-04-300	NEW-P	93-15-087	131-47-110	NEW-E	93-09-047	132G-116-150	REP	93-02-063
118-04-320	NEW-P	93-15-087	131-47-110	NEW-P	93-14-052	132G-116-155	NEW	93-02-063
118-04-340	NEW-P	93-15-087	131-47-110	NEW-E	93-14-053	132G-116-160	REP	93-02-063
118-04-360	NEW-P	93-15-087	131-47-115	NEW-E	93-09-047	132G-116-170	REP	93-02-063
118-04-380	NEW-P	93-15-087	131-47-115	NEW-P	93-14-052	132G-116-175	NEW	93-02-063
118-04-400	NEW-P	93-15-087	131-47-115	NEW-E	93-14-053	132G-116-180	REP	93-02-063
118-04-420	NEW-P	93-15-087	131-47-120	NEW-E	93-09-047	132G-116-185	NEW	93-02-063
131-16-091	AMD-P	93-10-103	131-47-120	NEW-P	93-14-052	132G-116-190	REP	93-02-063
131-16-091	AMD	93-14-008	131-47-120	NEW-E	93-14-053	132G-116-195	NEW	93-02-063
131-16-092	AMD-P	93-10-103	131-47-125	NEW-E	93-09-047	132G-116-200	REP	93-02-063
131-16-092	AMD	93-14-008	131-47-125	NEW-P	93-14-052	132G-116-205	NEW	93-02-063
131-16-093	AMD-P	93-10-103	131-47-125	NEW-E	93-14-053	132G-116-210	REP	93-02-063
131-16-093	AMD	93-14-008	131-47-130	NEW-E	93-09-047	132G-116-215	NEW	93-02-063
131-47-010	NEW-E	93-09-047	131-47-130	NEW-P	93-14-052	132G-116-220	REP	93-02-063
131-47-010	NEW-P	93-14-052	131-47-130	NEW-E	93-14-053	132G-116-225	NEW	93-02-063
131-47-010	NEW-E	93-14-053	131-47-135	NEW-E	93-09-047	132G-116-230	REP	93-02-063
131-47-015	NEW-E	93-09-047	131-47-135	NEW-P	93-14-052	132G-116-235	NEW	93-02-063
131-47-015	NEW-P	93-14-052	131-47-135	NEW-E	93-14-053	132G-116-240	REP	93-02-063
131-47-015	NEW-E	93-14-053	131-47-140	NEW-E	93-09-047	132G-116-245	NEW	93-02-063
131-47-020	NEW-E	93-09-047	131-47-140	NEW-P	93-14-052	132G-116-250	REP	93-02-063
131-47-020	NEW-P	93-14-052	131-47-140	NEW-E	93-14-053	132G-116-255	NEW	93-02-063
131-47-020	NEW-E	93-14-053	131-47-145	NEW-E	93-09-047	132G-116-260	REP	93-02-063
131-47-025	NEW-E	93-09-047	131-47-145	NEW-P	93-14-052	132G-116-265	NEW	93-02-063
131-47-025	NEW-P	93-14-052	131-47-145	NEW-E	93-14-053	132G-116-270	AMD	93-02-063
131-47-025	NEW-E	93-14-053	131-47-150	NEW-E	93-09-047	132G-116-275	NEW	93-02-063
131-47-030	NEW-E	93-09-047	131-47-150	NEW-P	93-14-052	132G-116-280	REP	93-02-063
131-47-030	NEW-P	93-14-052	131-47-150	NEW-E	93-14-053	132G-116-285	NEW	93-02-063
131-47-030	NEW-E	93-14-053	131-47-155	NEW-E	93-09-047	132G-116-290	REP	93-02-063
131-47-035	NEW-E	93-09-047	131-47-155	NEW-P	93-14-052	132G-116-295	NEW	93-02-063
131-47-035	NEW-P	93-14-052	131-47-155	NEW-E	93-14-053	132G-116-300	REP	93-02-063
131-47-035	NEW-E	93-14-053	131-47-160	NEW-E	93-09-047	132G-116-305	NEW	93-02-063
131-47-040	NEW-E	93-09-047	131-47-160	NEW-P	93-14-052	132G-116-310	REP	93-02-063

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #	
132G-116-315	NEW	93-02-063	132J-125-075	NEW	93-04-022	
132G-116-320	REP	93-02-063	132J-125-080	NEW	93-04-022	
132G-116-330	REP	93-02-063	132J-125-085	NEW	93-04-022	
132G-116-340	AMD	93-02-063	132J-125-090	NEW	93-04-022	
132G-116-350	REP	93-02-063	132J-125-095	NEW	93-04-022	
132H-116-315	AMD-P	93-08-067	132J-125-100	NEW	93-04-022	
132H-116-315	AMD	93-12-007	132J-125-105	NEW	93-04-022	
132H-120-050	AMD-P	93-08-068	132J-125-110	NEW	93-04-022	
132H-120-050	AMD	93-12-008	132J-125-115	NEW	93-04-022	
132H-120-200	AMD-P	93-08-068	132J-125-120	NEW	93-04-022	
132H-120-200	AMD	93-12-008	132J-125-125	NEW	93-04-022	
132H-120-220	AMD-P	93-08-068	132J-125-130	NEW	93-04-022	
132H-120-220	AMD	93-12-008	132J-125-135	NEW	93-04-022	
132H-120-225	AMD-P	93-08-068	132J-125-140	NEW	93-04-022	
132H-120-225	AMD	93-12-008	132J-125-145	NEW	93-04-022	
132H-120-245	AMD-P	93-08-068	132J-125-150	NEW	93-04-022	
132H-120-245	AMD	93-12-008	132J-125-155	NEW	93-04-022	
132H-120-300	AMD-P	93-08-068	132J-125-160	NEW	93-04-022	
132H-120-300	AMD	93-12-008	132J-125-165	NEW	93-04-022	
132H-120-335	AMD-P	93-08-068	132J-125-170	NEW	93-04-022	
132H-120-335	AMD	93-12-008	132J-125-180	NEW	93-04-022	
132H-120-475	AMD-P	93-08-068	132J-125-190	NEW	93-04-022	
132H-120-475	AMD	93-12-008	132J-125-200	NEW	93-04-022	
132H-160-180	AMD-P	93-12-098	132J-125-210	NEW	93-04-022	
132H-160-180	AMD	93-16-050	132J-125-220	NEW	93-04-022	
132H-160-185	NEW-P	93-12-097	132J-125-230	NEW	93-04-022	
132H-160-185	NEW	93-16-051	132J-125-240	NEW	93-04-022	
132J-108-020	AMD	93-04-022	132J-125-250	NEW	93-04-022	
132J-108-050	AMD	93-04-022	132J-125-260	NEW	93-04-022	
132J-108-050	AMD-P	93-15-118	132J-125-270	NEW	93-04-022	
132J-116-010	AMD-P	93-15-119	132J-125-280	NEW	93-04-022	
132J-116-020	REP-P	93-15-119	132J-125-290	NEW	93-04-022	
132J-116-021	NEW-P	93-15-119	132J-125-300	NEW	93-04-022	
132J-116-040	AMD-P	93-15-119	132J-125-310	NEW	93-04-022	
132J-116-050	AMD-P	93-15-119	132J-128-010	REP-P	93-15-120	
132J-116-060	AMD-P	93-15-119	132J-128-020	REP-P	93-15-120	
132J-116-070	REP-P	93-15-119	132J-128-030	REP-P	93-15-120	
132J-116-080	AMD-P	93-15-119	132J-128-040	REP-P	93-15-120	
132J-116-090	AMD-P	93-15-119	132J-128-050	REP-P	93-15-120	
132J-116-100	AMD-P	93-15-119	132J-128-060	REP-P	93-15-120	
132J-116-110	AMD-P	93-15-119	132J-128-070	REP-P	93-15-120	
132J-116-120	AMD-P	93-15-119	132J-128-080	REP-P	93-15-120	
132J-116-130	AMD-P	93-15-119	132J-128-090	REP-P	93-15-120	
132J-116-140	AMD-P	93-15-119	132J-128-100	REP-P	93-15-120	
132J-116-150	AMD-P	93-15-119	132J-128-110	REP-P	93-15-120	
132J-116-160	AMD-P	93-15-119	132J-128-120	REP-P	93-15-120	
132J-116-170	AMD-P	93-15-119	132J-128-130	REP-P	93-15-120	
132J-116-180	AMD-P	93-15-119	132J-128-140	REP-P	93-15-120	
132J-116-190	AMD-P	93-15-119	132J-128-200	NEW-P	93-15-120	
132J-116-200	REP-P	93-15-119	132J-128-210	NEW-P	93-15-120	
132J-116-210	AMD-P	93-15-119	132J-136-020	REP-P	93-15-121	
132J-116-220	AMD-P	93-15-119	132J-136-025	REP-P	93-15-121	
132J-116-240	AMD-P	93-15-119	132J-136-030	REP-P	93-15-121	
132J-120-010	REP	93-04-022	132J-136-040	REP-P	93-15-121	
132J-120-020	REP	93-04-022	132J-136-050	REP-P	93-15-121	
132J-120-030	REP	93-04-022	132L-133-020	NEW-P	93-06-067	
132J-120-040	REP	93-04-022	132L-133-020	NEW	93-13-050	
132J-120-050	REP	93-04-022	132N-156-300	AMD-P	93-15-081	
132J-120-060	REP	93-04-022	132N-156-310	AMD-P	93-15-081	
132J-120-070	REP	93-04-022	132N-156-320	AMD-P	93-15-081	
132J-120-080	REP	93-04-022	132N-156-330	AMD-P	93-15-081	
132J-120-090	REP	93-04-022	132N-156-400	AMD-P	93-15-081	
132J-120-100	REP	93-04-022	132N-156-420	AMD-P	93-15-081	
132J-120-110	REP	93-04-022	132N-156-430	AMD-P	93-15-081	
132J-120-120	REP	93-04-022	132N-156-440	AMD-P	93-15-081	
132J-120-130	REP	93-04-022	132N-156-450	AMD-P	93-15-081	
132J-125-010	NEW	93-04-022	132N-156-460	AMD-P	93-15-081	
132J-125-020	NEW	93-04-022	132N-156-500	AMD-P	93-15-081	
132J-125-030	NEW	93-04-022	132N-156-510	AMD-P	93-15-081	
132J-125-055	NEW	93-04-022	132N-156-520	AMD-P	93-15-081	
132J-125-060	NEW	93-04-022	132N-156-530	AMD-P	93-15-081	
132J-125-065	NEW	93-04-022	132N-156-540	AMD-P	93-15-081	
132J-125-070	NEW	93-04-022	132N-156-550	AMD-P	93-15-081	
				132N-156-560	AMD-P	93-15-081
				132N-156-570	AMD-P	93-15-081
				132N-156-580	AMD-P	93-15-081
				132N-156-600	AMD-P	93-15-081
				132N-156-610	AMD-P	93-15-081
				132N-156-620	AMD-P	93-15-081
				132N-156-630	AMD-P	93-15-081
				132N-156-640	AMD-P	93-15-081
				132N-156-650	AMD-P	93-15-081
				132N-156-700	AMD-P	93-15-081
				132N-156-710	AMD-P	93-15-081
				132N-156-720	AMD-P	93-15-081
				132N-156-730	AMD-P	93-15-081
				132N-156-740	AMD-P	93-15-081
				132N-156-750	AMD-P	93-15-081
				132N-156-760	AMD-P	93-15-081
				132P-136-010	AMD-P	93-12-099
				132P-136-020	AMD-P	93-12-099
				132P-136-030	AMD-P	93-12-099
				132P-136-040	AMD-P	93-12-099
				132P-136-050	AMD-P	93-12-099
				132P-136-060	AMD-P	93-12-099
				132T-20-010	REP-P	93-15-079
				132T-20-020	REP-P	93-15-079
				132T-20-030	REP-P	93-15-079
				132T-20-040	REP-P	93-15-079
				132T-20-050	REP-P	93-15-079
				132T-20-052	REP-P	93-15-079
				132T-20-054	REP-P	93-15-079
				132T-20-058	REP-P	93-15-079
				132T-20-060	REP-P	93-15-079
				132T-20-070	REP-P	93-15-079
				132T-20-075	REP-P	93-15-079
				132T-20-090	REP-P	93-15-079
				132T-20-095	REP-P	93-15-079
				132T-20-100	REP-P	93-15-079
				132T-20-105	REP-P	93-15-079
				132T-20-115	REP-P	93-15-079
				132T-20-140	REP-P	93-15-079
				132T-20-150	REP-P	93-15-079
				132T-20-155	REP-P	93-15-079
				132T-20-190	REP-P	93-15-079
				132T-20-200	REP-P	93-15-079
				132T-24-010	REP-P	93-15-079
				132T-24-020	REP-P	93-15-079
				132T-24-030	REP-P	93-15-079
				132T-24-040	REP-P	93-15-079
				132T-24-050	REP-P	93-15-079
				132T-24-060	REP-P	93-15-079
				132T-24-070	REP-P	93-15-079
				132T-24-080	REP-P	93-15-079
				132V-120-270	AMD-P	93-13-049
				132V-120-280	AMD-P	93-13-049
				132V-120-290	AMD-P	93-13-049
				132V-120-300	AMD-P	93-13-049
				132V-120-310	AMD-P	93-13-049
				132V-120-320	AMD-P	93-13-049
				132V-300-010	NEW	93-03-078
				132V-300-010	AMD-P	93-14-021
				132V-300-020	NEW	93-03-078
				132V-300-020	AMD-P	93-14-021
				132V-300-030	NEW	93-03-078
				132V-300-030	AMD-P	93-14-021
				136-110-020	AMD-E	93-16-006
				136-110-020	RESCIND	93-16-078
				136-320-010	AMD-P	93-07-045
				136-320-010	AMD	93-14-003
				136-320-020	AMD-P	93-07-045
				136-320-020	AMD	93-14-003
				136-320-030	AMD-P	93-07-045
				136-320-030	AMD	93-14-003
				136-320-040	AMD-P	93-07-045
				136-320-040	AMD	93-14-003

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
136-320-050	AMD-P	93-07-045	162-30-020	AMD-P	93-15-122	173-205-100	NEW-P	93-08-085
136-320-050	AMD	93-14-003	162-30-030	NEW-P	93-15-122	173-205-110	NEW-P	93-08-085
136-320-060	AMD-P	93-07-045	162-30-035	NEW-P	93-15-122	173-205-120	NEW-P	93-08-085
136-320-060	AMD	93-14-003	162-30-040	NEW-P	93-15-122	173-205-130	NEW-P	93-08-085
136-320-070	AMD-P	93-07-045	162-30-050	NEW-P	93-15-122	173-216-010	AMD-P	93-03-066
136-320-070	AMD	93-14-003	162-30-060	NEW-P	93-15-122	173-216-010	AMD-E	93-03-067
136-320-080	AMD-P	93-07-045	162-30-070	NEW-P	93-15-122	173-216-010	AMD	93-10-099
136-320-080	AMD	93-14-003	162-30-080	NEW-P	93-15-122	173-216-030	AMD-P	93-03-066
139-05-240	AMD-W	93-05-039	162-30-090	NEW-P	93-15-122	173-216-030	AMD-E	93-03-067
139-05-240	AMD-P	93-07-118	162-30-100	NEW-P	93-15-122	173-216-030	AMD	93-10-099
139-05-240	AMD	93-13-098	173-19-2205	AMD-P	93-09-062	173-216-040	AMD-P	93-03-066
139-05-242	NEW-C	93-03-084	173-19-240	AMD-P	93-10-100	173-216-040	AMD-E	93-03-067
139-05-242	NEW-C	93-08-030	173-19-2401	AMD	93-07-116	173-216-040	AMD	93-10-099
139-05-242	NEW	93-13-103	173-19-2401	AMD-P	93-10-100	173-216-050	AMD-P	93-03-066
139-05-250	AMD-P	93-08-055	173-19-2521	AMD	93-04-106	173-216-050	AMD-E	93-03-067
139-05-250	AMD	93-13-097	173-19-2521	AMD-P	93-05-043	173-216-050	AMD	93-10-099
139-05-910	REP-P	93-10-029	173-19-2521	AMD	93-12-011	173-216-070	AMD-P	93-03-066
139-05-910	REP	93-13-100	173-19-3201	AMD-P	93-15-054	173-216-070	AMD-E	93-03-067
139-05-912	NEW-P	93-10-030	173-19-350	AMD	93-02-048	173-216-070	AMD	93-10-099
139-05-912	NEW	93-13-101	173-19-3503	AMD-C	93-04-064	173-216-125	AMD-P	93-13-127
139-10-220	AMD-W	93-05-040	173-19-3503	AMD	93-08-026	173-216-130	AMD-P	93-03-066
139-10-220	AMD-P	93-07-120	173-19-3903	AMD-P	93-03-091	173-216-130	AMD-E	93-03-067
139-10-220	AMD	93-13-099	173-19-3903	AMD	93-13-020	173-216-130	AMD	93-10-099
139-10-222	NEW-C	93-03-085	173-19-3911	AMD-P	93-06-051	173-216-140	AMD-P	93-03-066
139-10-222	NEW	93-07-119	173-19-3911	AMD-C	93-13-047	173-216-140	AMD-E	93-03-067
162-12-100	AMD-P	93-15-122	173-19-3911	AMD	93-16-013	173-216-140	AMD	93-10-099
162-12-110	REP-P	93-15-122	173-19-410	AMD-C	93-04-065	173-220-010	AMD-P	93-03-066
162-12-120	AMD-P	93-15-122	173-19-410	AMD-C	93-07-091	173-220-010	AMD-E	93-03-067
162-12-130	AMD-P	93-15-122	173-19-410	AMD-W	93-11-074	173-220-010	AMD	93-10-099
162-12-135	AMD-P	93-15-122	173-19-4203	AMD-P	93-06-050	173-220-020	AMD-P	93-03-066
162-12-140	AMD-P	93-15-122	173-19-4203	AMD-C	93-11-061	173-220-020	AMD-E	93-03-067
162-12-150	AMD-P	93-15-122	173-19-4203	AMD	93-12-107	173-220-020	AMD	93-10-099
162-12-160	AMD-P	93-15-122	173-19-4205	AMD-P	93-14-117	173-220-030	AMD-P	93-03-066
162-12-170	AMD-P	93-15-122	173-19-450	AMD	93-04-063	173-220-030	AMD-E	93-03-067
162-12-180	AMD-P	93-15-122	173-50-040	AMD-P	93-13-127	173-220-030	AMD	93-10-099
162-18-010	REP-P	93-15-122	173-50-050	AMD-P	93-13-127	173-220-040	AMD-P	93-03-066
162-18-020	REP-P	93-15-122	173-50-070	AMD-P	93-13-127	173-220-040	AMD-E	93-03-067
162-18-030	REP-P	93-15-122	173-50-080	AMD-P	93-13-127	173-220-040	AMD	93-10-099
162-18-040	REP-P	93-15-122	173-50-090	AMD-P	93-13-127	173-220-045	REP-P	93-03-066
162-18-050	REP-P	93-15-122	173-50-100	AMD-P	93-13-127	173-220-045	REP-E	93-03-067
162-18-060	REP-P	93-15-122	173-50-120	AMD-P	93-13-127	173-220-045	REP	93-10-099
162-18-070	REP-P	93-15-122	173-50-130	AMD-P	93-13-127	173-220-050	AMD-P	93-03-066
162-18-080	REP-P	93-15-122	173-50-190	AMD-P	93-13-127	173-220-050	AMD-E	93-03-067
162-18-090	REP-P	93-15-122	173-50-200	AMD-P	93-13-127	173-220-050	AMD	93-10-099
162-18-100	REP-P	93-15-122	173-164-010	REP-P	93-09-064	173-220-060	AMD-P	93-03-066
162-22	AMD-P	93-15-122	173-164-010	REP	93-14-116	173-220-060	AMD-E	93-03-067
162-22-010	AMD-P	93-15-122	173-164-020	REP-P	93-09-064	173-220-060	AMD	93-10-099
162-22-020	AMD-P	93-15-122	173-164-020	REP	93-14-116	173-220-070	AMD-P	93-03-066
162-22-030	REP-P	93-15-122	173-164-030	REP-P	93-09-064	173-220-070	AMD-E	93-03-067
162-22-040	REP-P	93-15-122	173-164-030	REP	93-14-116	173-220-070	AMD	93-10-099
162-22-050	AMD-P	93-15-122	173-164-040	REP-P	93-09-064	173-220-090	AMD-P	93-03-066
162-22-060	AMD-P	93-15-122	173-164-040	REP	93-14-116	173-220-090	AMD-E	93-03-067
162-22-070	AMD-P	93-15-122	173-164-040	REP	93-14-116	173-220-090	AMD	93-10-099
162-22-080	AMD-P	93-15-122	173-164-050	REP-P	93-09-064	173-220-090	AMD	93-10-099
162-22-090	AMD-P	93-15-122	173-164-050	REP	93-14-116	173-220-100	AMD-P	93-03-066
162-22-100	NEW-P	93-15-122	173-164-060	REP-P	93-09-064	173-220-100	AMD-E	93-03-067
162-26	AMD-P	93-15-122	173-164-060	REP	93-14-116	173-220-100	AMD	93-10-099
162-26-010	AMD-P	93-15-122	173-164-070	REP-P	93-09-064	173-220-110	AMD-P	93-03-066
162-26-020	AMD-P	93-15-122	173-164-070	REP	93-14-116	173-220-110	AMD-E	93-03-067
162-26-030	AMD-P	93-15-122	173-164-080	REP-P	93-09-064	173-220-110	AMD	93-10-099
162-26-040	AMD-P	93-15-122	173-164-080	REP	93-14-116	173-220-210	AMD-P	93-13-127
162-26-050	AMD-P	93-15-122	173-202-020	AMD-P	93-05-042	173-220-225	AMD-P	93-03-066
162-26-060	AMD-P	93-15-122	173-202-020	AMD-E	93-07-090	173-220-225	AMD-E	93-03-067
162-26-070	AMD-P	93-15-122	173-202-020	AMD	93-11-062	173-220-225	AMD	93-10-099
162-26-080	AMD-P	93-15-122	173-205	NEW-C	93-14-004	173-226-010	NEW-P	93-03-066
162-26-090	AMD-P	93-15-122	173-205-010	NEW-P	93-08-085	173-226-010	NEW-E	93-03-067
162-26-100	AMD-P	93-15-122	173-205-020	NEW-P	93-08-085	173-226-010	NEW	93-10-099
162-26-110	AMD-P	93-15-122	173-205-030	NEW-P	93-08-085	173-226-020	NEW-P	93-03-066
162-26-120	AMD-P	93-15-122	173-205-040	NEW-P	93-08-085	173-226-020	NEW-E	93-03-067
162-26-130	AMD-P	93-15-122	173-205-050	NEW-P	93-08-085	173-226-020	NEW	93-10-099
162-26-140	AMD-P	93-15-122	173-205-060	NEW-P	93-08-085	173-226-030	NEW-P	93-03-066
162-30	AMD-P	93-15-122	173-205-070	NEW-P	93-08-085	173-226-030	NEW-E	93-03-067
162-30-010	AMD-P	93-15-122	173-205-080	NEW-P	93-08-085	173-226-030	NEW	93-10-099
			173-205-090	NEW-P	93-08-085	173-226-040	NEW-P	93-03-066

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-226-040	NEW-E	93-03-067	173-250-040	REP	93-14-116	173-303-9903	AMD-P	93-12-109
173-226-040	NEW	93-10-099	173-303	AMD-C	93-14-005	173-303-9904	AMD-P	93-12-109
173-226-050	NEW-P	93-03-066	173-303-016	AMD-P	93-12-109	173-303-9905	AMD-P	93-12-109
173-226-050	NEW-E	93-03-067	173-303-020	AMD-P	93-12-109	173-303-9906	AMD-P	93-12-109
173-226-050	NEW	93-10-099	173-303-040	AMD-P	93-12-109	173-303-9907	AMD-P	93-12-109
173-226-060	NEW-P	93-03-066	173-303-045	AMD-P	93-12-109	173-303-9908	NEW-P	93-12-109
173-226-060	NEW-E	93-03-067	173-303-070	AMD-E	93-02-049	173-322-010	AMD-P	93-12-108
173-226-060	NEW	93-10-099	173-303-070	AMD	93-02-050	173-322-020	AMD-P	93-12-108
173-226-070	NEW-P	93-03-066	173-303-070	AMD-P	93-12-109	173-322-030	AMD-P	93-12-108
173-226-070	NEW-E	93-03-067	173-303-071	AMD-P	93-12-109	173-322-040	AMD-P	93-12-108
173-226-070	NEW	93-10-099	173-303-072	AMD-P	93-12-109	173-322-050	AMD-P	93-12-108
173-226-080	NEW-P	93-03-066	173-303-075	AMD-P	93-12-109	173-322-060	AMD-P	93-12-108
173-226-080	NEW-E	93-03-067	173-303-082	AMD-P	93-12-109	173-322-070	AMD-P	93-12-108
173-226-080	NEW	93-10-099	173-303-083	AMD-P	93-12-109	173-322-080	AMD-P	93-12-108
173-226-090	NEW-P	93-03-066	173-303-084	AMD-P	93-12-109	173-322-090	AMD-P	93-12-108
173-226-090	NEW-E	93-03-067	173-303-090	AMD-P	93-12-109	173-322-100	AMD-P	93-12-108
173-226-090	NEW	93-10-099	173-303-100	AMD-P	93-12-109	173-322-110	AMD-P	93-12-108
173-226-090	AMD-P	93-13-127	173-303-101	AMD-P	93-12-109	173-328-010	NEW	93-09-065
173-226-100	NEW-P	93-03-066	173-303-102	AMD-P	93-12-109	173-328-020	NEW	93-09-065
173-226-100	NEW-E	93-03-067	173-303-103	AMD-P	93-12-109	173-328-030	NEW	93-09-065
173-226-100	NEW	93-10-099	173-303-110	AMD-P	93-12-109	173-328-040	NEW	93-09-065
173-226-110	NEW-P	93-03-066	173-303-120	AMD-E	93-02-049	173-328-050	NEW	93-09-065
173-226-110	NEW-E	93-03-067	173-303-120	AMD	93-02-050	173-328-060	NEW	93-09-065
173-226-110	NEW	93-10-099	173-303-120	AMD-P	93-12-109	173-328-070	NEW	93-09-065
173-226-120	NEW-P	93-03-066	173-303-140	AMD-P	93-12-109	173-340-550	AMD-P	93-15-125
173-226-120	NEW-E	93-03-067	173-303-160	AMD-P	93-12-109	173-351-010	NEW-P	93-12-110
173-226-120	NEW	93-10-099	173-303-161	AMD-P	93-12-109	173-351-100	NEW-P	93-12-110
173-226-130	NEW-P	93-03-066	173-303-170	AMD-P	93-12-109	173-351-120	NEW-P	93-12-110
173-226-130	NEW-E	93-03-067	173-303-180	AMD-P	93-12-109	173-351-130	NEW-P	93-12-110
173-226-130	NEW	93-10-099	173-303-200	AMD-P	93-12-109	173-351-140	NEW-P	93-12-110
173-226-140	NEW-P	93-03-066	173-303-201	AMD-P	93-12-109	173-351-200	NEW-P	93-12-110
173-226-140	NEW-E	93-03-067	173-303-202	AMD-P	93-12-109	173-351-210	NEW-P	93-12-110
173-226-140	NEW	93-10-099	173-303-210	AMD-P	93-12-109	173-351-220	NEW-P	93-12-110
173-226-150	NEW-P	93-03-066	173-303-220	AMD-P	93-12-109	173-351-300	NEW-P	93-12-110
173-226-150	NEW-E	93-03-067	173-303-230	AMD-P	93-12-109	173-351-400	NEW-P	93-12-110
173-226-150	NEW	93-10-099	173-303-240	AMD-P	93-12-109	173-351-405	NEW-P	93-12-110
173-226-160	NEW-P	93-03-066	173-303-281	AMD-P	93-12-109	173-351-410	NEW-P	93-12-110
173-226-160	NEW-E	93-03-067	173-303-282	AMD-P	93-12-109	173-351-415	NEW-P	93-12-110
173-226-160	NEW	93-10-099	173-303-290	AMD-P	93-12-109	173-351-420	NEW-P	93-12-110
173-226-170	NEW-P	93-03-066	173-303-300	AMD-P	93-12-109	173-351-430	NEW-P	93-12-110
173-226-170	NEW-E	93-03-067	173-303-320	AMD-P	93-12-109	173-351-440	NEW-P	93-12-110
173-226-170	NEW	93-10-099	173-303-330	AMD-P	93-12-109	173-351-450	NEW-P	93-12-110
173-226-180	NEW-P	93-03-066	173-303-350	AMD-P	93-12-109	173-351-460	NEW-P	93-12-110
173-226-180	NEW-E	93-03-067	173-303-370	AMD-P	93-12-109	173-351-465	NEW-P	93-12-110
173-226-180	NEW	93-10-099	173-303-390	AMD-P	93-12-109	173-351-480	NEW-P	93-12-110
173-226-190	NEW-P	93-03-066	173-303-400	AMD-P	93-12-109	173-351-490	NEW-P	93-12-110
173-226-190	NEW-E	93-03-067	173-303-505	AMD-P	93-12-109	173-351-500	NEW-P	93-12-110
173-226-190	NEW	93-10-099	173-303-506	NEW-E	93-02-049	173-351-600	NEW-P	93-12-110
173-226-200	NEW-P	93-03-066	173-303-506	NEW	93-02-050	173-351-700	NEW-P	93-12-110
173-226-200	NEW-E	93-03-067	173-303-510	AMD-P	93-12-109	173-351-720	NEW-P	93-12-110
173-226-200	NEW	93-10-099	173-303-515	AMD-P	93-12-109	173-351-730	NEW-P	93-12-110
173-226-210	NEW-P	93-03-066	173-303-520	AMD-P	93-12-109	173-351-740	NEW-P	93-12-110
173-226-210	NEW-E	93-03-067	173-303-600	AMD-P	93-12-109	173-351-750	NEW-P	93-12-110
173-226-210	NEW	93-10-099	173-303-610	AMD-P	93-12-109	173-351-760	NEW-P	93-12-110
173-226-220	NEW-P	93-03-066	173-303-630	AMD-P	93-12-109	173-351-990	NEW-P	93-12-110
173-226-220	NEW-E	93-03-067	173-303-640	AMD-P	93-12-109	173-400	AMD-C	93-03-065
173-226-220	NEW	93-10-099	173-303-645	AMD-P	93-12-109	173-400	AMD-C	93-15-052
173-226-230	NEW-P	93-03-066	173-303-646	NEW-P	93-12-109	173-400-030	AMD-S	93-05-048
173-226-230	NEW-E	93-03-067	173-303-650	AMD-P	93-12-109	173-400-040	AMD-S	93-05-048
173-226-230	NEW	93-10-099	173-303-655	AMD-P	93-12-109	173-400-070	AMD-W	93-07-042
173-226-240	NEW-P	93-03-066	173-303-660	AMD-P	93-12-109	173-400-075	AMD	93-05-044
173-226-240	NEW-E	93-03-067	173-303-670	AMD-P	93-12-109	173-400-080	NEW-S	93-05-048
173-226-240	NEW	93-10-099	173-303-680	AMD-P	93-12-109	173-400-100	AMD-S	93-05-048
173-226-250	NEW-P	93-03-066	173-303-800	AMD-P	93-12-109	173-400-105	AMD-S	93-05-048
173-226-250	NEW-E	93-03-067	173-303-802	AMD-P	93-12-109	173-400-107	NEW-S	93-05-048
173-226-250	NEW	93-10-099	173-303-805	AMD-P	93-12-109	173-400-110	AMD-S	93-05-048
173-250-010	REP-P	93-09-064	173-303-806	AMD-P	93-12-109	173-400-112	NEW-S	93-05-048
173-250-010	REP	93-14-116	173-303-807	AMD-P	93-12-109	173-400-113	NEW-S	93-05-048
173-250-020	REP-P	93-09-064	173-303-810	AMD-P	93-12-109	173-400-114	NEW-S	93-05-048
173-250-020	REP	93-14-116	173-303-830	AMD-P	93-12-109	173-400-115	AMD	93-05-044
173-250-030	REP-P	93-09-064	173-303-840	AMD-P	93-12-109	173-400-116	NEW-W	93-07-042
173-250-030	REP	93-14-116	173-303-900	AMD-P	93-12-109	173-400-120	AMD-S	93-05-048
173-250-040	REP-P	93-09-064	173-303-910	AMD-P	93-12-109	173-400-131	AMD-S	93-05-048

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-400-136	AMD-S	93-05-048	173-422-095	NEW-P	93-03-092	173-491-050	AMD	93-03-089
173-400-141	AMD-S	93-05-048	173-422-095	NEW	93-10-062	173-491-050	AMD-P	93-04-108
173-400-171	AMD-S	93-05-048	173-422-100	AMD-P	93-03-092	173-491-050	AMD	93-13-068
173-400-180	AMD-S	93-05-048	173-422-100	AMD	93-10-062	180-16-222	AMD-P	93-04-116
173-400-230	AMD	93-05-044	173-422-110	REP-P	93-03-092	180-16-222	AMD	93-07-102
173-400-250	AMD-S	93-05-048	173-422-110	REP	93-10-062	180-16-223	AMD-P	93-04-116
173-401	NEW-C	93-15-053	173-422-120	AMD-P	93-03-092	180-16-223	AMD	93-07-102
173-401-100	NEW-P	93-07-062	173-422-120	AMD	93-10-062	180-20-005	NEW-P	93-04-117
173-401-200	NEW-P	93-07-062	173-422-130	AMD-P	93-03-092	180-20-005	NEW	93-08-007
173-401-300	NEW-P	93-07-062	173-422-130	AMD	93-10-062	180-20-030	NEW-P	93-04-117
173-401-400	NEW-P	93-07-062	173-422-130	AMD-P	93-12-080	180-20-030	NEW	93-08-007
173-401-500	NEW-P	93-07-062	173-422-130	AMD-E	93-12-081	180-20-030	NEW	93-08-007
173-401-510	NEW-P	93-07-062	173-422-140	AMD-P	93-03-092	180-20-031	NEW-P	93-04-117
173-401-520	NEW-P	93-07-062	173-422-140	AMD	93-10-062	180-20-031	NEW	93-08-007
173-401-600	NEW-P	93-07-062	173-422-150	REP-P	93-03-092	180-20-034	NEW-P	93-04-117
173-401-605	NEW-P	93-07-062	173-422-150	REP	93-10-062	180-20-034	NEW	93-08-007
173-401-610	NEW-P	93-07-062	173-422-160	AMD-P	93-03-092	180-20-035	NEW-P	93-04-117
173-401-615	NEW-P	93-07-062	173-422-160	AMD	93-10-062	180-20-035	NEW	93-08-007
173-401-620	NEW-P	93-07-062	173-422-170	AMD-P	93-03-092	180-20-040	NEW-P	93-04-117
173-401-625	NEW-P	93-07-062	173-422-170	AMD	93-10-062	180-20-040	NEW	93-08-007
173-401-630	NEW-P	93-07-062	173-422-180	REP-P	93-03-092	180-20-045	NEW-P	93-04-117
173-401-635	NEW-P	93-07-062	173-422-180	REP	93-10-062	180-20-045	NEW	93-08-007
173-401-640	NEW-P	93-07-062	173-430	AMD-P	93-03-090	180-20-050	NEW-P	93-04-117
173-401-645	NEW-P	93-07-062	173-430	AMD-E	93-04-002	180-20-055	NEW-P	93-04-117
173-401-650	NEW-P	93-07-062	173-430	AMD-C	93-09-063	180-20-055	NEW	93-08-007
173-401-700	NEW-P	93-07-062	173-430-010	AMD-P	93-03-090	180-20-060	NEW-P	93-04-117
173-401-705	NEW-P	93-07-062	173-430-010	AMD-E	93-04-002	180-20-060	NEW	93-08-007
173-401-710	NEW-P	93-07-062	173-430-010	AMD-E	93-12-012	180-20-065	NEW-P	93-04-117
173-401-720	NEW-P	93-07-062	173-430-010	AMD	93-14-022	180-20-065	NEW	93-08-007
173-401-722	NEW-P	93-07-062	173-430-020	AMD-P	93-03-090	180-20-070	NEW-P	93-04-117
173-401-725	NEW-P	93-07-062	173-430-020	AMD-E	93-04-002	180-20-070	NEW	93-08-007
173-401-730	NEW-P	93-07-062	173-430-020	AMD-E	93-12-012	180-20-075	NEW-P	93-04-117
173-401-735	NEW-P	93-07-062	173-430-020	AMD	93-14-022	180-20-075	NEW	93-08-007
173-401-750	NEW-P	93-07-062	173-430-030	AMD-P	93-03-090	180-20-080	NEW-P	93-04-117
173-401-800	NEW-P	93-07-062	173-430-030	AMD-E	93-04-002	180-20-080	NEW	93-08-007
173-401-805	NEW-P	93-07-062	173-430-030	AMD-E	93-12-012	180-20-090	NEW-P	93-04-117
173-401-810	NEW-P	93-07-062	173-430-030	AMD	93-14-022	180-20-090	NEW	93-08-007
173-401-820	NEW-P	93-07-062	173-430-040	AMD-P	93-03-090	180-20-095	NEW-P	93-04-117
173-420-010	NEW	93-04-006	173-430-040	AMD-E	93-04-002	180-20-095	NEW	93-08-007
173-420-020	NEW	93-04-006	173-430-040	AMD-E	93-12-012	180-20-100	REP-P	93-04-117
173-420-030	NEW	93-04-006	173-430-040	AMD	93-14-022	180-20-100	REP	93-08-007
173-420-040	NEW	93-04-006	173-430-050	AMD-P	93-03-090	180-20-101	NEW-P	93-04-117
173-420-050	NEW	93-04-006	173-430-050	AMD-E	93-04-002	180-20-101	NEW	93-08-007
173-420-060	NEW	93-04-006	173-430-060	AMD-P	93-03-090	180-20-105	REP-P	93-04-117
173-420-070	NEW	93-04-006	173-430-060	AMD-E	93-04-002	180-20-105	REP	93-08-007
173-420-080	NEW	93-04-006	173-430-060	AMD-E	93-12-012	180-20-106	REP-P	93-04-117
173-420-090	NEW	93-04-006	173-430-060	AMD	93-14-022	180-20-106	REP	93-08-007
173-420-100	NEW	93-04-006	173-430-070	AMD-P	93-03-090	180-20-111	NEW-P	93-04-117
173-420-110	NEW	93-04-006	173-430-070	AMD-E	93-04-002	180-20-111	NEW	93-08-007
173-422-010	AMD-P	93-03-092	173-430-070	AMD-E	93-12-012	180-20-115	NEW-P	93-04-117
173-422-010	AMD	93-10-062	173-430-070	AMD	93-14-022	180-20-115	NEW	93-08-007
173-422-020	AMD-P	93-03-092	173-430-080	AMD-P	93-03-090	180-20-120	NEW-P	93-04-117
173-422-020	AMD	93-10-062	173-430-080	AMD-E	93-04-002	180-20-120	NEW	93-08-007
173-422-030	AMD-P	93-03-092	173-430-080	AMD-E	93-12-012	180-20-123	NEW-P	93-04-117
173-422-030	AMD	93-10-062	173-430-080	AMD	93-14-022	180-20-123	NEW	93-08-007
173-422-035	AMD-P	93-03-092	173-433-100	AMD	93-04-105	180-20-125	NEW-P	93-04-117
173-422-035	AMD	93-10-062	173-433-110	AMD	93-04-105	180-20-125	NEW	93-08-007
173-422-040	AMD-P	93-03-092	173-433-170	AMD	93-04-105	180-20-130	NEW-P	93-04-117
173-422-040	AMD	93-10-062	173-460-020	AMD-P	93-14-118	180-20-130	NEW	93-08-007
173-422-050	AMD-P	93-03-092	173-460-030	AMD-P	93-14-118	180-20-135	NEW-P	93-04-117
173-422-050	AMD	93-10-062	173-460-040	AMD-P	93-14-118	180-20-135	NEW	93-08-007
173-422-060	AMD-P	93-03-092	173-460-050	AMD-P	93-14-118	180-20-140	NEW-P	93-04-117
173-422-060	AMD	93-10-062	173-460-060	AMD-P	93-14-118	180-20-140	NEW	93-08-007
173-422-065	NEW-P	93-03-092	173-460-080	AMD-P	93-14-118	180-20-145	NEW-P	93-04-117
173-422-065	NEW	93-10-062	173-460-090	AMD-P	93-14-118	180-20-145	NEW	93-08-007
173-422-070	AMD-P	93-03-092	173-460-100	AMD-P	93-14-118	180-20-150	NEW-P	93-04-117
173-422-070	AMD	93-10-062	173-460-110	AMD-P	93-14-118	180-20-150	NEW	93-08-007
173-422-075	NEW-P	93-03-092	173-460-150	AMD-P	93-14-118	180-20-155	NEW-P	93-04-117
173-422-075	NEW	93-10-062	173-460-160	AMD-P	93-14-118	180-20-155	NEW	93-08-007
173-422-080	REP-P	93-03-092	173-491-020	AMD-P	93-04-108	180-20-160	NEW-P	93-04-117
173-422-080	REP	93-10-062	173-491-020	AMD	93-13-011	180-20-160	NEW	93-08-007
173-422-090	AMD-P	93-03-092	173-491-040	AMD-P	93-04-108	180-20-200	REP-P	93-04-117
173-422-090	AMD	93-10-062	173-491-040	AMD	93-13-011	180-20-200	REP	93-08-007
						180-20-205	REP-P	93-04-117

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
180-20-205	REP	93-08-007	204-84-010	REP-P	93-05-029	212-14-100	REP-E	93-04-061
180-20-210	REP-P	93-04-117	204-84-010	REP	93-11-018	212-14-100	REP	93-05-032
180-20-210	REP	93-08-007	204-84-020	REP-P	93-05-029	212-14-105	REP-E	93-04-061
180-20-215	REP-P	93-04-117	204-84-020	REP	93-11-018	212-14-105	REP	93-05-032
180-20-215	REP	93-08-007	204-84-030	REP-P	93-05-029	212-14-110	REP-E	93-04-061
180-20-220	REP-P	93-04-117	204-84-030	REP	93-11-018	212-14-110	REP	93-05-032
180-20-220	REP	93-08-007	204-84-040	REP-P	93-05-029	212-14-115	REP-E	93-04-061
180-20-225	REP-P	93-04-117	204-84-040	REP	93-11-018	212-14-115	REP	93-05-032
180-20-225	REP	93-08-007	204-84-050	REP-P	93-05-029	212-14-120	REP-E	93-04-061
180-20-230	REP-P	93-04-117	204-84-050	REP	93-11-018	212-14-120	REP	93-05-032
180-20-230	REP	93-08-007	204-84-060	REP-P	93-05-029	212-14-12001	REP-E	93-04-061
180-26-020	AMD-P	93-04-118	204-84-060	REP	93-11-018	212-14-12001	REP	93-05-032
180-26-020	AMD	93-07-104	204-84-070	REP-P	93-05-029	212-14-125	REP-E	93-04-061
180-26-025	AMD-P	93-04-119	204-84-070	REP	93-11-018	212-14-125	REP	93-05-032
180-26-025	AMD-W	93-07-100	204-84-080	REP-P	93-05-029	212-14-130	REP-E	93-04-061
180-27-070	AMD-P	93-08-041	204-84-080	REP	93-11-018	212-14-130	REP	93-05-032
180-27-070	AMD	93-13-026	204-84-090	REP-P	93-05-029	212-26-001	REP-E	93-04-061
180-27-505	AMD	93-04-019	204-84-090	REP	93-11-018	212-26-001	REP	93-05-032
180-51-005	AMD	93-04-115	204-84-100	REP-P	93-05-029	212-26-005	REP-E	93-04-061
180-51-025	AMD	93-04-115	204-84-100	REP	93-11-018	212-26-005	REP	93-05-032
180-51-030	AMD	93-04-115	212-12	NEW-C	93-04-060	212-26-010	REP-E	93-04-061
180-51-055	AMD	93-04-115	212-12-001	NEW-E	93-04-061	212-26-010	REP	93-05-032
180-51-100	AMD	93-04-115	212-12-001	NEW	93-05-032	212-26-015	REP-E	93-04-061
180-72-040	AMD-E	93-14-009	212-12-005	NEW-E	93-04-061	212-26-015	REP	93-05-032
180-72-045	AMD-E	93-14-009	212-12-005	NEW	93-05-032	212-26-020	REP-E	93-04-061
180-72-050	AMD-E	93-14-009	212-12-011	NEW-E	93-04-061	212-26-020	REP	93-05-032
180-72-060	AMD-E	93-14-009	212-12-011	NEW	93-05-032	212-26-025	REP-E	93-04-061
180-72-065	AMD-E	93-14-009	212-12-015	NEW-E	93-04-061	212-26-025	REP	93-05-032
180-72-070	AMD-E	93-14-009	212-12-015	NEW	93-05-032	212-26-030	REP-E	93-04-061
180-78-010	AMD-P	93-04-120	212-12-020	NEW-E	93-04-061	212-26-030	REP	93-05-032
180-78-010	AMD	93-07-101	212-12-020	NEW	93-05-032	212-26-035	REP-E	93-04-061
180-79-010	AMD-P	93-04-120	212-12-025	NEW-E	93-04-061	212-26-035	REP	93-05-032
180-79-010	AMD	93-07-101	212-12-025	NEW	93-05-032	212-26-040	REP-E	93-04-061
180-79-236	AMD	93-05-007	212-12-030	NEW-E	93-04-061	212-26-040	REP	93-05-032
192-12-141	AMD-P	93-07-086	212-12-030	NEW	93-05-032	212-26-045	REP-E	93-04-061
192-12-141	AMD	93-10-025	212-12-035	NEW-E	93-04-061	212-26-045	REP	93-05-032
192-12-180	AMD-P	93-13-137	212-12-035	NEW	93-05-032	212-26-050	REP-E	93-04-061
192-12-180	AMD	93-16-053	212-12-040	NEW-E	93-04-061	212-26-050	REP	93-05-032
192-12-182	AMD-P	93-13-137	212-12-040	NEW	93-05-032	212-26-055	REP-E	93-04-061
192-12-182	AMD	93-16-053	212-12-044	NEW-E	93-04-061	212-26-055	REP	93-05-032
192-12-184	AMD-P	93-13-137	212-12-044	NEW	93-05-032	212-26-060	REP-E	93-04-061
192-12-184	AMD	93-16-053	212-14-001	REP-E	93-04-061	212-26-060	REP	93-05-032
192-12-186	AMD-P	93-13-137	212-14-001	REP	93-05-032	212-26-065	REP-E	93-04-061
192-12-186	AMD	93-16-053	212-14-005	REP-E	93-04-061	212-26-065	REP	93-05-032
192-16-070	NEW-E	93-13-007	212-14-005	REP	93-05-032	212-26-070	REP-E	93-04-061
192-16-070	NEW-P	93-15-115	212-14-010	REP-E	93-04-061	212-26-070	REP	93-05-032
194-10-030	AMD	93-02-033	212-14-010	REP	93-05-032	212-26-075	REP-E	93-04-061
194-10-100	AMD	93-02-033	212-14-015	REP-E	93-04-061	212-26-075	REP	93-05-032
194-10-110	AMD	93-02-033	212-14-015	REP	93-05-032	212-26-080	REP-E	93-04-061
194-10-130	AMD	93-02-033	212-14-020	REP-E	93-04-061	212-26-080	REP	93-05-032
194-10-140	AMD	93-02-033	212-14-020	REP	93-05-032	212-26-085	REP-E	93-04-061
196-24-041	NEW-P	93-09-024	212-14-025	REP-E	93-04-061	212-26-085	REP	93-05-032
196-24-041	NEW	93-13-064	212-14-025	REP	93-05-032	212-26-090	REP-E	93-04-061
196-24-097	NEW-P	93-09-022	212-14-030	REP-E	93-04-061	212-26-090	REP	93-05-032
196-24-097	NEW	93-13-065	212-14-030	REP	93-05-032	212-26-095	REP-E	93-04-061
196-24-098	NEW-P	93-09-023	212-14-035	REP-E	93-04-061	212-26-095	REP	93-05-032
196-24-098	NEW	93-13-066	212-14-035	REP	93-05-032	212-26-100	REP-E	93-04-061
196-26-020	AMD-P	93-07-111	212-14-040	REP-E	93-04-061	212-26-100	REP	93-05-032
196-26-020	AMD	93-10-057	212-14-040	REP	93-05-032	212-26-105	REP-E	93-04-061
204-10-120	AMD-P	93-05-029	212-14-045	REP-E	93-04-061	212-26-105	REP	93-05-032
204-10-120	AMD	93-11-018	212-14-045	REP	93-05-032	212-28-001	REP-E	93-04-061
204-30-010	REP-P	93-16-067	212-14-050	REP-E	93-04-061	212-28-001	REP	93-05-032
204-30-020	REP-P	93-16-067	212-14-050	REP	93-05-032	212-28-010	REP-E	93-04-061
204-30-030	REP-P	93-16-067	212-14-055	REP-E	93-04-061	212-28-010	REP	93-05-032
204-30-040	REP-P	93-16-067	212-14-055	REP	93-05-032	212-28-015	REP-E	93-04-061
204-30-050	REP-P	93-16-067	212-14-060	REP-E	93-04-061	212-28-015	REP	93-05-032
204-30-060	REP-P	93-16-067	212-14-060	REP	93-05-032	212-28-020	REP-E	93-04-061
204-30-070	REP-P	93-16-067	212-14-070	REP-E	93-04-061	212-28-020	REP	93-05-032
204-30-080	REP-P	93-16-067	212-14-070	REP	93-05-032	212-28-025	REP-E	93-04-061
204-44-040	NEW-P	93-05-028	212-14-080	REP-E	93-04-061	212-28-025	REP	93-05-032
204-44-040	NEW	93-11-017	212-14-080	REP	93-05-032	212-28-030	REP-E	93-04-061
204-82A-070	AMD-P	93-10-002	212-14-090	REP-E	93-04-061	212-28-030	REP	93-05-032
204-82A-070	AMD	93-15-075	212-14-090	REP	93-05-032	212-28-035	REP-E	93-04-061

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
212-42-090	REP-E	93-04-061	212-45-001	REP	93-05-032	212-52-045	REP-E	93-04-061
212-42-090	REP	93-05-032	212-45-005	REP-E	93-04-061	212-52-045	REP	93-05-032
212-42-095	REP-E	93-04-061	212-45-005	REP	93-05-032	212-52-050	REP-E	93-04-061
212-42-095	REP	93-05-032	212-45-010	REP-E	93-04-061	212-52-050	REP	93-05-032
212-42-100	REP-E	93-04-061	212-45-010	REP	93-05-032	212-52-055	REP-E	93-04-061
212-42-100	REP	93-05-032	212-45-015	REP-E	93-04-061	212-52-055	REP	93-05-032
212-42-105	REP-E	93-04-061	212-45-015	REP	93-05-032	212-52-060	REP-E	93-04-061
212-42-105	REP	93-05-032	212-45-020	REP-E	93-04-061	212-52-060	REP	93-05-032
212-42-110	REP-E	93-04-061	212-45-020	REP	93-05-032	212-52-070	REP-E	93-04-061
212-42-110	REP	93-05-032	212-45-025	REP-E	93-04-061	212-52-070	REP	93-05-032
212-42-115	REP-E	93-04-061	212-45-025	REP	93-05-032	212-52-075	REP-E	93-04-061
212-42-115	REP	93-05-032	212-45-030	REP-E	93-04-061	212-52-075	REP	93-05-032
212-42-120	REP-E	93-04-061	212-45-030	REP	93-05-032	212-52-080	REP-E	93-04-061
212-42-120	REP	93-05-032	212-45-035	REP-E	93-04-061	212-52-080	REP	93-05-032
212-42-125	REP-E	93-04-061	212-45-035	REP	93-05-032	212-52-085	REP-E	93-04-061
212-42-125	REP	93-05-032	212-45-040	REP-E	93-04-061	212-52-085	REP	93-05-032
212-43-001	REP-E	93-04-061	212-45-040	REP	93-05-032	212-52-090	REP-E	93-04-061
212-43-001	REP	93-05-032	212-45-045	REP-E	93-04-061	212-52-090	REP	93-05-032
212-43-005	REP-E	93-04-061	212-45-045	REP	93-05-032	212-52-095	REP-E	93-04-061
212-43-005	REP	93-05-032	212-45-050	REP-E	93-04-061	212-52-095	REP	93-05-032
212-43-010	REP-E	93-04-061	212-45-050	REP	93-05-032	212-52-100	REP-E	93-04-061
212-43-010	REP	93-05-032	212-45-055	REP-E	93-04-061	212-52-100	REP	93-05-032
212-43-015	REP-E	93-04-061	212-45-055	REP	93-05-032	212-52-105	REP-E	93-04-061
212-43-015	REP	93-05-032	212-45-060	REP-E	93-04-061	212-52-105	REP	93-05-032
212-43-020	REP-E	93-04-061	212-45-060	REP	93-05-032	212-52-110	REP-E	93-04-061
212-43-020	REP	93-05-032	212-45-065	REP-E	93-04-061	212-52-110	REP	93-05-032
212-43-025	REP-E	93-04-061	212-45-065	REP	93-05-032	212-52-112	REP-E	93-04-061
212-43-025	REP	93-05-032	212-45-070	REP-E	93-04-061	212-52-112	REP	93-05-032
212-43-030	REP-E	93-04-061	212-45-070	REP	93-05-032	212-52-115	REP-E	93-04-061
212-43-030	REP	93-05-032	212-45-075	REP-E	93-04-061	212-52-115	REP	93-05-032
212-43-035	REP-E	93-04-061	212-45-075	REP	93-05-032	212-52-120	REP-E	93-04-061
212-43-035	REP	93-05-032	212-45-080	REP-E	93-04-061	212-52-120	REP	93-05-032
212-43-040	REP-E	93-04-061	212-45-080	REP	93-05-032	212-52-125	REP-E	93-04-061
212-43-040	REP	93-05-032	212-45-085	REP-E	93-04-061	212-52-125	REP	93-05-032
212-43-045	REP-E	93-04-061	212-45-085	REP	93-05-032	212-52-99001	REP-E	93-04-061
212-43-045	REP	93-05-032	212-45-090	REP-E	93-04-061	212-52-99001	REP	93-05-032
212-43-050	REP-E	93-04-061	212-45-090	REP	93-05-032	212-52-99002	REP-E	93-04-061
212-43-050	REP	93-05-032	212-45-095	REP-E	93-04-061	212-52-99002	REP	93-05-032
212-43-055	REP-E	93-04-061	212-45-095	REP	93-05-032	212-56A-001	REP-E	93-04-061
212-43-055	REP	93-05-032	212-45-100	REP-E	93-04-061	212-56A-001	REP	93-05-032
212-43-060	REP-E	93-04-061	212-45-100	REP	93-05-032	212-56A-005	REP-E	93-04-061
212-43-060	REP	93-05-032	212-45-105	REP-E	93-04-061	212-56A-005	REP	93-05-032
212-43-065	REP-E	93-04-061	212-45-105	REP	93-05-032	212-56A-010	REP-E	93-04-061
212-43-065	REP	93-05-032	212-45-110	REP-E	93-04-061	212-56A-010	REP	93-05-032
212-43-070	REP-E	93-04-061	212-45-110	REP	93-05-032	212-56A-015	REP-E	93-04-061
212-43-070	REP	93-05-032	212-45-115	REP-E	93-04-061	212-56A-015	REP	93-05-032
212-43-075	REP-E	93-04-061	212-45-115	REP	93-05-032	212-56A-020	REP-E	93-04-061
212-43-075	REP	93-05-032	212-52-001	REP-E	93-04-061	212-56A-020	REP	93-05-032
212-43-080	REP-E	93-04-061	212-52-001	REP	93-05-032	212-56A-030	REP-E	93-04-061
212-43-080	REP	93-05-032	212-52-002	REP-E	93-04-061	212-56A-030	REP	93-05-032
212-43-085	REP-E	93-04-061	212-52-002	REP	93-05-032	212-56A-035	REP-E	93-04-061
212-43-085	REP	93-05-032	212-52-005	REP-E	93-04-061	212-56A-035	REP	93-05-032
212-43-090	REP-E	93-04-061	212-52-005	REP	93-05-032	212-56A-040	REP-E	93-04-061
212-43-090	REP	93-05-032	212-52-012	REP-E	93-04-061	212-56A-040	REP	93-05-032
212-43-095	REP-E	93-04-061	212-52-012	REP	93-05-032	212-56A-045	REP-E	93-04-061
212-43-095	REP	93-05-032	212-52-016	REP-E	93-04-061	212-56A-045	REP	93-05-032
212-43-100	REP-E	93-04-061	212-52-016	REP	93-05-032	212-56A-050	REP-E	93-04-061
212-43-100	REP	93-05-032	212-52-018	REP-E	93-04-061	212-56A-050	REP	93-05-032
212-43-105	REP-E	93-04-061	212-52-018	REP	93-05-032	212-56A-055	REP-E	93-04-061
212-43-105	REP	93-05-032	212-52-020	REP-E	93-04-061	212-56A-055	REP	93-05-032
212-43-110	REP-E	93-04-061	212-52-020	REP	93-05-032	212-56A-060	REP-E	93-04-061
212-43-110	REP	93-05-032	212-52-025	REP-E	93-04-061	212-56A-060	REP	93-05-032
212-43-115	REP-E	93-04-061	212-52-025	REP	93-05-032	212-56A-065	REP-E	93-04-061
212-43-115	REP	93-05-032	212-52-027	REP-E	93-04-061	212-56A-065	REP	93-05-032
212-43-120	REP-E	93-04-061	212-52-027	REP	93-05-032	212-56A-070	REP-E	93-04-061
212-43-120	REP	93-05-032	212-52-028	REP-E	93-04-061	212-56A-070	REP	93-05-032
212-43-125	REP-E	93-04-061	212-52-028	REP	93-05-032	212-56A-075	REP-E	93-04-061
212-43-125	REP	93-05-032	212-52-030	REP-E	93-04-061	212-56A-075	REP	93-05-032
212-43-130	REP-E	93-04-061	212-52-030	REP	93-05-032	212-56A-080	REP-E	93-04-061
212-43-130	REP	93-05-032	212-52-037	REP-E	93-04-061	212-56A-080	REP	93-05-032
212-43-135	REP-E	93-04-061	212-52-037	REP	93-05-032	212-56A-085	REP-E	93-04-061
212-43-135	REP	93-05-032	212-52-041	REP-E	93-04-061	212-56A-085	REP	93-05-032
212-45-001	REP-E	93-04-061	212-52-041	REP	93-05-032	212-56A-090	REP-E	93-04-061

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
212-56A-090	REP	93-05-032	212-65-025	REP-E	93-04-061	212-70-210	REP	93-05-032
212-56A-095	REP-E	93-04-061	212-65-025	REP	93-05-032	212-70-220	REP-E	93-04-061
212-56A-095	REP	93-05-032	212-65-030	REP-E	93-04-061	212-70-220	REP	93-05-032
212-56A-100	REP-E	93-04-061	212-65-030	REP	93-05-032	212-70-230	REP-E	93-04-061
212-56A-100	REP	93-05-032	212-65-035	REP-E	93-04-061	212-70-230	REP	93-05-032
212-56A-105	REP-E	93-04-061	212-65-035	REP	93-05-032	212-70-240	REP-E	93-04-061
212-56A-105	REP	93-05-032	212-65-040	REP-E	93-04-061	212-70-240	REP	93-05-032
212-56A-110	REP-E	93-04-061	212-65-040	REP	93-05-032	212-70-250	REP-E	93-04-061
212-56A-110	REP	93-05-032	212-65-045	REP-E	93-04-061	212-70-250	REP	93-05-032
212-56A-115	REP-E	93-04-061	212-65-045	REP	93-05-032	212-70-260	REP-E	93-04-061
212-56A-115	REP	93-05-032	212-65-050	REP-E	93-04-061	212-70-260	REP	93-05-032
212-56A-120	REP-E	93-04-061	212-65-050	REP	93-05-032	220-16-015	AMD-P	93-12-092
212-56A-120	REP	93-05-032	212-65-055	REP-E	93-04-061	220-16-015	AMD	93-15-051
212-56A-125	REP-E	93-04-061	212-65-055	REP	93-05-032	220-16-460	NEW-P	93-04-096
212-56A-125	REP	93-05-032	212-65-060	REP-E	93-04-061	220-20-010	AMD-P	93-12-092
212-56A-130	REP-E	93-04-061	212-65-060	REP	93-05-032	220-20-010	AMD	93-15-051
212-56A-130	REP	93-05-032	212-65-065	REP-E	93-04-061	220-20-020	AMD-P	93-09-074
212-56A-135	REP-E	93-04-061	212-65-065	REP	93-05-032	220-20-020	AMD-C	93-13-006
212-56A-135	REP	93-05-032	212-65-070	REP-E	93-04-061	220-20-020	AMD	93-14-042
212-56A-140	REP-E	93-04-061	212-65-070	REP	93-05-032	220-20-02500A	NEW-E	93-11-040
212-56A-140	REP	93-05-032	212-65-075	REP-E	93-04-061	220-20-026	NEW-P	93-12-092
212-64-001	REP-E	93-04-061	212-65-075	REP	93-05-032	220-20-026	NEW-C	93-15-050
212-64-001	REP	93-05-032	212-65-080	REP-E	93-04-061	220-24-02000T	NEW-E	93-10-043
212-64-005	REP-E	93-04-061	212-65-080	REP	93-05-032	220-24-02000T	REP-E	93-15-008
212-64-005	REP	93-05-032	212-65-085	REP-E	93-04-061	220-24-02000U	NEW-E	93-15-008
212-64-015	REP-E	93-04-061	212-65-085	REP	93-05-032	220-24-02000U	REP-E	93-15-097
212-64-015	REP	93-05-032	212-65-090	REP-E	93-04-061	220-24-02000V	NEW-E	93-15-097
212-64-020	REP-E	93-04-061	212-65-090	REP	93-05-032	220-24-02000V	REP-E	93-16-031
212-64-020	REP	93-05-032	212-65-095	REP-E	93-04-061	220-24-02000W	NEW-E	93-16-031
212-64-025	REP-E	93-04-061	212-65-095	REP	93-05-032	220-24-02000W	REP-E	93-16-082
212-64-025	REP	93-05-032	212-65-100	REP-E	93-04-061	220-24-02000X	NEW-E	93-16-082
212-64-030	REP-E	93-04-061	212-65-100	REP	93-05-032	220-32-05100T	REP-E	93-04-073
212-64-030	REP	93-05-032	212-70-010	REP-E	93-04-061	220-32-05100U	NEW-E	93-04-073
212-64-033	REP-E	93-04-061	212-70-010	REP	93-05-032	220-32-05100U	REP-E	93-06-015
212-64-033	REP	93-05-032	212-70-020	REP-E	93-04-061	220-32-05100V	NEW-E	93-06-015
212-64-035	REP-E	93-04-061	212-70-020	REP	93-05-032	220-32-05100V	REP-E	93-06-069
212-64-035	REP	93-05-032	212-70-030	REP-E	93-04-061	220-32-05100W	NEW-E	93-06-069
212-64-037	REP-E	93-04-061	212-70-030	REP	93-05-032	220-32-05100Y	NEW-E	93-15-098
212-64-037	REP	93-05-032	212-70-040	REP-E	93-04-061	220-32-05100X	NEW-E	93-15-049
212-64-039	REP-E	93-04-061	212-70-040	REP	93-05-032	220-32-05100X	REP-E	93-15-098
212-64-039	REP	93-05-032	212-70-050	REP-E	93-04-061	220-32-05500C	NEW-E	93-10-061
212-64-040	REP-E	93-04-061	212-70-050	REP	93-05-032	220-32-05500C	REP-E	93-12-010
212-64-040	REP	93-05-032	212-70-060	REP-E	93-04-061	220-32-05500D	NEW-E	93-12-010
212-64-043	REP-E	93-04-061	212-70-060	REP	93-05-032	220-32-05500D	REP-E	93-13-030
212-64-043	REP	93-05-032	212-70-070	REP-E	93-04-061	220-32-05500E	NEW-E	93-13-030
212-64-045	REP-E	93-04-061	212-70-070	REP	93-05-032	220-33-01000M	REP-E	93-05-017
212-64-045	REP	93-05-032	212-70-080	REP-E	93-04-061	220-33-01000N	NEW-E	93-05-017
212-64-050	REP-E	93-04-061	212-70-080	REP	93-05-032	220-33-01000N	REP-E	93-06-014
212-64-050	REP	93-05-032	212-70-090	REP-E	93-04-061	220-33-01000P	NEW-E	93-06-070
212-64-055	REP-E	93-04-061	212-70-090	REP	93-05-032	220-33-01000P	REP-E	93-07-001
212-64-055	REP	93-05-032	212-70-100	REP-E	93-04-061	220-33-01000Q	NEW-E	93-07-001
212-64-060	REP-E	93-04-061	212-70-100	REP	93-05-032	220-33-03000E	NEW-E	93-12-041
212-64-060	REP	93-05-032	212-70-110	REP-E	93-04-061	220-33-03000E	REP-E	93-13-078
212-64-065	REP-E	93-04-061	212-70-110	REP	93-05-032	220-33-03000F	NEW-E	93-13-078
212-64-065	REP	93-05-032	212-70-120	REP-E	93-04-061	220-36-02100L	NEW-E	93-14-108
212-64-067	REP-E	93-04-061	212-70-120	REP	93-05-032	220-36-02100L	REP-E	93-16-034
212-64-067	REP	93-05-032	212-70-130	REP-E	93-04-061	220-36-023	AMD-P	93-09-074
212-64-068	REP-E	93-04-061	212-70-130	REP	93-05-032	220-36-023	AMD-C	93-13-006
212-64-068	REP	93-05-032	212-70-140	REP-E	93-04-061	220-36-023	AMD	93-14-042
212-64-069	REP-E	93-04-061	212-70-140	REP	93-05-032	220-40-02100U	NEW-E	93-14-108
212-64-069	REP	93-05-032	212-70-150	REP-E	93-04-061	220-40-02100U	REP-E	93-16-034
212-64-070	REP-E	93-04-061	212-70-150	REP	93-05-032	220-40-027	AMD-P	93-09-074
212-64-070	REP	93-05-032	212-70-160	REP-E	93-04-061	220-40-027	AMD-C	93-13-006
212-65-001	REP-E	93-04-061	212-70-160	REP	93-05-032	220-40-027	AMD	93-14-042
212-65-001	REP	93-05-032	212-70-170	REP-E	93-04-061	220-44-04000D	NEW-E	93-11-010
212-65-005	REP-E	93-04-061	212-70-170	REP	93-05-032	220-44-050	AMD-P	93-04-095
212-65-005	REP	93-05-032	212-70-180	REP-E	93-04-061	220-44-050	AMD	93-07-093
212-65-010	REP-E	93-04-061	212-70-180	REP	93-05-032	220-44-05000B	REP-E	93-09-067
212-65-010	REP	93-05-032	212-70-190	REP-E	93-04-061	220-44-05000C	NEW-E	93-09-067
212-65-015	REP-E	93-04-061	212-70-190	REP	93-05-032	220-44-05000C	REP-E	93-10-094
212-65-015	REP	93-05-032	212-70-200	REP-E	93-04-061	220-44-05000D	NEW-E	93-10-094
212-65-020	REP-E	93-04-061	212-70-200	REP	93-05-032	220-44-05000D	REP-E	93-12-078
212-65-020	REP	93-05-032	212-70-210	REP-E	93-04-061	220-44-05000E	NEW-E	93-12-078

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-44-09000B	NEW-E	93-10-094	220-56-19000Q	NEW-E	93-14-012	220-56-380	AMD-P	93-04-096
220-47-302	AMD-P	93-09-073	220-56-19000Q	REP-E	93-15-017	220-56-380	AMD	93-08-034
220-47-302	AMD	93-14-041	220-56-19000R	NEW-E	93-15-017	220-56-38000L	NEW-E	93-09-027
220-47-304	AMD-P	93-09-073	220-56-191	NEW-P	93-04-096	220-56-38000L	REP-E	93-15-022
220-47-304	AMD	93-14-041	220-56-191	NEW-C	93-08-033	220-56-38000M	NEW-E	93-15-022
220-47-307	AMD-P	93-09-073	220-56-191	NEW	93-14-043	220-56-38000N	NEW-E	93-15-032
220-47-311	AMD-P	93-09-073	220-56-19100A	NEW-E	93-13-036	220-56-382	AMD-P	93-04-096
220-47-311	AMD	93-14-041	220-56-19100A	REP-E	93-15-016	220-56-382	AMD	93-08-034
220-47-401	AMD-P	93-09-073	220-56-19100B	NEW-E	93-15-016	220-56-390	AMD-P	93-04-096
220-47-401	AMD	93-14-041	220-56-195	AMD-P	93-04-096	220-56-390	AMD	93-08-034
220-47-411	AMD-P	93-09-073	220-56-195	AMD-C	93-08-033	220-57-137	AMD-P	93-04-096
220-47-411	AMD	93-14-041	220-56-195	AMD	93-14-043	220-57-137	AMD	93-08-034
220-48-005	AMD-P	93-12-092	220-56-19500J	NEW-E	93-14-071	220-57-14000N	NEW-E	93-14-040
220-48-005	AMD	93-15-051	220-56-220	AMD-P	93-04-096	220-57-16000	AMD-P	93-04-096
220-49-02000E	NEW-E	93-06-044	220-56-235	AMD-P	93-04-096	220-57-160	AMD	93-08-034
220-52-019	AMD-P	93-12-092	220-56-235	AMD	93-08-034	220-57-16000Q	NEW-E	93-04-043
220-52-019	AMD	93-15-051	220-56-240	AMD-P	93-04-096	220-57-16000R	NEW-E	93-06-013
220-52-01901	AMD-P	93-12-092	220-56-240	AMD	93-08-034	220-57-16000R	REP-E	93-06-068
220-52-01901	AMD	93-15-051	220-56-240	AMD-P	93-10-095	220-57-16000S	NEW-E	93-08-018
220-52-043	AMD-P	93-12-092	220-56-240	AMD-C	93-15-009	220-57-175	AMD-P	93-04-096
220-52-043	AMD	93-15-051	220-56-240	AMD-C	93-15-010	220-57-175	AMD	93-08-034
220-52-046	AMD-P	93-12-092	220-56-240	NEW-E	93-09-026	220-57-210	AMD-P	93-04-096
220-52-046	AMD	93-15-051	220-56-245	AMD-P	93-04-096	220-57-210	AMD-C	93-08-033
220-52-050	AMD-P	93-12-092	220-56-245	AMD	93-08-034	220-57-210	AMD	93-14-043
220-52-050	AMD	93-15-051	220-56-255	AMD-P	93-04-096	220-57-235	AMD-P	93-04-096
220-52-051	AMD-P	93-12-092	220-56-255	AMD	93-08-034	220-57-235	AMD	93-08-034
220-52-051	AMD	93-15-051	220-56-255	AMD-P	93-10-095	220-57-255	AMD-P	93-04-096
220-52-05100N	NEW-E	93-09-028	220-56-255	AMD-C	93-15-009	220-57-255	AMD	93-08-034
220-52-05100P	NEW-E	93-11-057	220-56-255	AMD	93-15-011	220-57-270	AMD-P	93-04-096
220-52-068	NEW-P	93-12-092	220-56-25500R	NEW-E	93-13-002	220-57-29000N	NEW-E	93-08-016
220-52-068	NEW	93-15-051	220-56-25500R	REP-E	93-15-015	220-57-310	AMD-P	93-04-096
220-52-069	AMD-P	93-12-092	220-56-25500S	NEW-E	93-15-015	220-57-310	AMD	93-08-034
220-52-069	AMD	93-15-051	220-56-25500S	REP-E	93-15-068	220-57-315	AMD-P	93-04-096
220-52-06900A	NEW-E	93-07-043	220-56-25500T	NEW-E	93-15-068	220-57-315	AMD	93-08-034
220-52-071	AMD-P	93-12-092	220-56-270	AMD-P	93-04-096	220-57-31500W	NEW-E	93-08-016
220-52-071	AMD	93-15-051	220-56-270	AMD	93-08-034	220-57-31500W	REP-E	93-13-009
220-52-07100K	NEW-E	93-09-028	220-56-285	AMD-P	93-04-096	220-57-31500X	NEW-E	93-13-009
220-52-07100K	REP-E	93-10-044	220-56-285	AMD	93-08-034	220-57-319	AMD-P	93-04-096
220-52-07100L	NEW-E	93-10-044	220-56-28500A	NEW-E	93-09-026	220-57-319	AMD	93-08-034
220-52-07100L	REP-E	93-13-089	220-56-307	AMD-P	93-04-096	220-57-350	AMD-P	93-04-096
220-52-07100M	NEW-E	93-13-058	220-56-307	AMD	93-08-034	220-57-350	AMD	93-08-034
220-52-07100M	REP-E	93-13-089	220-56-310	AMD-P	93-04-096	220-57-370	AMD-P	93-10-095
220-52-07100N	NEW-E	93-13-089	220-56-310	AMD	93-08-034	220-57-370	AMD-C	93-15-009
220-52-07300M	REP-E	93-05-006	220-56-315	AMD-P	93-04-096	220-57-370	AMD	93-15-011
220-52-07300N	NEW-E	93-05-006	220-56-315	AMD	93-08-034	220-57-37000E	NEW-E	93-15-016
220-52-07300N	REP-E	93-07-006	220-56-320	AMD-P	93-04-096	220-57-380	AMD-P	93-04-096
220-52-075	AMD-P	93-12-092	220-56-320	AMD	93-08-034	220-57-380	AMD	93-08-034
220-52-075	AMD	93-15-051	220-56-325	AMD-P	93-04-096	220-57-400	AMD-P	93-04-096
220-55-00100A	NEW-E	93-13-028	220-56-325	AMD	93-08-034	220-57-425	AMD-P	93-04-096
220-55-010	AMD-P	93-04-096	220-56-32500W	NEW-E	93-11-057	220-57-425	AMD-C	93-08-033
220-55-010	AMD	93-08-034	220-56-32500X	NEW-E	93-11-063	220-57-425	AMD	93-14-043
220-56-100	AMD-P	93-04-096	220-56-32500X	REP-E	93-12-079	220-57-42500A	NEW-E	93-15-016
220-56-105	AMD-P	93-04-096	220-56-32500Y	NEW-E	93-12-079	220-57-430	AMD-P	93-04-096
220-56-105	AMD	93-08-034	220-56-32500Y	REP-E	93-13-057	220-57-430	AMD-C	93-08-033
220-56-10500B	NEW-E	93-08-016	220-56-330	AMD-P	93-04-096	220-57-430	AMD	93-14-043
220-56-116	AMD-P	93-04-096	220-56-330	AMD	93-08-034	220-57-445	AMD-P	93-04-096
220-56-124	NEW-P	93-04-096	220-56-335	AMD-P	93-04-096	220-57-445	AMD	93-08-034
220-56-124	NEW	93-08-034	220-56-335	AMD	93-08-034	220-57-460	AMD-P	93-04-096
220-56-126	AMD-P	93-04-096	220-56-350	AMD-P	93-04-096	220-57-460	AMD	93-08-034
220-56-126	AMD	93-08-034	220-56-350	AMD	93-08-034	220-57-465	AMD-P	93-04-096
220-56-128	AMD-P	93-04-096	220-56-350	AMD-P	93-10-095	220-57-465	AMD	93-08-034
220-56-128	AMD	93-08-034	220-56-350	AMD-C	93-15-009	220-57-495	AMD-P	93-04-096
220-56-131	AMD-P	93-04-096	220-56-350	AMD	93-15-011	220-57-495	AMD	93-08-034
220-56-131	AMD	93-08-034	220-56-35000R	NEW-E	93-08-059	220-57-49700	NEW-E	93-08-016
220-56-132	AMD-P	93-04-096	220-56-35000R	REP-E	93-15-022	220-57-50500U	NEW-E	93-08-016
220-56-132	AMD	93-08-034	220-56-35000S	NEW-E	93-09-025	220-57-51500I	NEW-E	93-08-016
220-56-180	AMD-P	93-04-096	220-56-35000T	NEW-E	93-15-022	220-57-51500I	REP-E	93-13-029
220-56-180	AMD	93-08-034	220-56-35000U	NEW-E	93-15-032	220-57-51500J	NEW-E	93-13-029
220-56-190	AMD-P	93-04-096	220-56-36000C	NEW-E	93-07-092	220-57A-183	AMD-P	93-04-096
220-56-190	AMD-C	93-08-033	220-56-36000C	REP-E	93-08-017	220-57A-183	AMD	93-08-034
220-56-190	AMD	93-14-043	220-56-36000D	NEW-E	93-08-017	220-88-030	AMD-P	93-12-092
220-56-19000P	NEW-E	93-10-045	220-56-36000D	REP-E	93-10-096	220-88-030	AMD-P	93-15-051
220-56-19000P	REP-E	93-14-012	220-56-36000E	NEW-E	93-10-096	222-08-040	AMD-P	93-05-010

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
222-08-040	AMD	93-12-001	230-20-670	AMD-P	93-15-042	232-28-61902	REP-P	93-13-140
222-10-110	AMD-P	93-05-010	230-20-685	AMD-P	93-07-082	232-28-61904	REP-P	93-13-140
222-10-110	AMD	93-12-001	230-20-685	AMD	93-12-082	232-28-61905	REP-P	93-13-140
222-12-020	AMD-P	93-05-010	230-25-160	AMD-P	93-07-081	232-28-61906	REP-P	93-13-140
222-12-020	AMD	93-12-001	230-25-160	AMD	93-12-082	232-28-61907	REP-P	93-13-140
222-12-050	AMD-P	93-05-010	230-30-060	AMD-P	93-07-081	232-28-61908	REP-P	93-13-140
222-12-050	AMD	93-12-001	230-30-060	AMD	93-12-082	232-28-61909	REP-P	93-13-140
222-16-010	AMD-P	93-05-010	230-30-072	AMD-P	93-08-066	232-28-61910	REP-P	93-13-140
222-16-010	AMD-E	93-07-060	230-30-072	AMD	93-13-063	232-28-61911	REP-P	93-13-140
222-16-010	AMD	93-12-001	230-30-075	AMD	93-04-007	232-28-61912	REP-P	93-13-140
222-16-010	AMD-E	93-15-071	230-30-080	AMD-P	93-07-083	232-28-61913	REP-P	93-13-140
222-16-050	AMD-P	93-05-010	230-30-080	AMD	93-12-082	232-28-61914	NEW-W	93-03-015
222-16-050	AMD	93-12-001	230-30-095	REP-P	93-07-083	232-28-61916	REP-P	93-13-140
222-16-070	AMD-P	93-05-010	230-30-095	REP	93-12-082	232-28-61917	REP-P	93-13-140
222-16-070	AMD	93-12-001	230-30-097	NEW-P	93-07-087	232-28-61918	REP-P	93-13-140
222-16-080	AMD-P	93-05-010	230-30-097	NEW	93-12-082	232-28-61919	REP-P	93-13-140
222-16-080	AMD-E	93-07-060	230-30-100	AMD-P	93-07-083	232-28-61923	NEW	93-04-046
222-16-080	AMD	93-12-001	230-30-100	AMD	93-12-082	232-28-61923	REP-P	93-13-140
222-16-080	AMD-E	93-15-071	230-30-106	AMD-P	93-06-036	232-28-61924	NEW	93-04-047
222-20-010	AMD-P	93-05-010	230-30-106	AMD	93-10-005	232-28-61924	REP-P	93-13-140
222-20-010	AMD	93-12-001	230-30-300	AMD-P	93-06-036	232-28-61925	NEW	93-04-049
222-24-050	AMD-P	93-05-010	230-30-300	AMD	93-10-005	232-28-61925	REP-P	93-13-140
222-24-050	AMD	93-12-001	230-40-055	AMD-P	93-07-082	232-28-61926	NEW	93-04-050
222-30-020	AMD-P	93-05-010	230-40-055	AMD	93-12-082	232-28-61926	REP-P	93-13-140
222-30-020	AMD	93-12-001	230-40-120	AMD-P	93-04-044	232-28-61927	NEW	93-04-051
222-30-040	AMD-P	93-05-010	230-40-125	AMD-P	93-10-042	232-28-61927	REP-P	93-13-140
222-30-040	AMD-E	93-10-015	230-40-125	AMD	93-13-062	232-28-61928	NEW	93-04-048
222-30-040	AMD	93-12-001	232-12-001	AMD-P	93-13-140	232-28-61928	REP-P	93-13-140
222-34-040	AMD-P	93-05-010	232-12-007	AMD-P	93-14-110	232-28-61929	NEW	93-04-052
222-34-040	AMD	93-12-001	232-12-007	AMD-C	93-15-055	232-28-61929	REP-P	93-13-140
222-38-020	AMD-P	93-05-010	232-12-011	AMD-P	93-14-111	232-28-61930	NEW	93-04-053
222-38-020	AMD	93-12-001	232-12-011	AMD-C	93-15-056	232-28-61930	REP-P	93-13-140
222-38-030	AMD-P	93-05-010	232-12-014	AMD-P	93-14-112	232-28-61931	NEW-E	93-03-039
222-38-030	AMD	93-12-001	232-12-014	AMD-C	93-15-057	232-28-61932	NEW-P	93-06-021
222-46-020	AMD-P	93-05-010	232-12-017	AMD	93-04-039	232-28-61932	NEW	93-10-055
222-46-020	AMD	93-12-001	232-12-019	AMD-P	93-06-019	232-28-61932	REP-P	93-13-140
222-50-020	AMD-P	93-05-010	232-12-019	AMD-P	93-06-020	232-28-61933	NEW-P	93-06-022
222-50-020	AMD-E	93-07-060	232-12-019	AMD	93-10-011	232-28-61933	NEW	93-10-053
222-50-020	AMD	93-12-001	232-12-019	AMD	93-10-012	232-28-61933	REP-P	93-13-140
230-02-035	AMD	93-06-011	232-12-021	AMD	93-04-040	232-28-61934	NEW-E	93-06-061
230-02-270	AMD-P	93-07-081	232-12-045	NEW-E	93-04-083	232-28-61935	NEW-P	93-06-057
230-02-270	AMD	93-12-082	232-12-064	AMD	93-04-038	232-28-61935	NEW	93-10-056
230-02-400	AMD-P	93-13-061	232-12-074	REP	93-04-075	232-28-61935	REP-P	93-13-140
230-04-040	AMD-P	93-10-042	232-12-166	NEW-P	93-06-018	232-28-61936	NEW-E	93-12-002
230-04-040	AMD	93-13-062	232-12-166	NEW	93-10-013	232-28-61936	NEW-P	93-14-134
230-04-135	AMD-P	93-15-042	232-12-242	NEW	93-04-074	236-14-010	NEW-W	93-05-041
230-04-138	AMD-P	93-15-042	232-12-619	AMD-P	93-06-017	236-14-010	NEW-P	93-09-068
230-04-201	AMD-P	93-16-052	232-12-619	AMD	93-10-054	236-14-010	NEW-W	93-10-090
230-04-400	AMD-P	93-07-082	232-12-619	AMD-P	93-13-140	236-14-010	NEW-P	93-15-126
230-04-400	AMD	93-12-082	232-28-022	AMD-P	93-06-074	236-14-015	NEW-W	93-05-041
230-08-010	AMD-P	93-08-066	232-28-022	AMD	93-13-048	236-14-015	NEW-P	93-09-068
230-08-010	AMD	93-13-063	232-28-226	AMD-P	93-06-064	236-14-015	NEW-W	93-10-090
230-08-060	AMD-P	93-15-042	232-28-226	AMD	93-11-016	236-14-015	NEW-P	93-15-126
230-08-090	AMD-P	93-06-036	232-28-227	AMD-P	93-06-059	236-14-050	NEW-W	93-05-041
230-08-090	AMD	93-10-005	232-28-227	AMD	93-11-015	236-14-050	NEW-P	93-09-068
230-08-095	AMD-P	93-10-042	232-28-228	AMD-P	93-06-058	236-14-050	NEW-W	93-10-090
230-08-095	AMD	93-13-062	232-28-228	AMD	93-11-014	236-14-050	NEW-P	93-15-126
230-12-020	AMD-P	93-15-042	232-28-233	REP-P	93-06-062	236-14-100	NEW-W	93-05-041
230-12-030	AMD-P	93-13-061	232-28-233	REP	93-11-011	236-14-100	NEW-P	93-09-068
230-20-010	AMD-P	93-10-042	232-28-234	REP-P	93-06-063	236-14-100	NEW-W	93-10-090
230-20-010	AMD	93-13-062	232-28-234	REP	93-11-012	236-14-100	NEW-P	93-15-126
230-20-064	AMD-P	93-10-042	232-28-235	REP-P	93-06-060	236-14-200	NEW-W	93-05-041
230-20-064	AMD	93-13-062	232-28-235	REP	93-11-013	236-14-200	NEW-P	93-09-068
230-20-070	AMD-P	93-13-061	232-28-236	NEW-P	93-06-060	236-14-200	NEW-W	93-10-090
230-20-111	NEW-E	93-07-080	232-28-236	NEW	93-11-013	236-14-200	NEW-P	93-15-126
230-20-111	NEW-P	93-07-083	232-28-237	NEW-P	93-06-063	236-14-300	NEW-W	93-05-041
230-20-111	NEW	93-15-041	232-28-237	NEW	93-11-012	236-14-300	NEW-P	93-09-068
230-20-242	NEW-P	93-10-042	232-28-238	NEW-P	93-06-062	236-14-300	NEW-W	93-10-090
230-20-242	NEW	93-13-062	232-28-238	NEW	93-11-011	236-14-300	NEW-P	93-15-126
230-20-246	AMD-P	93-10-042	232-28-416	REP-P	93-13-136	236-14-800	NEW-P	93-15-126
230-20-246	AMD	93-13-062	232-28-417	NEW-P	93-13-136	236-14-900	NEW-W	93-05-041
230-20-670	AMD-P	93-07-082	232-28-619	AMD-P	93-13-140	236-14-900	NEW-P	93-09-068
230-20-670	AMD	93-12-082	232-28-61901	REP-P	93-13-140	236-14-900	NEW-W	93-10-090

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
236-14-900	NEW-P	93-15-126	246-08-040	REP-P	93-08-071	246-10-104	NEW-P	93-08-071
236-22-010	AMD-P	93-09-030	246-08-040	REP	93-13-005	246-10-104	NEW	93-13-005
236-22-010	AMD	93-16-079	246-08-050	REP-P	93-08-071	246-10-105	NEW-P	93-08-071
236-22-020	NEW-P	93-09-030	246-08-050	REP	93-13-005	246-10-105	NEW	93-13-005
236-22-020	NEW	93-16-079	246-08-060	REP-P	93-08-071	246-10-106	NEW-P	93-08-071
236-22-030	NEW-P	93-09-030	246-08-060	REP	93-13-005	246-10-106	NEW	93-13-005
236-22-030	NEW	93-16-079	246-08-070	REP-P	93-08-071	246-10-107	NEW-P	93-08-071
236-22-031	NEW-P	93-09-030	246-08-070	REP	93-13-005	246-10-107	NEW	93-13-005
236-22-031	NEW	93-16-079	246-08-080	REP-P	93-08-071	246-10-108	NEW-P	93-08-071
236-22-032	NEW-P	93-09-030	246-08-080	REP	93-13-005	246-10-108	NEW	93-13-005
236-22-032	NEW	93-16-079	246-08-090	REP-P	93-08-071	246-10-109	NEW-P	93-08-071
236-22-033	NEW-P	93-09-030	246-08-090	REP	93-13-005	246-10-109	NEW	93-13-005
236-22-033	NEW	93-16-079	246-08-100	REP-P	93-08-071	246-10-110	NEW-P	93-08-071
236-22-034	NEW-P	93-09-030	246-08-100	REP	93-13-005	246-10-110	NEW	93-13-005
236-22-034	NEW	93-16-079	246-08-101	NEW-P	93-08-071	246-10-111	NEW-P	93-08-071
236-22-035	NEW-P	93-09-030	246-08-101	NEW	93-13-005	246-10-111	NEW	93-13-005
236-22-035	NEW	93-16-079	246-08-102	NEW-P	93-08-071	246-10-112	NEW-P	93-08-071
236-22-036	NEW-P	93-09-030	246-08-102	NEW	93-13-005	246-10-112	NEW	93-13-005
236-22-036	NEW	93-16-079	246-08-103	NEW-P	93-08-071	246-10-113	NEW-P	93-08-071
236-22-037	NEW-P	93-09-030	246-08-103	NEW	93-13-005	246-10-113	NEW	93-13-005
236-22-037	NEW	93-16-079	246-08-104	NEW-P	93-08-071	246-10-114	NEW-P	93-08-071
236-22-038	NEW-P	93-09-030	246-08-104	NEW	93-13-005	246-10-114	NEW	93-13-005
236-22-038	NEW	93-16-079	246-08-105	NEW-P	93-08-071	246-10-115	NEW-P	93-08-071
236-22-040	NEW-P	93-09-030	246-08-105	NEW	93-13-005	246-10-115	NEW	93-13-005
236-22-040	NEW	93-16-079	246-08-106	NEW-P	93-08-071	246-10-116	NEW-P	93-08-071
236-22-050	NEW-P	93-09-030	246-08-106	NEW	93-13-005	246-10-116	NEW	93-13-005
236-22-050	NEW	93-16-079	246-08-110	REP-P	93-08-071	246-10-117	NEW-P	93-08-071
236-22-060	NEW-P	93-09-030	246-08-110	REP	93-13-005	246-10-117	NEW	93-13-005
236-22-060	NEW	93-16-079	246-08-120	REP-P	93-08-071	246-10-118	NEW-P	93-08-071
236-22-070	NEW-P	93-09-030	246-08-120	REP	93-13-005	246-10-118	NEW	93-13-005
236-22-070	NEW	93-16-079	246-08-130	REP-P	93-08-071	246-10-119	NEW-P	93-08-071
236-22-080	NEW-P	93-09-030	246-08-130	REP	93-13-005	246-10-119	NEW	93-13-005
236-22-080	NEW	93-16-079	246-08-140	REP-P	93-08-071	246-10-120	NEW-P	93-08-071
236-22-100	AMD-P	93-09-030	246-08-140	REP	93-13-005	246-10-120	NEW	93-13-005
236-22-100	AMD	93-16-079	246-08-150	REP-P	93-08-071	246-10-121	NEW-P	93-08-071
236-22-200	NEW-P	93-09-030	246-08-150	REP	93-13-005	246-10-121	NEW	93-13-005
236-22-200	NEW	93-16-079	246-08-160	REP-P	93-08-071	246-10-122	NEW-P	93-08-071
236-22-210	NEW-P	93-09-030	246-08-160	REP	93-13-005	246-10-122	NEW	93-13-005
236-22-210	NEW	93-16-079	246-08-170	REP-P	93-08-071	246-10-123	NEW-P	93-08-071
242-02-220	AMD-P	93-08-032	246-08-170	REP	93-13-005	246-10-123	NEW	93-13-005
242-02-220	AMD	93-11-068	246-08-180	REP-P	93-08-071	246-10-124	NEW-P	93-08-071
242-02-562	NEW-W	93-06-045	246-08-180	REP	93-13-005	246-10-124	NEW	93-13-005
244-12-060	AMD-P	93-07-038	246-08-190	REP-P	93-08-071	246-10-201	NEW-P	93-08-071
244-12-060	AMD-W	93-09-049	246-08-190	REP	93-13-005	246-10-201	NEW	93-13-005
244-12-060	AMD-P	93-09-053	246-08-200	REP-P	93-08-071	246-10-202	NEW-P	93-08-071
244-12-060	AMD	93-13-013	246-08-200	REP	93-13-005	246-10-202	NEW	93-13-005
244-12-100	NEW-P	93-07-038	246-08-210	REP-P	93-08-071	246-10-203	NEW-P	93-08-071
244-12-100	NEW-W	93-09-049	246-08-210	REP	93-13-005	246-10-203	NEW	93-13-005
244-12-100	NEW-P	93-09-053	246-08-320	REP-P	93-08-071	246-10-204	NEW-P	93-08-071
244-12-100	NEW	93-13-013	246-08-320	REP	93-13-005	246-10-204	NEW	93-13-005
246-01-001	NEW	93-08-004	246-08-330	REP-P	93-08-071	246-10-205	NEW-P	93-08-071
246-01-010	NEW	93-08-004	246-08-330	REP	93-13-005	246-10-205	NEW	93-13-005
246-01-020	NEW	93-08-004	246-08-340	REP-P	93-08-071	246-10-301	NEW-P	93-08-071
246-01-030	NEW	93-08-004	246-08-340	REP	93-13-005	246-10-301	NEW	93-13-005
246-01-040	NEW	93-08-004	246-08-350	REP-P	93-08-071	246-10-302	NEW-P	93-08-071
246-01-050	NEW	93-08-004	246-08-350	REP	93-13-005	246-10-302	NEW	93-13-005
246-01-060	NEW	93-08-004	246-08-360	REP-P	93-08-071	246-10-303	NEW-P	93-08-071
246-01-070	NEW	93-08-004	246-08-360	REP	93-13-005	246-10-303	NEW	93-13-005
246-01-080	NEW	93-08-004	246-08-370	REP-P	93-08-071	246-10-304	NEW-P	93-08-071
246-01-090	NEW	93-08-004	246-08-370	REP	93-13-005	246-10-304	NEW	93-13-005
246-01-100	NEW	93-08-004	246-08-380	REP-P	93-08-071	246-10-305	NEW-P	93-08-071
246-05-001	NEW-E	93-15-012	246-08-380	REP	93-13-005	246-10-305	NEW	93-13-005
246-05-001	NEW-P	93-15-091	246-08-420	NEW	93-08-004	246-10-306	NEW-P	93-08-071
246-05-010	NEW-E	93-15-012	246-08-440	NEW	93-08-004	246-10-306	NEW	93-13-005
246-05-010	NEW-P	93-15-091	246-08-450	NEW	93-08-004	246-10-401	NEW-P	93-08-071
246-05-030	NEW-E	93-15-012	246-08-520	AMD	93-08-004	246-10-401	NEW	93-13-005
246-05-030	NEW-P	93-15-091	246-08-560	AMD	93-08-004	246-10-402	NEW-P	93-08-071
246-08-001	REP-P	93-08-071	246-10-101	NEW-P	93-08-071	246-10-402	NEW	93-13-005
246-08-001	REP	93-13-005	246-10-101	NEW	93-13-005	246-10-403	NEW-P	93-08-071
246-08-020	REP-P	93-08-071	246-10-102	NEW-P	93-08-071	246-10-403	NEW	93-13-005
246-08-020	REP	93-13-005	246-10-102	NEW	93-13-005	246-10-404	NEW-P	93-08-071
246-08-030	REP-P	93-08-071	246-10-103	NEW-P	93-08-071	246-10-404	NEW	93-13-005
246-08-030	REP	93-13-005	246-10-103	NEW	93-13-005	246-10-405	NEW-P	93-08-071

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
246-10-405	NEW	93-13-005	246-11-160	NEW-P	93-04-102
246-10-501	NEW-P	93-08-071	246-11-160	NEW	93-08-003
246-10-501	NEW	93-13-005	246-11-170	NEW-P	93-04-102
246-10-502	NEW-P	93-08-071	246-11-170	NEW	93-08-003
246-10-502	NEW	93-13-005	246-11-180	NEW-P	93-04-102
246-10-503	NEW-P	93-08-071	246-11-180	NEW	93-08-003
246-10-503	NEW	93-13-005	246-11-190	NEW-P	93-04-102
246-10-504	NEW-P	93-08-071	246-11-190	NEW	93-08-003
246-10-504	NEW	93-13-005	246-11-200	NEW-P	93-04-102
246-10-505	NEW-P	93-08-071	246-11-200	NEW	93-08-003
246-10-505	NEW	93-13-005	246-11-210	NEW-P	93-04-102
246-10-601	NEW-P	93-08-071	246-11-210	NEW	93-08-003
246-10-601	NEW	93-13-005	246-11-220	NEW-P	93-04-102
246-10-602	NEW-P	93-08-071	246-11-220	NEW	93-08-003
246-10-602	NEW	93-13-005	246-11-230	NEW-P	93-04-102
246-10-603	NEW-P	93-08-071	246-11-230	NEW	93-08-003
246-10-603	NEW	93-13-005	246-11-250	NEW-P	93-04-102
246-10-604	NEW-P	93-08-071	246-11-250	NEW	93-08-003
246-10-604	NEW	93-13-005	246-11-260	NEW-P	93-04-102
246-10-605	NEW-P	93-08-071	246-11-260	NEW	93-08-003
246-10-605	NEW	93-13-005	246-11-270	NEW-P	93-04-102
246-10-606	NEW-P	93-08-071	246-11-270	NEW	93-08-003
246-10-606	NEW	93-13-005	246-11-280	NEW-P	93-04-102
246-10-607	NEW-P	93-08-071	246-11-280	NEW	93-08-003
246-10-607	NEW	93-13-005	246-11-290	NEW-P	93-04-102
246-10-608	NEW-P	93-08-071	246-11-290	NEW	93-08-003
246-10-608	NEW	93-13-005	246-11-300	NEW-P	93-04-102
246-10-701	NEW-P	93-08-071	246-11-300	NEW	93-08-003
246-10-701	NEW	93-13-005	246-11-310	NEW-P	93-04-102
246-10-702	NEW-P	93-08-071	246-11-310	NEW	93-08-003
246-10-702	NEW	93-13-005	246-11-320	NEW-P	93-04-102
246-10-703	NEW-P	93-08-071	246-11-320	NEW	93-08-003
246-10-703	NEW	93-13-005	246-11-330	NEW-P	93-04-102
246-10-704	NEW-P	93-08-071	246-11-330	NEW	93-08-003
246-10-704	NEW	93-13-005	246-11-340	NEW-P	93-04-102
246-10-705	NEW-P	93-08-071	246-11-340	NEW	93-08-003
246-10-705	NEW	93-13-005	246-11-350	NEW-P	93-04-102
246-10-706	NEW-P	93-08-071	246-11-350	NEW	93-08-003
246-10-706	NEW	93-13-005	246-11-360	NEW-P	93-04-102
246-10-707	NEW-P	93-08-071	246-11-360	NEW	93-08-003
246-10-707	NEW	93-13-005	246-11-370	NEW-P	93-04-102
246-11-001	NEW-P	93-04-102	246-11-370	NEW	93-08-003
246-11-001	NEW	93-08-003	246-11-380	NEW-P	93-04-102
246-11-010	NEW-P	93-04-102	246-11-380	NEW	93-08-003
246-11-010	NEW	93-08-003	246-11-390	NEW-P	93-04-102
246-11-020	NEW-P	93-04-102	246-11-390	NEW	93-08-003
246-11-020	NEW	93-08-003	246-11-400	NEW-P	93-04-102
246-11-030	NEW-P	93-04-102	246-11-400	NEW	93-08-003
246-11-030	NEW	93-08-003	246-11-420	NEW-P	93-04-102
246-11-040	NEW-P	93-04-102	246-11-420	NEW	93-08-003
246-11-040	NEW	93-08-003	246-11-430	NEW-P	93-04-102
246-11-050	NEW-P	93-04-102	246-11-430	NEW	93-08-003
246-11-050	NEW	93-08-003	246-11-440	NEW-P	93-04-102
246-11-060	NEW-P	93-04-102	246-11-440	NEW	93-08-003
246-11-060	NEW	93-08-003	246-11-450	NEW-P	93-04-102
246-11-070	NEW-P	93-04-102	246-11-450	NEW	93-08-003
246-11-070	NEW	93-08-003	246-11-470	NEW-P	93-04-102
246-11-080	NEW-P	93-04-102	246-11-470	NEW	93-08-003
246-11-080	NEW	93-08-003	246-11-480	NEW-P	93-04-102
246-11-090	NEW-P	93-04-102	246-11-480	NEW	93-08-003
246-11-090	NEW	93-08-003	246-11-490	NEW-P	93-04-102
246-11-100	NEW-P	93-04-102	246-11-490	NEW	93-08-003
246-11-100	NEW	93-08-003	246-11-500	NEW-P	93-04-102
246-11-110	NEW-P	93-04-102	246-11-500	NEW	93-08-003
246-11-110	NEW	93-08-003	246-11-510	NEW-P	93-04-102
246-11-120	NEW-P	93-04-102	246-11-510	NEW	93-08-003
246-11-120	NEW	93-08-003	246-11-520	NEW-P	93-04-102
246-11-130	NEW-P	93-04-102	246-11-520	NEW	93-08-003
246-11-130	NEW	93-08-003	246-11-530	NEW-P	93-04-102
246-11-140	NEW-P	93-04-102	246-11-530	NEW	93-08-003
246-11-140	NEW	93-08-003	246-11-540	NEW-P	93-04-102
246-11-150	NEW-P	93-04-102	246-11-540	NEW	93-08-003
246-11-150	NEW	93-08-003	246-11-550	NEW-P	93-04-102

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-290-135	NEW-P	93-04-122	246-290-676	NEW	93-08-011	246-318-710	AMD	93-07-011
246-290-135	NEW	93-08-011	246-290-678	NEW-P	93-04-122	246-318-720	AMD	93-07-011
246-290-200	AMD-P	93-04-122	246-290-678	NEW	93-08-011	246-318-730	AMD	93-07-011
246-290-200	AMD	93-08-011	246-290-680	NEW-P	93-04-122	246-318-740	AMD	93-07-011
246-290-210	REP-P	93-04-122	246-290-680	NEW	93-08-011	246-318-750	AMD	93-07-011
246-290-210	REP	93-08-011	246-290-686	NEW-P	93-04-122	246-318-760	AMD	93-07-011
246-290-230	AMD-P	93-04-122	246-290-686	NEW	93-08-011	246-318-770	AMD	93-07-011
246-290-230	AMD	93-08-011	246-290-690	NEW-P	93-04-122	246-318-780	AMD	93-07-011
246-290-250	AMD-P	93-04-122	246-290-690	NEW	93-08-011	246-318-790	AMD	93-07-011
246-290-250	AMD	93-08-011	246-290-692	NEW-P	93-04-122	246-318-799	REP	93-07-011
246-290-300	AMD-P	93-04-122	246-290-692	NEW	93-08-011	246-318-800	AMD	93-07-011
246-290-300	AMD	93-08-011	246-290-694	NEW-P	93-04-122	246-318-810	AMD	93-07-011
246-290-310	AMD-P	93-04-122	246-290-694	NEW	93-08-011	246-318-820	AMD	93-07-011
246-290-310	AMD	93-08-011	246-290-696	NEW-P	93-04-122	246-318-830	AMD	93-07-011
246-290-320	AMD-P	93-04-122	246-290-696	NEW	93-08-011	246-318-840	AMD	93-07-011
246-290-320	AMD	93-08-011	246-293-440	REP-P	93-08-071	246-318-850	AMD	93-07-011
246-290-330	AMD-P	93-04-122	246-293-440	REP	93-13-005	246-318-860	AMD	93-07-011
246-290-330	AMD	93-08-011	246-294-001	NEW	93-03-047	246-318-870	AMD	93-07-011
246-290-400	REP-P	93-04-122	246-294-010	NEW	93-03-047	246-318-99902	AMD	93-07-011
246-290-400	REP	93-08-011	246-294-020	NEW	93-03-047	246-321-018	NEW-W	93-04-091
246-290-420	AMD-P	93-04-122	246-294-030	NEW	93-03-047	246-321-018	NEW-P	93-08-078
246-290-420	AMD	93-08-011	246-294-040	NEW	93-03-047	246-321-018	NEW	93-16-030
246-290-440	AMD-P	93-04-122	246-294-050	NEW	93-03-047	246-323-022	NEW-W	93-04-091
246-290-440	AMD	93-08-011	246-294-060	NEW	93-03-047	246-323-022	NEW-P	93-08-078
246-290-450	REP-P	93-04-122	246-294-070	NEW	93-03-047	246-323-022	NEW	93-16-030
246-290-450	REP	93-08-011	246-294-080	NEW	93-03-047	246-325-022	NEW-W	93-04-091
246-290-470	AMD-P	93-04-122	246-294-090	NEW	93-03-047	246-325-022	NEW-P	93-08-078
246-290-470	AMD	93-08-011	246-294-100	NEW	93-03-047	246-325-022	NEW	93-16-030
246-290-480	AMD-P	93-04-122	246-310-280	AMD-P	93-08-070	246-327-090	NEW-W	93-04-091
246-290-480	AMD	93-08-011	246-310-280	AMD	93-13-015	246-327-090	NEW-P	93-08-078
246-290-601	NEW-P	93-04-122	246-310-381	NEW-E	93-13-044	246-327-090	NEW	93-16-030
246-290-601	NEW	93-08-011	246-316-020	AMD-W	93-04-091	246-327-990	AMD-E	93-14-093
246-290-610	NEW-P	93-04-122	246-316-020	AMD-P	93-08-078	246-329-035	NEW-W	93-04-091
246-290-610	NEW	93-08-011	246-316-020	AMD	93-16-030	246-329-035	NEW-P	93-08-078
246-290-620	NEW-P	93-04-122	246-316-040	AMD-W	93-04-091	246-329-035	NEW	93-16-030
246-290-620	NEW	93-08-011	246-316-040	AMD-P	93-08-078	246-331-100	NEW-W	93-04-091
246-290-630	NEW-P	93-04-122	246-316-040	AMD	93-16-030	246-331-100	NEW-P	93-08-078
246-290-630	NEW	93-08-011	246-316-045	NEW-W	93-04-091	246-331-100	NEW	93-16-030
246-290-632	NEW-P	93-04-122	246-316-045	NEW-P	93-08-078	246-331-990	AMD-E	93-14-093
246-290-632	NEW	93-08-011	246-316-045	NEW	93-16-030	246-336-100	NEW-W	93-04-091
246-290-634	NEW-P	93-04-122	246-316-050	AMD-W	93-04-091	246-336-100	NEW-P	93-08-078
246-290-634	NEW	93-08-011	246-316-050	AMD-P	93-08-078	246-336-100	NEW	93-16-030
246-290-636	NEW-P	93-04-122	246-316-050	AMD	93-16-030	246-336-990	AMD-E	93-14-093
246-290-636	NEW	93-08-011	246-316-240	AMD-E	93-12-004	246-338-010	AMD-P	93-14-036
246-290-638	NEW-P	93-04-122	246-316-260	AMD-E	93-12-004	246-338-020	AMD-P	93-14-036
246-290-638	NEW	93-08-011	246-318-010	AMD	93-07-011	246-338-030	AMD-P	93-14-036
246-290-639	NEW-P	93-04-122	246-318-040	AMD-W	93-04-091	246-338-040	AMD-P	93-14-036
246-290-639	NEW	93-08-011	246-318-040	AMD-P	93-08-078	246-338-050	AMD-P	93-14-036
246-290-640	NEW-P	93-04-122	246-318-040	AMD	93-16-030	246-338-060	AMD-P	93-14-036
246-290-640	NEW	93-08-011	246-318-042	NEW-W	93-04-091	246-338-070	AMD-P	93-14-036
246-290-650	NEW-P	93-04-122	246-318-042	NEW-P	93-08-078	246-338-080	AMD-P	93-14-036
246-290-650	NEW	93-08-011	246-318-042	NEW	93-16-030	246-338-090	AMD-P	93-14-036
246-290-652	NEW-P	93-04-122	246-318-500	AMD	93-07-011	246-338-100	AMD-P	93-14-036
246-290-652	NEW	93-08-011	246-318-510	AMD	93-07-011	246-338-110	AMD-P	93-14-036
246-290-654	NEW-P	93-04-122	246-318-520	AMD	93-07-011	246-338-990	AMD-P	93-14-036
246-290-654	NEW	93-08-011	246-318-530	AMD	93-07-011	246-340-001	REP-E	93-14-034
246-290-660	NEW-P	93-04-122	246-318-540	AMD	93-07-011	246-340-001	REP-P	93-14-035
246-290-660	NEW	93-08-011	246-318-550	AMD	93-07-011	246-340-010	REP-E	93-14-034
246-290-662	NEW-P	93-04-122	246-318-560	AMD	93-07-011	246-340-010	REP-P	93-14-035
246-290-662	NEW	93-08-011	246-318-570	AMD	93-07-011	246-340-020	REP-E	93-14-034
246-290-664	NEW-P	93-04-122	246-318-580	AMD	93-07-011	246-340-020	REP-P	93-14-035
246-290-664	NEW	93-08-011	246-318-590	AMD	93-07-011	246-340-030	REP-E	93-14-034
246-290-666	NEW-P	93-04-122	246-318-600	AMD	93-07-011	246-340-030	REP-P	93-14-035
246-290-666	NEW	93-08-011	246-318-610	AMD	93-07-011	246-340-040	REP-E	93-14-034
246-290-668	NEW-P	93-04-122	246-318-620	AMD	93-07-011	246-340-040	REP-P	93-14-035
246-290-668	NEW	93-08-011	246-318-630	AMD	93-07-011	246-340-050	REP-E	93-14-034
246-290-670	NEW-P	93-04-122	246-318-640	AMD	93-07-011	246-340-050	REP-P	93-14-035
246-290-670	NEW	93-08-011	246-318-650	AMD	93-07-011	246-340-060	REP-E	93-14-034
246-290-672	NEW-P	93-04-122	246-318-660	AMD	93-07-011	246-340-060	REP-P	93-14-035
246-290-672	NEW	93-08-011	246-318-670	AMD	93-07-011	246-340-070	REP-E	93-14-034
246-290-674	NEW-P	93-04-122	246-318-680	AMD	93-07-011	246-340-070	REP-P	93-14-035
246-290-674	NEW	93-08-011	246-318-690	AMD	93-07-011	246-340-080	REP-E	93-14-034
246-290-676	NEW-P	93-04-122	246-318-700	AMD	93-07-011	246-340-080	REP-P	93-14-035

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-340-085	NEW-W	93-04-091	246-806-130	AMD	93-09-055	246-828-990	AMD-P	93-10-071
246-340-085	NEW-P	93-08-078	246-806-140	AMD-P	93-06-090	246-828-990	AMD	93-14-011
246-340-085	NEW	93-16-030	246-806-140	AMD	93-09-055	246-830-460	NEW-P	93-14-133
246-340-090	REP-E	93-14-034	246-806-150	REP-P	93-06-090	246-830-465	NEW-P	93-14-133
246-340-090	REP-P	93-14-035	246-806-150	REP	93-09-055	246-830-470	NEW-P	93-14-133
246-340-100	REP-E	93-14-034	246-806-160	AMD-P	93-06-090	246-830-475	NEW-P	93-14-133
246-340-100	REP-P	93-14-035	246-806-160	AMD	93-09-055	246-830-480	NEW-P	93-14-133
246-340-110	REP-E	93-14-034	246-806-190	AMD-P	93-06-090	246-830-485	NEW-P	93-14-133
246-340-110	REP-P	93-14-035	246-806-190	AMD	93-09-055	246-830-486	NEW-P	93-14-133
246-340-990	REP-E	93-14-034	246-807-210	AMD-P	93-14-094	246-830-990	AMD-P	93-10-071
246-340-990	REP-P	93-14-035	246-807-280	AMD-P	93-14-094	246-830-990	AMD	93-14-011
246-358-001	AMD	93-03-032	246-807-290	AMD-P	93-14-094	246-836-990	AMD-P	93-10-071
246-358-001	AMD-E	93-07-052	246-807-311	NEW-P	93-14-094	246-836-990	AMD	93-14-011
246-358-001	AMD-P	93-07-106	246-807-320	AMD-P	93-14-094	246-838-050	AMD-P	93-16-101
246-358-001	AMD	93-12-043	246-807-395	NEW-E	93-10-006	246-838-090	AMD-P	93-16-101
246-358-010	AMD	93-03-032	246-807-395	NEW-P	93-14-094	246-838-110	AMD-P	93-16-101
246-358-020	NEW	93-03-032	246-807-396	NEW-E	93-10-006	246-838-120	AMD	93-04-080
246-358-025	AMD	93-03-031	246-807-396	NEW-P	93-14-094	246-838-120	AMD-P	93-16-101
246-358-030	NEW	93-03-031	246-807-500	NEW-P	93-14-094	246-838-121	NEW-P	93-16-101
246-358-035	REP	93-03-032	246-807-510	NEW-P	93-14-094	246-838-130	AMD-P	93-16-101
246-358-045	AMD	93-03-032	246-807-520	NEW-P	93-14-094	246-838-270	AMD-P	93-16-101
246-358-055	AMD	93-03-032	246-807-530	NEW-P	93-14-094	246-838-320	REP-P	93-16-101
246-358-065	AMD	93-03-032	246-810-020	AMD-P	93-10-071	246-838-330	NEW	93-04-080
246-358-075	AMD	93-03-032	246-810-020	AMD	93-14-011	246-838-340	NEW-P	93-16-101
246-358-085	AMD	93-03-032	246-810-990	AMD-P	93-10-071	246-838-350	NEW-P	93-16-101
246-358-095	AMD	93-03-032	246-810-990	AMD	93-14-011	246-838-360	NEW-P	93-16-101
246-358-105	AMD	93-03-032	246-815-100	AMD	93-06-042A	246-838-990	AMD	93-07-023
246-358-115	AMD	93-03-032	246-815-990	AMD-P	93-12-121	246-839-115	NEW-P	93-06-091
246-358-125	AMD	93-03-032	246-815-990	AMD	93-16-073	246-839-115	NEW	93-11-007
246-358-135	AMD	93-03-032	246-816-220	AMD-P	93-08-106	246-839-350	AMD-P	93-16-098
246-358-140	NEW	93-03-032	246-816-220	AMD-W	93-13-014	246-839-360	AMD-P	93-16-098
246-358-145	AMD	93-03-032	246-816-225	NEW-P	93-08-106	246-839-400	AMD-P	93-16-098
246-358-155	AMD	93-03-032	246-816-225	NEW-W	93-13-014	246-839-410	AMD-P	93-16-098
246-358-165	AMD	93-03-032	246-816-225	NEW-P	93-16-028	246-839-420	AMD-P	93-16-098
246-358-175	AMD	93-03-032	246-816-370	AMD-P	93-16-029	246-839-745	NEW-P	93-16-097
246-358-990	AMD	93-03-031	246-818-120	AMD	93-07-108	246-839-990	AMD-P	93-08-080
246-360-005	NEW-W	93-11-075	246-818-130	AMD-S	93-07-107	246-839-990	AMD	93-12-125
246-374-005	NEW-W	93-11-075	246-818-130	AMD	93-12-005	246-843-001	AMD-P	93-08-105
246-376-005	NEW-W	93-11-075	246-818-140	AMD	93-07-108	246-843-001	AMD	93-13-004
246-378-005	NEW-W	93-11-075	246-824-040	AMD-P	93-10-040	246-843-010	AMD-P	93-08-105
246-388-070	AMD-W	93-04-091	246-824-040	AMD	93-14-011	246-843-010	AMD	93-13-004
246-388-070	AMD-P	93-08-078	246-824-071	NEW-P	93-10-040	246-843-090	AMD-P	93-08-105
246-388-070	AMD	93-16-030	246-824-071	NEW	93-14-011	246-843-090	AMD	93-13-004
246-388-072	NEW-W	93-04-091	246-824-072	NEW-P	93-10-040	246-843-180	AMD-P	93-08-105
246-388-072	NEW-P	93-08-078	246-824-072	NEW	93-14-011	246-843-180	AMD	93-13-004
246-388-072	NEW	93-16-030	246-824-073	NEW-P	93-10-040	246-843-205	AMD-P	93-08-105
246-420-005	NEW-W	93-11-075	246-824-073	NEW	93-14-011	246-843-205	AMD	93-13-004
246-491-005	NEW-W	93-11-075	246-824-200	NEW-P	93-02-066	246-843-990	AMD-P	93-10-071
246-520-001	REP-P	93-16-099	246-824-200	NEW-W	93-16-023	246-843-990	AMD	93-14-011
246-520-005	NEW-W	93-11-075	246-824-210	NEW-P	93-02-066	246-845-020	REP-P	93-10-039
246-520-010	REP-P	93-16-099	246-824-210	NEW-W	93-16-023	246-845-020	REP	93-14-011
246-520-020	REP-P	93-16-099	246-824-220	NEW-P	93-02-066	246-845-030	REP-P	93-10-039
246-520-030	REP-P	93-16-099	246-824-220	NEW-W	93-16-023	246-845-030	REP	93-14-011
246-520-040	REP-P	93-16-099	246-824-230	NEW-P	93-02-066	246-845-040	REP-P	93-10-039
246-520-050	REP-P	93-16-099	246-824-230	NEW-W	93-16-023	246-845-040	REP	93-14-011
246-520-060	REP-P	93-16-099	246-824-240	NEW-P	93-02-066	246-845-050	NEW-P	93-10-039
246-520-070	REP-P	93-16-099	246-824-240	NEW-W	93-16-023	246-845-050	NEW	93-14-011
246-610-005	NEW-W	93-11-075	246-824-990	AMD-P	93-10-071	246-845-060	NEW-P	93-10-039
246-650-005	NEW-W	93-11-075	246-824-990	AMD	93-14-011	246-845-060	NEW	93-14-011
246-680-005	NEW-W	93-11-075	246-828-005	NEW	93-07-009	246-845-070	NEW-P	93-10-039
246-760-005	NEW-W	93-11-075	246-828-340	AMD	93-07-010	246-845-070	NEW	93-14-011
246-762-005	NEW-W	93-11-075	246-828-400	NEW	93-07-008	246-845-080	NEW-P	93-10-039
246-806-075	NEW-P	93-16-100	246-828-410	NEW	93-07-008	246-845-080	NEW	93-14-011
246-806-090	AMD-P	93-06-090	246-828-420	NEW	93-07-008	246-845-090	NEW-P	93-10-039
246-806-090	AMD-W	93-09-054	246-828-430	NEW	93-07-008	246-845-090	NEW	93-14-011
246-806-090	AMD-P	93-16-100	246-828-500	NEW	93-07-007	246-845-100	NEW-P	93-10-039
246-806-091	NEW-P	93-16-100	246-828-510	NEW	93-07-007	246-845-100	NEW	93-14-011
246-806-092	NEW-P	93-16-100	246-828-520	NEW	93-07-007	246-845-110	NEW-P	93-10-039
246-806-100	AMD-P	93-06-090	246-828-530	NEW	93-07-007	246-845-110	NEW	93-14-011
246-806-100	AMD	93-09-055	246-828-540	NEW	93-07-007	246-845-990	AMD-P	93-10-071
246-806-110	AMD-P	93-06-090	246-828-550	NEW	93-07-007	246-845-990	AMD	93-14-011
246-806-110	AMD	93-09-055	246-828-560	NEW	93-07-007	246-847-055	NEW-P	93-12-089
246-806-130	AMD-P	93-06-090	246-828-570	NEW-P	93-13-145	246-847-068	NEW-P	93-12-089

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-847-070	AMD-P	93-12-089	246-887-132	NEW	93-14-037	246-924-365	NEW-P	93-02-067
246-847-080	AMD-P	93-12-089	246-887-160	AMD	93-06-093	246-924-365	NEW	93-07-036
246-847-115	AMD-P	93-12-089	246-887-160	AMD-P	93-08-109	246-924-366	NEW-P	93-02-067
246-847-125	NEW-P	93-12-089	246-887-160	AMD	93-14-038	246-924-366	NEW	93-07-036
246-847-130	AMD-P	93-12-089	246-901-030	AMD-P	93-08-107	246-924-367	NEW-P	93-02-067
246-847-200	AMD-P	93-12-089	246-901-030	AMD-W	93-13-039	246-924-367	NEW	93-07-036
246-849-200	NEW-P	93-03-046	246-901-035	NEW-P	93-12-123	246-924-370	REP-P	93-02-067
246-849-200	NEW	93-10-008	246-901-060	AMD-P	93-08-107	246-924-370	REP	93-07-036
246-849-210	NEW-P	93-03-046	246-901-065	NEW-P	93-08-107	246-924-380	REP-P	93-02-067
246-849-210	NEW	93-10-008	246-903-010	AMD	93-04-016	246-924-380	REP	93-07-036
246-849-220	NEW-P	93-03-046	246-903-020	AMD	93-04-016	246-924-390	REP-P	93-02-067
246-849-220	NEW	93-10-008	246-907-030	AMD	93-05-045	246-924-390	REP	93-07-036
246-849-230	NEW-P	93-03-046	246-907-030	AMD-P	93-12-003	246-924-400	REP-P	93-02-067
246-849-230	NEW	93-10-008	246-915-020	AMD	93-04-081	246-924-400	REP	93-07-036
246-849-240	NEW-P	93-03-046	246-915-080	AMD	93-04-081	246-924-410	REP-P	93-02-067
246-849-240	NEW	93-10-008	246-915-085	NEW-W	93-04-082	246-924-410	REP	93-07-036
246-849-250	NEW-P	93-03-046	246-915-120	AMD	93-04-081	246-924-420	REP-P	93-02-067
246-849-250	NEW	93-10-008	246-915-140	AMD-W	93-04-082	246-924-420	REP	93-07-036
246-849-260	NEW-P	93-03-046	246-915-145	NEW-W	93-04-082	246-924-430	REP-P	93-02-067
246-849-260	NEW	93-10-008	246-917-121	AMD-P	93-05-047	246-924-430	REP	93-07-036
246-849-270	NEW-P	93-03-046	246-917-121	AMD	93-11-008	246-924-440	REP-P	93-02-067
246-849-270	NEW	93-10-008	246-917-990	AMD-W	93-11-073	246-924-440	REP	93-07-036
246-849-990	AMD-P	93-10-071	246-917-990	AMD-P	93-12-122	246-924-450	REP-P	93-02-067
246-849-990	AMD	93-14-011	246-917-990	AMD-E	93-12-124	246-924-450	REP	93-07-036
246-851-110	AMD-P	93-08-079	246-917-990	AMD	93-16-102	246-924-475	NEW-P	93-11-038
246-851-270	REVIEW	93-03-030	246-918-260	AMD-P	93-05-047	246-924-475	NEW-E	93-12-042
246-851-360	REVIEW	93-03-030	246-918-260	AMD	93-11-008	246-924-475	NEW	93-16-027
246-851-360	AMD-P	93-08-079	246-922-035	NEW-P	93-08-082	246-930-499	AMD-P	93-10-072
246-851-520	REVIEW	93-03-030	246-922-235	NEW-P	93-08-082	246-930-499	AMD	93-14-095
246-851-530	REVIEW	93-03-030	246-922-275	NEW-P	93-08-082	246-933-010	AMD-P	93-04-079
246-851-530	REP-P	93-08-079	246-924-040	AMD-P	93-02-065	246-933-010	AMD	93-08-029
246-851-540	NEW-P	93-08-079	246-924-040	AMD	93-06-092	246-933-180	NEW-P	93-04-079
246-851-550	NEW-P	93-08-079	246-924-050	AMD-P	93-02-065	246-933-180	NEW	93-08-029
246-851-560	NEW-P	93-08-079	246-924-050	AMD	93-06-092	246-933-190	NEW-P	93-13-052
246-857-020	REP	93-04-017	246-924-055	NEW-P	93-02-065	246-933-980	AMD-P	93-04-079
246-857-030	REP	93-04-017	246-924-055	NEW	93-06-092	246-933-980	AMD	93-08-029
246-857-040	REP	93-04-017	246-924-060	AMD-P	93-02-065	246-933-990	AMD-P	93-04-121
246-857-050	REP	93-04-017	246-924-060	AMD	93-06-092	246-933-990	AMD	93-08-028
246-857-060	REP	93-04-017	246-924-065	NEW-P	93-02-065	246-933-990	AMD-P	93-10-071
246-857-070	REP	93-04-017	246-924-065	NEW	93-06-092	246-933-990	AMD	93-14-011
246-857-080	REP	93-04-017	246-924-070	AMD-P	93-04-014	246-935-060	AMD-P	93-08-081
246-857-090	REP	93-04-017	246-924-070	AMD-E	93-06-023	246-935-060	AMD	93-12-126
246-857-100	REP	93-04-017	246-924-070	AMD	93-07-078	246-935-070	AMD-P	93-04-079
246-857-110	REP	93-04-017	246-924-100	AMD-P	93-16-074	246-935-070	AMD	93-08-029
246-857-120	REP	93-04-017	246-924-100	AMD-E	93-16-075	246-935-080	REP-P	93-04-079
246-857-130	REP	93-04-017	246-924-350	REP-P	93-02-067	246-935-080	REP	93-08-029
246-857-140	REP	93-04-017	246-924-350	REP	93-07-036	246-935-125	AMD-P	93-04-079
246-857-150	REP	93-04-017	246-924-351	NEW-P	93-02-067	246-935-125	AMD	93-08-029
246-857-160	REP	93-04-017	246-924-351	NEW	93-07-036	246-935-990	AMD-P	93-10-071
246-857-170	REP	93-04-017	246-924-352	NEW-P	93-02-067	246-935-990	AMD	93-14-011
246-857-180	REP	93-04-017	246-924-352	NEW	93-07-036	246-976-470	AMD-P	93-13-124
246-857-190	REP	93-04-017	246-924-353	NEW-P	93-02-067	246-976-510	AMD-P	93-13-124
246-857-200	REP	93-04-017	246-924-353	NEW	93-07-036	246-976-520	AMD-P	93-13-124
246-857-210	REP	93-04-017	246-924-354	NEW-P	93-02-067	246-976-560	AMD-P	93-13-124
246-857-220	REP	93-04-017	246-924-354	NEW	93-07-036	246-976-600	AMD-P	93-13-124
246-857-230	REP	93-04-017	246-924-355	NEW-P	93-02-067	246-976-610	AMD-P	93-13-124
246-857-240	REP	93-04-017	246-924-355	NEW	93-07-036	246-976-650	AMD-P	93-13-124
246-857-250	REP	93-04-017	246-924-356	NEW-P	93-02-067	246-976-680	AMD-P	93-13-124
246-857-260	REP	93-04-017	246-924-356	NEW	93-07-036	246-976-720	AMD-P	93-13-124
246-857-270	REP	93-04-017	246-924-357	NEW-P	93-02-067	246-976-730	AMD-P	93-13-124
246-857-280	REP	93-04-017	246-924-357	NEW	93-07-036	246-976-770	AMD-P	93-13-124
246-857-290	REP	93-04-017	246-924-358	NEW-P	93-02-067	246-976-780	AMD-P	93-13-124
246-857-300	REP	93-04-017	246-924-358	NEW	93-07-036	246-976-790	AMD-P	93-13-124
246-857-310	REP	93-04-017	246-924-359	NEW-P	93-02-067	246-976-810	AMD-P	93-13-124
246-857-320	REP	93-04-017	246-924-359	NEW	93-07-036	246-976-820	AMD-P	93-13-124
246-857-330	REP	93-04-017	246-924-360	REP-P	93-02-067	246-976-830	NEW-P	93-13-124
246-857-340	REP	93-04-017	246-924-360	REP	93-07-036	246-976-840	NEW-P	93-13-124
246-863-050	AMD-P	93-04-101	246-924-361	NEW-P	93-02-067	246-976-850	NEW-P	93-13-124
246-863-050	AMD	93-10-007	246-924-361	NEW	93-07-036	246-976-860	NEW-P	93-13-124
246-863-130	NEW-W	93-04-018	246-924-363	NEW-P	93-02-067	246-976-990	AMD-P	93-13-124
246-869-245	NEW-W	93-07-051	246-924-363	NEW	93-07-036	250-18-010	AMD-P	93-16-076
246-883-030	AMD	93-05-046	246-924-364	NEW-P	93-02-067	250-18-020	AMD-P	93-16-076
246-887-132	NEW-P	93-08-108	246-924-364	NEW	93-07-036	250-18-050	AMD-P	93-16-076

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
250-18-060	AMD-P	93-16-076	250-78-060	AMD-P	93-11-092	275-25-300	REP-P	93-11-053
250-20-011	AMD-P	93-03-087	250-78-060	AMD-C	93-14-102	275-25-300	REP	93-15-013
250-20-011	AMD-E	93-04-070	251-04-030	AMD-E	93-14-092	275-25-310	REP-E	93-11-051
250-20-011	AMD	93-08-010	251-04-030	AMD-P	93-16-020	275-25-310	REP-P	93-11-053
250-20-015	AMD-P	93-03-087	251-04-040	AMD-E	93-14-092	275-25-310	REP	93-15-013
250-20-015	AMD-E	93-04-070	251-04-040	AMD-P	93-16-020	275-25-330	REP-E	93-11-051
250-20-015	AMD	93-08-010	251-04-050	AMD-E	93-14-092	275-25-330	REP-P	93-11-053
250-20-021	AMD-P	93-03-087	251-04-050	AMD-P	93-16-020	275-25-330	REP	93-15-013
250-20-021	AMD-E	93-04-070	251-06-020	AMD-E	93-14-092	275-25-340	REP-E	93-11-051
250-20-021	AMD	93-08-010	251-06-020	AMD-E	93-16-020	275-25-340	REP-P	93-11-053
250-20-031	AMD-P	93-03-087	251-08-005	AMD-E	93-14-092	275-25-340	REP	93-15-013
250-20-031	AMD-E	93-04-070	251-08-005	AMD-P	93-16-020	275-25-810	REP-E	93-11-051
250-20-031	AMD	93-08-010	251-08-090	AMD-E	93-14-092	275-25-810	REP-P	93-11-053
250-20-041	AMD-P	93-03-087	251-08-090	AMD-P	93-16-020	275-25-810	REP	93-15-013
250-20-041	AMD-E	93-04-070	251-10-060	AMD-E	93-13-008	275-25-840	REP-E	93-11-051
250-20-041	AMD	93-08-010	251-10-060	AMD-P	93-16-095	275-25-840	REP-P	93-11-053
250-20-051	AMD-P	93-03-087	251-10-061	NEW-E	93-13-008	275-25-840	REP	93-15-013
250-20-051	AMD-E	93-04-070	251-10-061	NEW-P	93-16-095	275-26-065	AMD	93-04-029
250-20-051	AMD	93-08-010	251-12-240	AMD	93-06-033	275-38-860	AMD-P	93-14-074
250-25	AMD-C	93-14-098	251-12-290	AMD	93-06-033	275-38-860	AMD-E	93-14-076
250-25-060	AMD-P	93-11-088	251-17-090	AMD-E	93-13-008	275-38-906	AMD-P	93-14-074
250-25-070	AMD-P	93-11-088	251-17-090	AMD-P	93-16-095	275-38-906	AMD-E	93-14-076
250-25-080	AMD-P	93-11-088	251-18-180	AMD-E	93-13-008	275-155-020	AMD-P	93-14-073
250-40	AMD-C	93-15-043	251-18-180	AMD-P	93-16-095	275-155-050	AMD-P	93-14-073
250-40-030	AMD-P	93-11-093	251-18-190	AMD-E	93-13-008	284-07-060	NEW-C	93-04-062
250-40-030	AMD-E	93-13-034	251-18-190	AMD-P	93-16-095	284-07-060	NEW	93-07-020
250-40-040	AMD-P	93-11-093	251-18-240	AMD-E	93-13-008	284-07-070	NEW-P	93-15-105
250-40-040	AMD-E	93-13-034	251-18-240	AMD-E	93-14-092	284-12-200	NEW-P	93-15-111
250-40-050	AMD-P	93-11-093	251-18-240	AMD-P	93-16-020	284-12-210	NEW-P	93-15-111
250-40-050	AMD-E	93-13-034	251-18-240	AMD-P	93-16-095	284-12-220	NEW-P	93-15-111
250-40-060	AMD-P	93-11-093	251-18-260	AMD-E	93-14-092	284-12-230	NEW-P	93-15-111
250-40-060	AMD-E	93-13-034	251-18-260	AMD-P	93-16-020	284-12-250	NEW-P	93-15-111
250-40-070	AMD-P	93-11-093	251-18-280	AMD-E	93-14-092	284-12-260	NEW-P	93-15-111
250-40-070	AMD-E	93-13-034	251-18-280	AMD-P	93-16-020	284-12-270	NEW-P	93-15-111
250-44-050	AMD	93-07-061	251-19-010	AMD-E	93-13-008	284-12-280	NEW-P	93-15-111
250-44-110	AMD	93-07-061	251-19-010	AMD-P	93-16-095	284-13-160	NEW-P	93-15-106
250-44-130	AMD	93-07-061	251-19-060	AMD-E	93-13-008	284-13-210	NEW-P	93-15-109
250-62-010	NEW-P	93-12-106	251-19-060	AMD-P	93-16-095	284-13-220	NEW-P	93-15-109
250-62-020	NEW-P	93-12-106	251-19-100	AMD-E	93-13-008	284-13-280	NEW-P	93-15-112
250-62-030	NEW-P	93-12-106	251-19-100	AMD-P	93-16-095	284-13-310	NEW-P	93-15-114
250-62-040	NEW-P	93-12-106	251-22-116	NEW	93-14-115	284-13-320	NEW-P	93-15-114
250-62-050	NEW-P	93-12-106	251-22-167	AMD-P	93-11-103	284-13-330	NEW-P	93-15-114
250-62-060	NEW-P	93-12-106	251-22-167	AMD	93-14-115	284-13-340	NEW-P	93-15-114
250-62-070	NEW-P	93-12-106	251-22-167	AMD	93-16-061	284-13-350	NEW-P	93-15-114
250-62-080	NEW-P	93-12-106	251-22-195	AMD-P	93-11-103	284-13-360	NEW-P	93-15-114
250-62-090	NEW-P	93-12-106	251-22-195	AMD	93-14-115	284-13-370	NEW-P	93-15-114
250-62-100	NEW-P	93-12-106	251-22-195	AMD	93-16-061	284-13-380	NEW-P	93-15-114
250-62-110	NEW-P	93-12-106	251-22-197	NEW-P	93-11-103	284-13-390	NEW-P	93-15-114
250-62-120	NEW-P	93-12-106	251-22-197	NEW	93-14-115	284-13-400	NEW-P	93-15-114
250-62-130	NEW-P	93-12-106	251-22-200	AMD-P	93-11-103	284-13-410	NEW-P	93-15-114
250-62-140	NEW-P	93-12-106	251-22-200	AMD	93-14-115	284-13-420	NEW-P	93-15-114
250-62-150	NEW-P	93-12-106	251-22-215	REP	93-06-032	284-13-500	NEW-P	93-15-104
250-62-160	NEW-P	93-12-106	260-48-110	AMD-E	93-09-008	284-13-510	NEW-P	93-15-104
250-62-170	NEW-P	93-12-106	260-48-110	AMD-P	93-11-060	284-13-520	NEW-P	93-15-104
250-62-180	NEW-P	93-12-106	260-48-110	AMD	93-14-124	284-13-540	NEW-P	93-15-104
250-62-190	NEW-P	93-12-106	260-48-328	AMD-P	93-11-101	284-13-550	NEW-P	93-15-104
250-62-200	NEW-P	93-12-106	260-48-328	AMD	93-14-125	284-13-560	NEW-P	93-15-104
250-62-210	NEW-P	93-12-106	260-48-331	NEW-P	93-11-102	284-13-570	NEW-P	93-15-104
250-65	AMD-C	93-14-099	260-48-331	NEW	93-14-126	284-13-580	NEW-P	93-15-104
250-65-030	AMD-P	93-11-089	260-70-025	AMD-E	93-15-020	284-13-590	NEW-P	93-15-104
250-65-040	AMD-P	93-11-089	260-70-028	AMD-E	93-15-021	284-13-700	NEW-P	93-15-113
250-65-050	AMD-P	93-11-089	275-16-030	AMD-P	93-16-002	284-13-710	NEW-P	93-15-113
250-65-060	AMD-P	93-11-089	275-16-030	AMD-E	93-16-004	284-13-720	NEW-P	93-15-113
250-66-020	AMD-P	93-11-094	275-25	AMD-E	93-11-051	284-13-730	NEW-P	93-15-113
250-66-020	AMD-C	93-14-103	275-25	AMD-P	93-11-053	284-13-740	NEW-P	93-15-113
250-70-030	AMD-P	93-11-090	275-25	AMD	93-15-013	284-15-100	NEW-P	93-15-110
250-70-030	AMD-C	93-14-100	275-25-010	AMD-E	93-11-051	284-18-010	REP-P	93-15-107
250-76-020	AMD-P	93-11-091	275-25-010	AMD-P	93-11-053	284-18-020	REP-P	93-15-107
250-76-020	AMD-C	93-14-101	275-25-010	AMD	93-15-013	284-18-030	REP-P	93-15-107
250-76-070	AMD-P	93-11-091	275-25-040	AMD-E	93-11-051	284-18-040	REP-P	93-15-107
250-76-070	AMD-C	93-14-101	275-25-040	AMD-P	93-11-053	284-18-050	REP-P	93-15-107
250-78-050	AMD-P	93-11-092	275-25-040	AMD	93-15-013	284-18-060	REP-P	93-15-107
250-78-050	AMD-C	93-14-102	275-25-300	REP-E	93-11-051	284-18-070	REP-P	93-15-107

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
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
284-18-320	NEW-P	93-15-107	296-17-501	AMD-P	93-07-114	296-17-61804	AMD	93-12-093
284-18-330	NEW-P	93-15-107	296-17-501	AMD	93-12-093	296-17-646	AMD-P	93-07-114
284-18-340	NEW-P	93-15-107	296-17-506	AMD-P	93-07-114	296-17-646	AMD	93-12-093
284-18-350	NEW-P	93-15-107	296-17-506	AMD	93-12-093	296-17-669	AMD-P	93-07-114
284-18-360	NEW-P	93-15-107	296-17-50601	AMD-P	93-07-114	296-17-669	AMD	93-12-093
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
284-18-400	NEW-P	93-15-107	296-17-510	AMD-P	93-07-114	296-17-67601	AMD	93-12-093
284-18-410	NEW-P	93-15-107	296-17-510	AMD	93-12-093	296-17-67602	AMD-P	93-07-114
284-18-420	NEW-P	93-15-107	296-17-512	AMD-P	93-07-114	296-17-67602	AMD	93-12-093
284-18-430	NEW-P	93-15-107	296-17-512	AMD	93-12-093	296-17-686	AMD-P	93-07-114
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
284-22-010	AMD-P	93-14-072	296-17-524	AMD	93-12-093	296-17-708	AMD-P	93-07-114
284-22-020	AMD-P	93-14-072	296-17-526	AMD-P	93-07-114	296-17-708	AMD	93-12-093
284-22-030	AMD-P	93-14-072	296-17-526	AMD	93-12-093	296-17-710	AMD-P	93-07-114
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
284-92-440	NEW-P	93-15-108	296-17-57001	AMD	93-12-093	296-17-76202	AMD-P	93-07-114
284-92-450	NEW-P	93-15-108	296-17-57002	AMD-P	93-07-114	296-17-76202	AMD	93-12-093
284-92-460	NEW-P	93-15-108	296-17-57002	AMD	93-12-093	296-17-76204	AMD-P	93-07-114
284-92-470	NEW-P	93-15-108	296-17-57003	AMD-P	93-07-114	296-17-76204	AMD	93-12-093
284-92-480	NEW-P	93-15-108	296-17-57003	AMD	93-12-093	296-17-76205	AMD-P	93-07-114
284-92-490	NEW-P	93-15-108	296-17-572	AMD-P	93-07-114	296-17-76205	AMD	93-12-093
284-92-500	NEW-P	93-15-108	296-17-572	AMD	93-12-093	296-17-777	AMD-P	93-07-114
284-92-510	NEW-P	93-15-108	296-17-574	AMD-P	93-07-114	296-17-777	AMD	93-12-093
287-04-030	REP	93-04-008	296-17-574	AMD	93-12-093	296-17-855	AMD-P	93-07-114
287-04-031	NEW	93-04-008	296-17-579	AMD-P	93-07-114	296-17-855	AMD	93-12-093
296-04-270	AMD	93-04-100	296-17-579	AMD	93-12-093	296-17-873	AMD-P	93-07-114
296-04-280	AMD	93-04-100	296-17-580	AMD-P	93-07-114	296-17-873	AMD	93-12-093
296-15-022	AMD-P	93-07-115	296-17-580	AMD	93-12-093	296-17-895	AMD-P	93-07-114
296-15-022	AMD	93-11-064	296-17-582	AMD-P	93-07-114	296-17-895	AMD	93-12-093
296-15-023	AMD-P	93-07-115	296-17-582	AMD	93-12-093	296-17-89501	NEW-P	93-07-114
296-15-023	AMD	93-11-064	296-17-58201	AMD-P	93-07-114	296-17-89501	NEW	93-12-093
296-15-030	AMD-P	93-07-115	296-17-58201	AMD	93-12-093	296-17-896	REP-P	93-07-114
296-15-030	AMD	93-11-064	296-17-584	AMD-P	93-07-114	296-17-896	REP	93-12-093
296-15-060	AMD-P	93-07-115	296-17-584	AMD	93-12-093	296-17-911	AMD-P	93-15-102
296-15-060	AMD	93-11-064	296-17-58402	NEW-P	93-07-114	296-17-917	AMD-P	93-15-102
296-15-065	AMD-P	93-07-115	296-17-58502	NEW	93-12-093	296-20-010	AMD-P	93-11-095
296-15-065	AMD	93-11-064	296-17-594	AMD-P	93-07-114	296-20-010	AMD	93-16-072
296-17-350	AMD-P	93-07-114	296-17-594	AMD	93-12-093	296-20-01002	AMD-P	93-11-095

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-20-01002	AMD	93-16-072	296-21-290	NEW-P	93-11-095	296-22-021	REP	93-16-072
296-20-015	AMD-P	93-11-095	296-21-290	NEW	93-16-072	296-22-022	REP-P	93-11-095
296-20-015	AMD	93-16-072	296-21-300	NEW-P	93-11-095	296-22-022	REP	93-16-072
296-20-01501	AMD-P	93-11-095	296-21-300	NEW	93-16-072	296-22-023	REP-P	93-11-095
296-20-01501	AMD	93-16-072	296-21-310	NEW-P	93-11-095	296-22-023	REP	93-16-072
296-20-020	AMD-P	93-11-095	296-21-310	NEW	93-16-072	296-22-024	REP-P	93-11-095
296-20-020	AMD	93-16-072	296-21-320	NEW-P	93-11-095	296-22-024	REP	93-16-072
296-20-030	AMD-P	93-11-095	296-21-320	NEW	93-16-072	296-22-025	REP-P	93-11-095
296-20-030	AMD	93-16-072	296-21A-010	REP-P	93-11-095	296-22-025	REP	93-16-072
296-20-03001	AMD-P	93-11-095	296-21A-010	REP	93-16-072	296-22-026	REP-P	93-11-095
296-20-03001	AMD	93-16-072	296-21A-011	REP-P	93-11-095	296-22-026	REP	93-16-072
296-20-035	AMD-P	93-11-095	296-21A-011	REP	93-16-072	296-22-027	REP-P	93-11-095
296-20-035	AMD	93-16-072	296-21A-013	REP-P	93-11-095	296-22-027	REP	93-16-072
296-20-051	AMD-P	93-11-095	296-21A-013	REP	93-16-072	296-22-030	REP-P	93-11-095
296-20-051	AMD	93-16-072	296-21A-014	REP-P	93-11-095	296-22-030	REP	93-16-072
296-20-06101	AMD-P	93-11-095	296-21A-014	REP	93-16-072	296-22-031	REP-P	93-11-095
296-20-06101	AMD	93-16-072	296-21A-01401	REP-P	93-11-095	296-22-031	REP	93-16-072
296-20-065	AMD-P	93-11-095	296-21A-01401	REP	93-16-072	296-22-035	REP-P	93-11-095
296-20-065	AMD	93-16-072	296-21A-035	REP-P	93-11-095	296-22-035	REP	93-16-072
296-20-110	AMD-P	93-11-095	296-21A-035	REP	93-16-072	296-22-036	REP-P	93-11-095
296-20-110	AMD	93-16-072	296-21A-037	REP-P	93-11-095	296-22-036	REP	93-16-072
296-20-1102	AMD-P	93-11-095	296-21A-037	REP	93-16-072	296-22-037	REP-P	93-11-095
296-20-1102	AMD	93-16-072	296-21A-040	REP-P	93-11-095	296-22-037	REP	93-16-072
296-20-1103	AMD-P	93-11-095	296-21A-040	REP	93-16-072	296-22-038	REP-P	93-11-095
296-20-1103	AMD	93-16-072	296-21A-045	REP-P	93-11-095	296-22-038	REP	93-16-072
296-20-115	REP-P	93-11-095	296-21A-045	REP	93-16-072	296-22-039	REP-P	93-11-095
296-20-115	REP	93-16-072	296-21A-046	REP-P	93-11-095	296-22-039	REP	93-16-072
296-20-120	AMD-P	93-11-095	296-21A-046	REP	93-16-072	296-22-040	REP-P	93-11-095
296-20-120	AMD	93-16-072	296-21A-047	REP-P	93-11-095	296-22-040	REP	93-16-072
296-20-125	AMD-P	93-11-095	296-21A-047	REP	93-16-072	296-22-042	REP-P	93-11-095
296-20-125	AMD	93-16-072	296-21A-050	REP-P	93-11-095	296-22-042	REP	93-16-072
296-20-12501	AMD-P	93-11-095	296-21A-050	REP	93-16-072	296-22-051	REP-P	93-11-095
296-20-12501	AMD	93-16-072	296-21A-0501	REP-P	93-11-095	296-22-051	REP	93-16-072
296-20-12502	REP-P	93-11-095	296-21A-0501	REP	93-16-072	296-22-052	REP-P	93-11-095
296-20-12502	REP	93-16-072	296-21A-0502	REP-P	93-11-095	296-22-052	REP	93-16-072
296-20-132	AMD-P	93-11-095	296-21A-0502	REP	93-16-072	296-22-053	REP-P	93-11-095
296-20-132	AMD	93-16-072	296-21A-057	REP-P	93-11-095	296-22-053	REP	93-16-072
296-20-135	AMD-P	93-11-095	296-21A-057	REP	93-16-072	296-22-061	REP-P	93-11-095
296-20-135	AMD	93-16-072	296-21A-062	REP-P	93-11-095	296-22-061	REP	93-16-072
296-20-170	AMD-P	93-11-095	296-21A-062	REP	93-16-072	296-22-063	REP-P	93-11-095
296-20-170	AMD	93-16-072	296-21A-064	REP-P	93-11-095	296-22-063	REP	93-16-072
296-20-17002	AMD-P	93-11-095	296-21A-064	REP	93-16-072	296-22-067	REP-P	93-11-095
296-20-17002	AMD	93-16-072	296-21A-066	REP-P	93-11-095	296-22-067	REP	93-16-072
296-21	AMD-P	93-11-095	296-21A-066	REP	93-16-072	296-22-071	REP-P	93-11-095
296-21	AMD	93-16-072	296-21A-070	REP-P	93-11-095	296-22-071	REP	93-16-072
296-21-140	REP-P	93-11-095	296-21A-070	REP	93-16-072	296-22-073	REP-P	93-11-095
296-21-140	REP	93-16-072	296-21A-075	REP-P	93-11-095	296-22-073	REP	93-16-072
296-21-150	REP-P	93-11-095	296-21A-075	REP	93-16-072	296-22-079	REP-P	93-11-095
296-21-150	REP	93-16-072	296-21A-080	REP-P	93-11-095	296-22-079	REP	93-16-072
296-21-160	REP-P	93-11-095	296-21A-080	REP	93-16-072	296-22-082	REP-P	93-11-095
296-21-160	REP	93-16-072	296-21A-086	REP-P	93-11-095	296-22-082	REP	93-16-072
296-21-170	REP-P	93-11-095	296-21A-086	REP	93-16-072	296-22-087	REP-P	93-11-095
296-21-170	REP	93-16-072	296-21A-090	REP-P	93-11-095	296-22-087	REP	93-16-072
296-21-180	REP-P	93-11-095	296-21A-090	REP	93-16-072	296-22-091	REP-P	93-11-095
296-21-180	REP	93-16-072	296-21A-095	REP-P	93-11-095	296-22-091	REP	93-16-072
296-21-190	REP-P	93-11-095	296-21A-095	REP	93-16-072	296-22-095	REP-P	93-11-095
296-21-190	REP	93-16-072	296-21A-125	REP-P	93-11-095	296-22-095	REP	93-16-072
296-21-200	REP-P	93-11-095	296-21A-125	REP	93-16-072	296-22-097	REP-P	93-11-095
296-21-200	REP	93-16-072	296-21A-128	REP-P	93-11-095	296-22-097	REP	93-16-072
296-21-210	REP-P	93-11-095	296-21A-128	REP	93-16-072	296-22-100	REP-P	93-11-095
296-21-210	REP	93-16-072	296-21A-130	REP-P	93-11-095	296-22-100	REP	93-16-072
296-21-230	REP-P	93-11-095	296-21A-130	REP	93-16-072	296-22-105	REP-P	93-11-095
296-21-230	REP	93-16-072	296-22-010	REP-P	93-11-095	296-22-105	REP	93-16-072
296-21-240	NEW-P	93-11-095	296-22-010	REP	93-16-072	296-22-110	REP-P	93-11-095
296-21-240	NEW	93-16-072	296-22-016	REP-P	93-11-095	296-22-110	REP	93-16-072
296-21-250	NEW-P	93-11-095	296-22-016	REP	93-16-072	296-22-115	REP-P	93-11-095
296-21-250	NEW	93-16-072	296-22-017	REP-P	93-11-095	296-22-115	REP	93-16-072
296-21-260	NEW-P	93-11-095	296-22-017	REP	93-16-072	296-22-116	REP-P	93-11-095
296-21-260	NEW	93-16-072	296-22-01701	REP-P	93-11-095	296-22-116	REP	93-16-072
296-21-270	NEW-P	93-11-095	296-22-01701	REP	93-16-072	296-22-120	REP-P	93-11-095
296-21-270	NEW	93-16-072	296-22-020	REP-P	93-11-095	296-22-120	REP	93-16-072
296-21-280	NEW-P	93-11-095	296-22-020	REP	93-16-072	296-22-125	REP-P	93-11-095
296-21-280	NEW	93-16-072	296-22-021	REP-P	93-11-095	296-22-125	REP	93-16-072

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-23A-410	REP-P	93-11-095	296-62-07425	AMD-P	93-16-108	296-62-14540	NEW-P	93-10-101
296-23A-410	REP	93-16-072	296-62-07427	NEW-P	93-02-057	296-62-14542	NEW-P	93-10-101
296-23A-415	REP-P	93-11-095	296-62-07427	NEW	93-07-044	296-62-14545	NEW-P	93-10-101
296-23A-415	REP	93-16-072	296-62-07429	NEW-P	93-02-057	296-62-14547	NEW-P	93-10-101
296-23A-420	REP-P	93-11-095	296-62-07429	NEW	93-07-044	296-62-14549	NEW-P	93-10-101
296-23A-420	REP	93-16-072	296-62-07431	NEW-P	93-02-057	296-62-14551	NEW-P	93-10-101
296-23A-425	REP-P	93-11-095	296-62-07431	NEW	93-07-044	296-62-14553	NEW-P	93-10-101
296-23A-425	REP	93-16-072	296-62-07433	NEW-P	93-02-057	296-67-005	AMD-P	93-16-108
296-24	AMD-C	93-15-031	296-62-07433	NEW	93-07-044	296-67-285	AMD-P	93-16-108
296-24-11003	AMD-P	93-10-101	296-62-07441	NEW-P	93-02-057	296-67-291	AMD-P	93-16-108
296-24-70007	AMD-P	93-10-101	296-62-07441	NEW	93-07-044	296-104-010	AMD-P	93-08-073
296-46-090	AMD	93-06-072	296-62-07441	AMD-P	93-16-108	296-104-010	AMD	93-12-014
296-46-140	AMD	93-06-072	296-62-07443	NEW-P	93-02-057	296-104-055	AMD-P	93-08-073
296-46-150	AMD	93-06-072	296-62-07443	NEW	93-07-044	296-104-055	AMD	93-12-014
296-46-21008	AMD	93-06-072	296-62-07445	NEW-P	93-02-057	296-104-200	AMD-P	93-08-073
296-46-21052	AMD	93-06-072	296-62-07445	NEW	93-07-044	296-104-200	AMD	93-12-014
296-46-220	AMD	93-06-072	296-62-07445	AMD-P	93-16-108	296-104-500	AMD-P	93-08-073
296-46-225	NEW	93-06-072	296-62-07447	NEW-P	93-02-057	296-104-500	AMD	93-12-014
296-46-23040	AMD	93-06-072	296-62-07447	NEW	93-07-044	296-104-501	AMD-P	93-08-073
296-46-23062	AMD	93-06-072	296-62-07447	AMD-P	93-16-108	296-104-501	AMD	93-12-014
296-46-316	AMD	93-06-072	296-62-07449	NEW-P	93-02-057	296-104-700	AMD-P	93-08-073
296-46-360	AMD	93-06-072	296-62-07449	NEW	93-07-044	296-104-700	AMD	93-12-014
296-46-365	NEW	93-06-072	296-62-07449	AMD-P	93-16-108	296-116-082	AMD-E	93-06-012
296-46-422	AMD	93-06-072	296-62-07451	NEW	93-02-057	296-116-082	AMD-P	93-06-052
296-46-495	AMD	93-06-072	296-62-07451	NEW	93-07-044	296-116-082	AMD	93-09-016
296-46-514	AMD	93-06-072	296-62-076	NEW	93-04-111	296-116-110	AMD-P	93-04-109
296-46-517	REP	93-06-072	296-62-07601	NEW	93-04-111	296-116-110	AMD	93-07-076
296-46-55001	REP	93-06-072	296-62-07603	NEW	93-04-111	296-116-185	AMD-C	93-03-001
296-46-680	AMD	93-06-072	296-62-07605	NEW	93-04-111	296-116-185	AMD	93-03-080
296-46-700	AMD	93-06-072	296-62-07607	NEW	93-04-111	296-116-185	AMD-P	93-10-102
296-46-702	NEW	93-06-072	296-62-07609	NEW	93-04-111	296-116-185	AMD	93-13-055
296-46-710	NEW	93-06-072	296-62-07611	NEW	93-04-111	296-116-300	AMD-P	93-08-027
296-46-935	NEW	93-03-048	296-62-07613	NEW	93-04-111	296-116-300	AMD-C	93-12-009
296-56	AMD-C	93-15-031	296-62-07615	NEW	93-04-111	296-116-300	AMD	93-12-133
296-56-60001	AMD-P	93-02-057	296-62-07617	NEW	93-04-111	296-116-360	AMD-P	93-04-110
296-56-60001	AMD	93-07-044	296-62-07619	NEW	93-04-111	296-116-360	AMD	93-07-077
296-56-60005	AMD-P	93-10-101	296-62-07621	NEW	93-04-111	296-125-070	NEW	93-04-112
296-56-60235	AMD-P	93-10-101	296-62-07623	NEW	93-04-111	296-127-040	AMD-E	93-16-071
296-62	AMD-C	93-15-031	296-62-07625	NEW	93-04-111	296-127-045	AMD-E	93-16-071
296-62-07105	AMD-P	93-10-101	296-62-07627	NEW	93-04-111	296-155	AMD-C	93-15-031
296-62-074	NEW-P	93-02-057	296-62-07629	NEW	93-04-111	296-155-012	AMD-P	93-10-101
296-62-074	NEW	93-07-044	296-62-07631	NEW	93-04-111	296-155-173	NEW	93-04-111
296-62-07401	NEW-P	93-02-057	296-62-07633	NEW	93-04-111	296-155-17301	NEW	93-04-111
296-62-07401	NEW	93-07-044	296-62-07635	NEW	93-04-111	296-155-17303	NEW	93-04-111
296-62-07403	NEW-P	93-02-057	296-62-07637	NEW	93-04-111	296-155-17305	NEW	93-04-111
296-62-07403	NEW	93-07-044	296-62-07639	NEW	93-04-111	296-155-17307	NEW	93-04-111
296-62-07403	AMD-P	93-16-108	296-62-07654	NEW	93-04-111	296-155-17309	NEW	93-04-111
296-62-07405	NEW-P	93-02-057	296-62-07656	NEW	93-04-111	296-155-17311	NEW	93-04-111
296-62-07405	NEW	93-07-044	296-62-07658	NEW	93-04-111	296-155-17313	NEW	93-04-111
296-62-07407	NEW-P	93-02-057	296-62-07660	NEW	93-04-111	296-155-17315	NEW	93-04-111
296-62-07407	NEW	93-07-044	296-62-07662	NEW	93-04-111	296-155-17317	NEW	93-04-111
296-62-07409	NEW-P	93-02-057	296-62-07664	NEW	93-04-111	296-155-17319	NEW	93-04-111
296-62-07409	NEW	93-07-044	296-62-07666	NEW	93-04-111	296-155-17321	NEW	93-04-111
296-62-07411	NEW-P	93-02-057	296-62-07668	NEW	93-04-111	296-155-17323	NEW	93-04-111
296-62-07411	NEW	93-07-044	296-62-07670	NEW	93-04-111	296-155-17325	NEW	93-04-111
296-62-07411	AMD-P	93-16-108	296-62-07672	NEW	93-04-111	296-155-17327	NEW	93-04-111
296-62-07413	NEW-P	93-02-057	296-62-07711	AMD-P	93-10-101	296-155-17329	NEW	93-04-111
296-62-07413	NEW	93-07-044	296-62-3090	AMD-P	93-10-101	296-155-17331	NEW	93-04-111
296-62-07413	AMD-P	93-16-108	296-62-14501	AMD-P	93-10-101	296-155-17333	NEW	93-04-111
296-62-07415	NEW-P	93-02-057	296-62-14503	AMD-P	93-10-101	296-155-17335	NEW	93-04-111
296-62-07415	NEW	93-07-044	296-62-14505	AMD-P	93-10-101	296-155-17337	NEW	93-04-111
296-62-07417	NEW-P	93-02-057	296-62-14507	AMD-P	93-10-101	296-155-17339	NEW	93-04-111
296-62-07417	NEW	93-07-044	296-62-14509	AMD-P	93-10-101	296-155-17341	NEW	93-04-111
296-62-07417	AMD-P	93-16-108	296-62-14511	AMD-P	93-10-101	296-155-17343	NEW	93-04-111
296-62-07419	NEW-P	93-02-057	296-62-14513	AMD-P	93-10-101	296-155-17345	NEW	93-04-111
296-62-07419	NEW	93-07-044	296-62-14515	AMD-P	93-10-101	296-155-17347	NEW	93-04-111
296-62-07421	NEW-P	93-02-057	296-62-14517	AMD-P	93-10-101	296-155-17349	NEW	93-04-111
296-62-07421	NEW	93-07-044	296-62-14519	AMD-P	93-10-101	296-155-17351	NEW	93-04-111
296-62-07423	NEW-P	93-02-057	296-62-14521	AMD-P	93-10-101	296-155-17353	NEW	93-04-111
296-62-07423	NEW	93-07-044	296-62-14523	AMD-P	93-10-101	296-155-17355	NEW	93-04-111
296-62-07423	AMD-P	93-16-108	296-62-14525	AMD-P	93-10-101	296-155-17357	NEW	93-04-111
296-62-07425	NEW-P	93-02-057	296-62-14527	AMD-P	93-10-101	296-155-17359	NEW	93-04-111
296-62-07425	NEW	93-07-044	296-62-14529	AMD-P	93-10-101	296-155-174	NEW-P	93-02-057

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-155-174	NEW	93-07-044	296-306-08301	NEW-W	93-10-041	308-56A-125	AMD-P	93-10-073
296-155-174	AMD-P	93-16-108	296-306-08307	NEW-W	93-10-041	308-56A-125	AMD	93-14-084
296-155-203	AMD-P	93-10-101	296-306-084	NEW	93-07-012	308-56A-140	AMD-P	93-10-073
296-155-20301	AMD-P	93-10-101	296-306-08401	NEW-W	93-10-041	308-56A-140	AMD	93-14-084
296-155-20307	AMD-P	93-10-101	296-306-08403	NEW-W	93-10-041	308-56A-160	NEW-P	93-10-073
296-155-24510	AMD-P	93-10-101	296-306-08405	NEW-W	93-10-041	308-56A-160	NEW	93-14-084
296-155-300	AMD-P	93-10-101	296-306-08407	NEW-W	93-10-041	308-56A-420	AMD-P	93-10-073
296-155-305	AMD-P	93-10-101	296-306-08409	NEW-W	93-10-041	308-56A-420	AMD	93-14-084
296-155-310	AMD-P	93-10-101	296-306-105	AMD	93-07-012	308-61	AMD	93-08-076
296-155-375	AMD	93-04-111	296-306-115	AMD	93-07-012	308-61-010	REP	93-08-076
296-155-444	AMD-P	93-10-101	296-306-145	AMD	93-07-012	308-61-025	REP	93-08-076
296-155-447	AMD-P	93-10-101	296-306-14501	NEW-W	93-10-041	308-61-026	AMD	93-08-076
296-155-449	AMD-P	93-10-101	296-306-14503	NEW-W	93-10-041	308-61-030	REP	93-08-076
296-155-459	AMD-P	93-10-101	296-306-14505	NEW-W	93-10-041	308-61-040	REP	93-08-076
296-155-462	AMD-P	93-10-101	296-306-14507	NEW-W	93-10-041	308-61-135	AMD	93-08-076
296-304	AMD-C	93-15-031	296-306-14509	NEW-W	93-10-041	308-61-168	AMD	93-08-076
296-304-01001	AMD-P	93-10-101	296-306-146	NEW-W	93-10-041	308-61-200	REP	93-08-076
296-304-020	AMD	93-04-111	296-306-147	NEW-W	93-10-041	308-61-205	REP	93-08-076
296-304-02003	AMD-P	93-10-101	296-306-148	NEW-W	93-10-041	308-61-210	REP	93-08-076
296-304-03001	AMD-P	93-10-101	296-306-165	AMD	93-07-012	308-61-220	REP	93-08-076
296-304-03005	AMD-P	93-10-101	296-306-200	AMD	93-07-012	308-61-230	REP	93-08-076
296-304-03007	AMD-P	93-10-101	296-306-26001	AMD	93-07-012	308-61-240	REP	93-08-076
296-304-04001	AMD-P	93-10-101	296-306-265	AMD	93-07-012	308-61-250	REP	93-08-076
296-304-04005	AMD-P	93-10-101	296-306-270	AMD	93-07-012	308-61-260	REP	93-08-076
296-304-09003	AMD-P	93-10-101	296-306-27095	AMD	93-07-012	308-61-270	REP	93-08-076
296-306	AMD-C	93-02-031	296-306-330	NEW	93-07-012	308-61-300	REP	93-08-076
296-306-010	AMD	93-07-012	296-306-33001	NEW-W	93-10-041	308-61-305	REP	93-08-076
296-306-01001	NEW-P	93-02-057	296-306-400	AMD	93-07-012	308-61-310	REP	93-08-076
296-306-01001	NEW	93-07-044	296-306-40003	AMD	93-07-012	308-61-320	REP	93-08-076
296-306-012	AMD	93-07-012	296-306-40007	NEW	93-07-012	308-61-330	REP	93-08-076
296-306-035	AMD	93-07-012	296-306-40009	NEW	93-07-012	308-61-340	REP	93-08-076
296-306-060	AMD	93-07-012	296-306-40011	NEW	93-07-012	308-61-400	REP	93-08-076
296-306-061	NEW	93-07-012	296-401-075	NEW	93-03-048	308-61-405	REP	93-08-076
296-306-06101	NEW-W	93-10-041	308-13-020	AMD-P	93-12-105	308-61-410	REP	93-08-076
296-306-06103	NEW-W	93-10-041	308-13-020	AMD	93-16-009	308-61-420	REP	93-08-076
296-306-06105	NEW-W	93-10-041	308-13-022	REP-P	93-12-105	308-61-430	REP	93-08-076
296-306-06107	NEW-W	93-10-041	308-13-022	REP	93-16-009	308-61-440	REP	93-08-076
296-306-06109	NEW-W	93-10-041	308-13-024	NEW-P	93-12-105	308-61-450	REP	93-08-076
296-306-06111	NEW-W	93-10-041	308-13-024	NEW	93-16-009	308-63-010	NEW	93-08-076
296-306-06113	NEW-W	93-10-041	308-13-025	REP-P	93-12-105	308-63-020	NEW	93-08-076
296-306-06115	NEW-W	93-10-041	308-13-025	REP	93-16-009	308-63-030	NEW	93-08-076
296-306-06117	NEW-W	93-10-041	308-13-032	AMD-P	93-12-105	308-63-040	NEW	93-08-076
296-306-06119	NEW-W	93-10-041	308-13-032	AMD	93-16-009	308-63-050	NEW	93-08-076
296-306-062	NEW-W	93-10-041	308-13-100	AMD-P	93-12-105	308-63-060	NEW	93-08-076
296-306-063	NEW-W	93-10-041	308-13-100	AMD	93-16-009	308-63-070	NEW	93-08-076
296-306-064	NEW-W	93-10-041	308-17-150	AMD-P	93-07-099	308-63-080	NEW	93-08-076
296-306-06401	NEW-W	93-10-041	308-17-150	AMD-W	93-12-040	308-63-090	NEW	93-08-076
296-306-06403	NEW-W	93-10-041	308-17-150	AMD-P	93-13-146	308-63-100	NEW	93-08-076
296-306-06405	NEW-W	93-10-041	308-17-150	AMD	93-16-060	308-63-110	NEW	93-08-076
296-306-06407	NEW-W	93-10-041	308-18-150	AMD-P	93-07-098	308-63-120	NEW	93-08-076
296-306-06409	NEW-W	93-10-041	308-18-150	AMD	93-11-025	308-63-130	NEW	93-08-076
296-306-06411	NEW-W	93-10-041	308-30-005	NEW	93-05-009	308-63-140	NEW	93-08-076
296-306-06413	NEW-W	93-10-041	308-30-010	AMD	93-05-009	308-63-150	NEW	93-08-076
296-306-06415	NEW-W	93-10-041	308-30-020	AMD	93-05-009	308-63-160	NEW	93-08-076
296-306-06417	NEW-W	93-10-041	308-30-030	AMD	93-05-009	308-65-010	NEW	93-08-076
296-306-067	NEW-W	93-19-041	308-30-040	AMD	93-05-009	308-65-020	NEW	93-08-076
296-306-06701	NEW-W	93-10-041	308-30-050	AMD	93-05-009	308-65-030	NEW	93-08-076
296-306-06703	NEW-W	93-10-041	308-30-060	AMD	93-05-009	308-65-040	NEW	93-08-076
296-306-06705	NEW-W	93-10-041	308-30-070	AMD	93-05-009	308-65-050	NEW	93-08-076
296-306-06707	NEW-W	93-10-041	308-30-080	AMD	93-05-009	308-65-060	NEW	93-08-076
296-306-06709	NEW-W	93-10-041	308-30-090	AMD	93-05-009	308-65-070	NEW	93-08-076
296-306-068	NEW-W	93-10-041	308-30-110	NEW-W	93-08-083	308-65-080	NEW	93-08-076
296-306-06801	NEW-W	93-10-041	308-30-120	NEW	93-05-009	308-65-090	NEW	93-08-076
296-306-06803	NEW-W	93-10-041	308-30-130	NEW	93-05-009	308-65-100	NEW	93-08-076
296-306-06805	NEW-W	93-10-041	308-30-140	NEW	93-05-009	308-65-110	NEW	93-08-076
296-306-070	AMD	93-07-012	308-30-150	NEW	93-05-009	308-65-120	NEW	93-08-076
296-306-081	NEW-W	93-10-041	308-30-155	NEW	93-05-009	308-65-130	NEW	93-08-076
296-306-08101	NEW-W	93-10-041	308-30-160	NEW	93-05-009	308-65-140	NEW	93-08-076
296-306-08103	NEW-W	93-10-041	308-30-170	NEW-W	93-08-083	308-65-150	NEW	93-08-076
296-306-08105	NEW-W	93-10-041	308-30-180	NEW-W	93-08-083	308-65-160	NEW	93-08-076
296-306-082	NEW-W	93-10-041	308-30-190	NEW-W	93-08-083	308-65-170	NEW	93-08-076
296-306-08201	NEW-W	93-10-041	308-56A-115	AMD-P	93-10-073	308-65-180	NEW	93-08-076
296-306-083	NEW-W	93-10-041	308-56A-115	AMD	93-14-084	308-65-190	NEW	93-08-076

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
308-66-196	NEW-P	93-10-073	314-15-050	NEW-E	93-15-061	315-11-452	REP-P	93-12-104
308-66-196	NEW	93-14-084	314-16-020	AMD-P	93-07-110	315-11-452	REP	93-15-019
308-90-080	AMD-W	93-14-120	314-16-020	AMD	93-10-070	315-11-460	REP-P	93-12-104
308-93-050	AMD-P	93-11-076	314-16-030	AMD-P	93-07-110	315-11-460	REP	93-15-019
308-93-050	AMD	93-14-082	314-16-030	AMD-W	93-10-069	315-11-461	REP-P	93-12-104
308-93-070	AMD-P	93-11-076	314-16-090	AMD-P	93-12-118	315-11-461	REP	93-15-019
308-93-070	AMD	93-14-082	314-16-090	AMD	93-15-025	315-11-462	REP-P	93-12-104
308-93-174	NEW-P	93-11-076	314-16-190	AMD-P	93-06-066	315-11-462	REP	93-15-019
308-93-174	NEW	93-14-082	314-16-190	AMD	93-10-092	315-11-470	REP-P	93-12-104
308-93-460	AMD-P	93-11-076	314-16-196	AMD-P	93-06-066	315-11-470	REP	93-15-019
308-93-460	AMD	93-14-082	314-16-196	AMD	93-10-092	315-11-471	REP-P	93-12-104
308-96A-005	AMD-P	93-11-069	314-16-250	AMD-P	93-12-119	315-11-471	REP	93-15-019
308-96A-005	AMD	93-14-083	314-16-250	AMD	93-15-026	315-11-472	REP-P	93-12-104
308-96A-057	AMD-P	93-11-069	314-20-015	AMD-P	93-07-109	315-11-472	REP	93-15-019
308-96A-057	AMD	93-14-083	314-20-015	AMD	93-11-028	315-11-480	REP-P	93-12-104
308-96A-066	NEW-P	93-11-069	314-20-030	AMD-P	93-07-110	315-11-480	REP	93-15-019
308-96A-066	NEW	93-14-083	314-20-030	AMD	93-10-070	315-11-481	REP-P	93-12-104
308-96A-072	NEW-P	93-11-069	314-20-070	AMD-P	93-06-066	315-11-481	REP	93-15-019
308-96A-072	NEW	93-14-083	314-20-070	AMD	93-10-092	315-11-482	REP-P	93-12-104
308-96A-295	AMD-P	93-11-069	314-20-180	NEW-E	93-11-027	315-11-482	REP	93-15-019
308-96A-295	AMD	93-14-083	314-20-180	NEW-P	93-12-116	315-11-490	REP-P	93-12-104
308-96A-330	AMD-P	93-11-069	314-20-180	NEW	93-15-023	315-11-490	REP	93-15-019
308-96A-330	AMD	93-14-083	314-24-095	AMD-P	93-07-109	315-11-491	REP-P	93-12-104
308-96A-560	AMD-P	93-11-069	314-24-095	AMD	93-11-028	315-11-491	REP	93-15-019
308-96A-560	AMD	93-14-083	314-24-160	AMD-P	93-07-109	315-11-492	REP-P	93-12-104
308-125-010	AMD-P	93-12-127	314-24-160	AMD	93-11-028	315-11-492	REP	93-15-019
308-125-020	AMD-P	93-12-127	314-40-030	AMD-P	93-07-109	315-11-500	REP-P	93-12-104
308-125-030	AMD-P	93-12-127	314-40-030	AMD	93-11-028	315-11-500	REP	93-15-019
308-125-035	REP-P	93-12-127	314-52-080	AMD-P	93-07-109	315-11-501	REP-P	93-12-104
308-125-040	AMD-P	93-12-127	314-52-080	AMD	93-11-028	315-11-501	REP	93-15-019
308-125-045	AMD-P	93-12-127	314-70-050	NEW-P	93-07-109	315-11-502	REP-P	93-12-104
308-125-050	AMD-P	93-12-127	314-70-050	NEW	93-11-028	315-11-502	REP	93-15-019
308-125-060	AMD-P	93-12-127	315-02-230	NEW	93-04-004	315-11-510	REP-P	93-12-104
308-125-065	NEW-P	93-12-127	315-06-120	AMD	93-04-004	315-11-510	REP	93-15-019
308-125-070	AMD-P	93-12-127	315-06-125	AMD	93-04-004	315-11-511	REP-P	93-12-104
308-125-085	AMD-P	93-12-127	315-06-125	AMD-P	93-07-121	315-11-511	REP	93-15-019
308-125-090	AMD-P	93-12-127	315-06-125	AMD	93-11-056	315-11-512	REP-P	93-12-104
308-125-100	AMD-P	93-12-127	315-06-125	AMD-P	93-16-096	315-11-512	REP	93-15-019
308-125-110	AMD-P	93-12-127	315-06-130	AMD	93-04-004	315-11-520	REP-P	93-12-104
308-125-130	AMD-P	93-12-127	315-11-400	REP-P	93-12-104	315-11-520	REP	93-15-019
308-125-140	AMD-P	93-12-127	315-11-400	REP	93-15-019	315-11-521	REP-P	93-12-104
308-125-160	REP-P	93-12-127	315-11-401	REP-P	93-12-104	315-11-521	REP	93-15-019
308-125-180	AMD-P	93-12-127	315-11-401	REP	93-15-019	315-11-522	REP-P	93-12-104
308-125-190	AMD-P	93-12-127	315-11-402	REP-P	93-12-104	315-11-522	REP	93-15-019
308-125-210	AMD-P	93-12-127	315-11-402	REP	93-15-019	315-11-530	REP-P	93-12-104
308-125-225	NEW-P	93-12-127	315-11-410	REP-P	93-12-104	315-11-530	REP	93-15-019
314-10-010	NEW-E	93-15-062	315-11-410	REP	93-15-019	315-11-531	REP-P	93-12-104
314-10-020	NEW-E	93-15-062	315-11-411	REP-P	93-12-104	315-11-531	REP	93-15-019
314-10-030	NEW-E	93-15-062	315-11-411	REP	93-15-019	315-11-532	REP-P	93-12-104
314-10-050	NEW-E	93-15-062	315-11-412	REP-P	93-12-104	315-11-532	REP	93-15-019
314-10-060	NEW-E	93-15-062	315-11-412	REP	93-15-019	315-11-540	REP-P	93-12-104
314-10-070	NEW-E	93-15-062	315-11-420	REP-P	93-12-104	315-11-540	REP	93-15-019
314-10-080	NEW-E	93-15-062	315-11-420	REP	93-15-019	315-11-541	REP-P	93-12-104
314-10-090	NEW-E	93-15-062	315-11-421	REP-P	93-12-104	315-11-541	REP	93-15-019
314-10-100	NEW-E	93-15-062	315-11-421	REP	93-15-019	315-11-542	REP-P	93-12-104
314-10-110	NEW-E	93-15-062	315-11-422	REP-P	93-12-104	315-11-542	REP	93-15-019
314-12-015	AMD-P	93-12-120	315-11-422	REP	93-15-019	315-11-550	REP-P	93-12-104
314-12-015	AMD	93-15-027	315-11-430	REP-P	93-12-104	315-11-550	REP	93-15-019
314-12-020	AMD-P	93-07-110	315-11-430	REP	93-15-019	315-11-551	REP-P	93-12-104
314-12-020	AMD-W	93-10-069	315-11-431	REP-P	93-12-104	315-11-551	REP	93-15-019
314-12-020	AMD-P	93-12-117	315-11-431	REP	93-15-019	315-11-552	REP-P	93-12-104
314-12-020	AMD	93-15-024	315-11-432	REP-P	93-12-104	315-11-552	REP	93-15-019
314-12-025	AMD-P	93-07-110	315-11-432	REP	93-15-019	315-11-560	REP-P	93-12-104
314-12-025	AMD	93-10-070	315-11-440	REP-P	93-12-104	315-11-560	REP	93-15-019
314-12-030	AMD-P	93-06-066	315-11-440	REP	93-15-019	315-11-561	REP-P	93-12-104
314-12-030	AMD	93-10-092	315-11-441	REP-P	93-12-104	315-11-561	REP	93-15-019
314-12-030	AMD-P	93-15-117	315-11-441	REP	93-15-019	315-11-562	REP-P	93-12-104
314-12-140	AMD-P	93-07-110	315-11-442	REP-P	93-12-104	315-11-562	REP	93-15-019
314-12-140	AMD	93-10-070	315-11-442	REP	93-15-019	315-11-570	REP-P	93-12-104
314-15-010	NEW-E	93-15-061	315-11-450	REP-P	93-12-104	315-11-570	REP	93-15-019
314-15-020	NEW-E	93-15-061	315-11-450	REP	93-15-019	315-11-571	REP-P	93-12-104
314-15-030	NEW-E	93-15-061	315-11-451	REP-P	93-12-104	315-11-571	REP	93-15-019
314-15-040	NEW-E	93-15-061	315-11-451	REP	93-15-019	315-11-572	REP-P	93-12-104

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
315-11-572	REP	93-15-019	315-20-005	NEW-P	93-12-104	317-05-020	NEW	93-07-004
315-11-580	REP-P	93-12-104	315-20-005	NEW	93-15-019	317-05-030	NEW-P	93-02-053
315-11-580	REP	93-15-019	315-20-070	REP-P	93-12-104	317-05-030	NEW	93-07-004
315-11-581	REP-P	93-12-104	315-20-070	REP	93-15-019	317-10-035	AMD-P	93-09-069
315-11-581	REP	93-15-019	315-20-075	NEW-P	93-12-104	317-10-035	AMD	93-14-096
315-11-582	REP-P	93-12-104	315-20-075	NEW	93-15-019	317-10-060	AMD-P	93-06-089
315-11-582	REP	93-15-019	315-20-080	REP-P	93-12-104	317-10-060	AMD	93-11-001
315-11-590	REP-P	93-12-104	315-20-080	REP	93-15-019	317-20	NEW-P	93-02-055
315-11-590	REP	93-15-019	315-20-085	NEW-P	93-12-104	317-20	NEW	93-07-005
315-11-591	REP-P	93-12-104	315-20-085	NEW	93-15-019	317-20-010	NEW-P	93-02-055
315-11-591	REP	93-15-019	315-20-090	REP-P	93-12-104	317-20-010	NEW	93-07-005
315-11-592	REP-P	93-12-104	315-20-090	REP	93-15-019	317-20-020	NEW-P	93-02-055
315-11-592	REP	93-15-019	315-20-095	NEW-P	93-12-104	317-20-020	NEW	93-07-005
315-11-890	AMD-P	93-03-094	315-20-095	NEW	93-15-019	317-20-025	NEW	93-07-005
315-11-890	AMD	93-07-016	315-20-100	REP-P	93-12-104	317-20-030	NEW-P	93-02-055
315-11-920	NEW	93-03-008	315-20-100	REP	93-15-019	317-20-030	NEW	93-07-005
315-11-921	NEW	93-03-008	315-20-105	NEW-P	93-12-104	317-20-040	NEW-P	93-02-055
315-11-922	NEW	93-03-008	315-20-105	NEW	93-15-019	317-20-040	NEW	93-07-005
315-11-930	NEW	93-03-008	315-20-110	REP-P	93-12-104	317-20-050	NEW-P	93-02-055
315-11-931	NEW	93-03-008	315-20-110	REP	93-15-019	317-20-050	NEW	93-07-005
315-11-932	NEW	93-03-008	315-20-115	NEW-P	93-12-104	317-20-055	NEW-P	93-02-055
315-11-940	NEW	93-03-008	315-20-115	NEW	93-15-019	317-20-055	NEW	93-07-005
315-11-941	NEW	93-03-008	315-20-120	REP-P	93-12-104	317-20-060	NEW-P	93-02-055
315-11-942	NEW	93-03-008	315-20-120	REP	93-15-019	317-20-060	NEW	93-07-005
315-11-950	NEW-P	93-03-094	315-20-130	REP-P	93-12-104	317-20-065	NEW-P	93-02-055
315-11-950	NEW	93-07-016	315-20-130	REP	93-15-019	317-20-065	NEW	93-07-005
315-11-951	NEW-P	93-03-094	315-20-140	REP-P	93-12-104	317-20-066	NEW-P	93-02-055
315-11-951	NEW	93-07-016	315-20-140	REP	93-15-019	317-20-066	NEW	93-07-005
315-11-952	NEW-P	93-03-094	315-20-150	REP-P	93-12-104	317-20-070	NEW-P	93-02-055
315-11-952	NEW	93-07-016	315-20-150	REP	93-15-019	317-20-070	NEW	93-07-005
315-11-960	NEW-P	93-03-094	315-33A-030	AMD-P	93-16-096	317-20-080	NEW-P	93-02-055
315-11-960	NEW	93-07-016	315-33A-050	AMD-P	93-16-096	317-20-080	NEW	93-07-005
315-11-961	NEW-P	93-03-094	315-33A-060	AMD-P	93-16-096	317-20-090	NEW-P	93-02-055
315-11-961	NEW	93-07-016	315-33B-060	AMD-P	93-16-096	317-20-090	NEW	93-07-005
315-11-962	NEW-P	93-03-094	315-34-040	AMD	93-03-008	317-20-100	NEW-P	93-02-055
315-11-962	NEW	93-07-016	317-01-010	NEW-P	93-06-086	317-20-100	NEW	93-07-005
315-11-970	NEW-P	93-03-094	317-01-010	NEW	93-11-004	317-20-110	NEW-P	93-02-055
315-11-970	NEW	93-07-016	317-01-020	NEW-P	93-06-086	317-20-110	NEW	93-07-005
315-11-971	NEW-P	93-03-094	317-01-020	NEW	93-11-004	317-20-120	NEW-P	93-02-055
315-11-971	NEW	93-07-016	317-01-030	NEW-P	93-06-086	317-20-120	NEW	93-07-005
315-11-972	NEW-P	93-03-094	317-01-030	NEW	93-11-004	317-20-130	NEW-P	93-02-055
315-11-972	NEW	93-07-016	317-02-010	NEW-P	93-06-087	317-20-130	NEW	93-07-005
315-11-980	NEW-P	93-07-121	317-02-010	NEW	93-11-003	317-20-140	NEW-P	93-02-055
315-11-980	NEW	93-11-056	317-02-020	NEW-P	93-06-087	317-20-140	NEW	93-07-005
315-11-981	NEW-P	93-07-121	317-02-020	NEW	93-11-003	317-20-150	NEW-P	93-02-055
315-11-981	NEW	93-11-056	317-02-030	NEW-P	93-06-087	317-20-150	NEW	93-07-005
315-11-982	NEW-P	93-07-121	317-02-030	NEW	93-11-003	317-20-155	NEW	93-07-005
315-11-982	NEW	93-11-056	317-02-040	NEW-P	93-06-087	317-20-160	NEW-P	93-02-055
315-11-990	NEW-P	93-07-121	317-02-040	NEW	93-11-003	317-20-160	NEW	93-07-005
315-11-990	NEW	93-11-056	317-02-050	NEW-P	93-06-087	317-20-165	NEW-P	93-02-055
315-11-990	AMD-P	93-16-096	317-02-050	NEW	93-11-003	317-20-165	NEW	93-07-005
315-11-991	NEW-P	93-07-121	317-02-060	NEW-P	93-06-087	317-20-170	NEW-P	93-02-055
315-11-991	NEW	93-11-056	317-02-060	NEW	93-11-003	317-20-170	NEW	93-07-005
315-11-991	AMD-P	93-16-096	317-02-070	NEW-P	93-06-087	317-20-180	NEW-P	93-02-055
315-11-992	NEW-P	93-07-121	317-02-070	NEW	93-11-003	317-20-180	NEW	93-07-005
315-11-992	NEW	93-11-056	317-02-080	NEW-P	93-06-087	317-20-190	NEW-P	93-02-055
315-11-992	AMD-P	93-16-096	317-02-080	NEW	93-11-003	317-20-190	NEW	93-07-005
315-11A-100	NEW-P	93-07-121	317-02-090	NEW-P	93-06-087	317-20-200	NEW-P	93-02-055
315-11A-100	NEW	93-11-056	317-02-090	NEW	93-11-003	317-20-200	NEW	93-07-005
315-11A-101	NEW-P	93-12-104	317-02-100	NEW-P	93-06-087	317-20-210	NEW-P	93-02-055
315-11A-101	NEW	93-15-019	317-02-100	NEW	93-11-003	317-20-210	NEW	93-07-005
315-11A-102	NEW-P	93-12-104	317-02-110	NEW-P	93-06-087	317-20-220	NEW-P	93-02-055
315-11A-102	NEW	93-15-019	317-02-110	NEW	93-11-003	317-20-220	NEW	93-07-005
315-11A-103	NEW-P	93-12-104	317-02-120	NEW-P	93-06-087	317-20-230	NEW-P	93-02-055
315-11A-103	NEW	93-15-019	317-02-120	NEW	93-11-003	317-20-230	NEW	93-07-005
315-11A-104	NEW-P	93-12-104	317-03-010	NEW-P	93-06-088	317-20-240	NEW-P	93-02-055
315-11A-104	NEW	93-15-019	317-03-010	NEW	93-11-002	317-20-240	NEW	93-07-005
315-11A-105	NEW-P	93-12-104	317-03-020	NEW-P	93-06-088	317-20-900	NEW-P	93-02-055
315-11A-105	NEW	93-15-019	317-03-020	NEW	93-11-002	317-20-900	NEW	93-07-005
315-11A-106	NEW-P	93-16-096	317-03-030	NEW-P	93-06-088	317-30-010	NEW-P	93-02-054
315-11A-107	NEW-P	93-16-096	317-05-010	NEW-P	93-02-053	317-30-010	NEW	93-07-003
315-11A-108	NEW-P	93-16-096	317-05-010	NEW	93-07-004	317-30-020	NEW-P	93-02-054
315-11A-109	NEW-P	93-16-096	317-05-020	NEW-P	93-02-053	317-30-020	NEW	93-07-003

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
317-30-030	NEW-P	93-02-054	332-24-730	NEW-W	93-10-108	356-14-260	AMD-C	93-14-060
317-30-030	NEW	93-07-003	332-24-730	NEW	93-14-016	356-14-260	AMD-E	93-14-066
317-30-040	NEW-P	93-02-054	332-26-010	NEW-E	93-15-048	356-15-030	AMD-W	93-02-035
317-30-040	NEW	93-07-003	332-26-040	NEW-E	93-15-048	356-15-030	AMD-P	93-08-072
317-30-050	NEW-P	93-02-054	332-26-050	NEW-E	93-15-048	356-15-030	AMD-C	93-12-084
317-30-050	NEW	93-07-003	332-26-060	NEW-E	93-15-048	356-15-030	AMD-C	93-14-060
317-30-060	NEW-P	93-02-054	332-26-080	NEW-E	93-09-020	356-15-030	AMD-E	93-14-066
317-30-060	NEW	93-07-003	332-26-080	AMD-E	93-10-058	356-15-033	NEW-W	93-02-035
317-30-070	NEW-P	93-02-054	352-12-020	AMD	93-08-025	356-15-050	AMD-W	93-02-035
317-30-070	NEW	93-07-003	352-12-020	AMD-E	93-10-060	356-15-060	AMD-P	93-02-039
317-30-080	NEW-P	93-02-054	352-12-020	RESCIND	93-14-068	356-15-060	AMD-C	93-06-080
317-30-080	NEW	93-07-003	352-12-030	AMD	93-08-025	356-15-060	AMD-C	93-09-059
317-30-090	NEW-P	93-02-054	352-12-030	AMD-E	93-10-060	356-15-060	AMD	93-12-086
317-30-090	NEW	93-07-003	352-12-020	RESCIND	93-14-068	356-15-080	AMD-W	93-02-035
317-30-100	NEW-P	93-02-054	352-12-050	AMD	93-06-001	356-15-100	AMD-W	93-02-035
317-30-100	NEW	93-07-003	352-32-010	AMD	93-06-001	356-18-060	AMD-P	93-08-072
317-30-110	NEW-P	93-02-054	352-32-010	AMD	93-08-025	356-18-060	AMD-C	93-12-084
317-30-110	NEW	93-07-003	352-32-030	AMD	93-06-001	356-18-060	AMD-C	93-14-060
317-30-120	NEW-P	93-02-054	352-32-035	AMD	93-06-001	356-18-060	AMD-E	93-14-066
317-30-120	NEW	93-07-003	352-32-120	AMD	93-06-001	356-18-110	AMD-P	93-08-072
317-30-130	NEW-P	93-02-054	352-32-250	AMD	93-08-025	356-18-110	AMD-C	93-12-084
317-30-130	NEW	93-07-003	352-32-250	AMD-E	93-10-060	356-18-110	AMD-C	93-14-060
317-30-140	NEW-P	93-02-054	352-32-250	AMD-E	93-14-069	356-18-110	AMD-E	93-14-066
317-30-140	NEW	93-07-003	352-32-250	AMD-P	93-14-070	356-18-145	NEW-P	93-08-072
317-30-150	NEW-P	93-02-054	352-32-252	AMD	93-08-025	356-18-145	NEW-C	93-12-084
317-30-150	NEW	93-07-003	352-32-252	AMD-E	93-10-060	356-18-145	NEW-C	93-14-060
317-30-900	NEW-P	93-02-054	352-32-252	RESCIND	93-14-068	356-18-145	NEW-E	93-14-066
317-30-900	NEW	93-07-003	352-32-285	AMD	93-06-001	356-18-150	AMD-P	93-08-072
317-100-010	NEW-P	93-09-070	352-67-010	NEW-P	93-16-066	356-18-150	AMD-C	93-12-084
317-100-010	NEW	93-14-097	352-67-020	NEW-P	93-16-066	356-18-150	AMD-C	93-14-060
317-100-020	NEW-P	93-09-070	352-67-030	NEW-P	93-16-066	356-18-150	AMD-E	93-14-066
317-100-020	NEW	93-14-097	352-67-040	NEW-P	93-16-066	356-18-230	REP-P	93-02-037
317-100-030	NEW-P	93-09-070	352-67-050	NEW-P	93-16-066	356-18-230	REP	93-06-081
317-100-030	NEW	93-14-097	352-70-010	AMD-P	93-16-065	356-22-005	NEW-P	93-10-028
317-100-040	NEW-P	93-09-070	352-70-020	AMD-P	93-16-065	356-22-005	NEW-C	93-14-056
317-100-040	NEW	93-14-097	352-70-040	AMD-P	93-16-065	356-22-070	AMD	93-02-040
317-100-050	NEW-P	93-09-070	352-70-050	AMD-P	93-16-065	356-22-070	AMD-P	93-08-047
317-100-050	NEW	93-14-097	352-70-060	AMD-P	93-16-065	356-22-070	AMD	93-12-085
317-100-060	NEW-P	93-09-070	356-05-157	NEW-P	93-04-097	356-22-125	NEW-P	93-14-065
317-100-060	NEW	93-14-097	356-05-157	NEW-C	93-08-046	356-26-030	AMD-P	93-08-042
317-100-070	NEW-P	93-09-070	356-05-157	NEW-W	93-10-026	356-26-030	AMD	93-12-088
317-100-070	NEW	93-14-097	356-05-157	NEW-P	93-10-028	356-26-040	AMD	93-02-040
317-100-080	NEW-P	93-09-070	356-05-160	NEW-C	93-14-056	356-26-060	AMD-P	93-02-038
317-100-080	NEW	93-14-097	356-05-160	REP-W	93-02-035	356-26-060	AMD-C	93-06-077
317-100-090	NEW-P	93-09-070	356-05-171	NEW-P	93-14-059	356-26-060	AMD	93-08-048
317-100-090	NEW	93-14-097	356-05-171	NEW-E	93-14-066	356-26-060	AMD-P	93-12-102
318-04-020	AMD-P	93-11-072	356-05-307	NEW-P	93-12-100	356-26-060	AMD-E	93-14-092
318-04-020	AMD	93-14-105	356-05-307	NEW-W	93-16-021	356-26-060	AMD-P	93-16-020
318-04-030	AMD-P	93-11-072	356-06-003	NEW-E	93-14-092	356-26-060	AMD-W	93-16-021
318-04-030	AMD	93-14-105	356-06-003	NEW-P	93-16-020	356-26-075	NEW-E	93-15-018
318-04-030	AMD-E	93-14-106	356-06-080	AMD-E	93-14-092	356-26-100	AMD-E	93-14-092
318-04-050	AMD-P	93-11-072	356-06-080	AMD-P	93-16-020	356-26-100	AMD-P	93-16-020
318-04-050	AMD	93-14-105	356-09-040	AMD-P	93-12-100	356-26-105	NEW-P	93-12-101
326-02-031	NEW-P	93-12-135	356-09-040	AMD-W	93-16-021	356-26-105	NEW-W	93-16-021
326-02-031	NEW-E	93-12-136	356-09-050	AMD-P	93-12-100	356-26-110	AMD-P	93-14-062
326-02-031	NEW	93-16-080	356-09-050	AMD-W	93-16-021	356-30-130	AMD-P	93-08-042
326-02-032	NEW-P	93-12-135	356-10-020	AMD-E	93-14-092	356-30-130	AMD	93-12-088
326-02-032	NEW-E	93-12-136	356-10-020	AMD-P	93-16-020	356-30-260	AMD-P	93-06-079
326-02-033	NEW-P	93-12-135	356-10-030	AMD-P	93-04-097	356-30-260	AMD-C	93-09-058
326-02-033	NEW-E	93-12-136	356-10-030	AMD-C	93-08-046	356-30-260	AMD-W	93-14-055
326-02-033	NEW	93-16-080	356-10-030	AMD-C	93-10-026	356-30-330	AMD-C	93-02-036
326-02-034	NEW-P	93-12-135	356-10-050	AMD-W	93-10-026	356-30-330	AMD-C	93-04-099
326-02-034	NEW-E	93-12-136	356-10-060	AMD-P	93-14-064	356-30-330	AMD-C	93-08-045
326-20-125	NEW	93-16-080	356-10-060	AMD-P	93-08-043	356-30-330	AMD-C	93-08-045
326-30-042	NEW-E	93-15-088	356-10-060	AMD-C	93-12-083	356-30-330	AMD-W	93-09-060
326-30-051	AMD-E	93-16-081	356-10-060	AMD-C	93-14-058	356-30-331	NEW-E	93-09-003
326-40-010	AMD-E	93-05-037	356-10-060	AMD-P	93-14-064	356-30-331	NEW-P	93-09-057
326-40-060	AMD-E	93-16-081	356-14-075	AMD-P	93-08-044	356-30-331	NEW-C	93-14-057
332-24-710	NEW	93-03-007	356-14-075	AMD	93-12-087	356-30-331	NEW	93-16-022
332-24-720	NEW-P	93-03-064	356-14-110	AMD-P	93-14-092	356-34-020	AMD-W	93-02-035
332-24-720	NEW	93-07-002	356-14-110	AMD-P	93-16-020	356-34-022	NEW-W	93-02-035
332-24-730	NEW-P	93-04-107	356-14-220	AMD-W	93-02-035	356-34-090	AMD	93-02-040
332-24-730	NEW-P	93-10-107	356-14-260	AMD-P	93-08-072	356-35-010	AMD-C	93-02-041
			356-14-260	AMD-C	93-12-084	356-35-010	AMD-C	93-04-098

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
356-35-010	AMD-C	93-06-078	365-24-850	REP-P	93-15-086	365-300-050	NEW-E	93-07-063
356-35-010	AMD-W	93-07-054	365-24-852	REP-P	93-15-086	365-300-050	NEW-P	93-07-112
356-35-010	AMD-P	93-10-027	365-24-854	REP-P	93-15-086	365-300-050	NEW	93-11-039
356-35-010	AMD	93-14-067	365-24-856	REP-P	93-15-086	365-300-060	NEW-E	93-07-063
356-47-010	REP-E	93-14-061	365-24-858	REP-P	93-15-086	365-300-060	NEW-P	93-07-112
356-47-010	REP-P	93-14-063	365-24-860	REP-P	93-15-086	365-300-060	NEW	93-11-039
356-47-020	REP-E	93-14-061	365-24-862	REP-P	93-15-086	365-300-070	NEW-E	93-07-063
356-47-020	REP-P	93-14-063	365-24-870	REP-P	93-15-086	365-300-070	NEW-P	93-07-112
356-47-030	REP-E	93-14-061	365-24-880	REP-P	93-15-086	365-300-070	NEW	93-11-039
356-47-030	REP-P	93-14-063	365-24-882	REP-P	93-15-086	365-300-081	NEW-E	93-07-063
356-47-040	REP-E	93-14-061	365-24-884	REP-P	93-15-086	365-300-081	NEW-P	93-07-112
356-47-040	REP-P	93-14-063	365-24-910	REP-P	93-15-086	365-300-081	NEW	93-11-039
356-47-045	REP-E	93-14-061	365-24-920	REP-P	93-15-086	365-300-090	NEW-E	93-07-063
356-47-045	REP-P	93-14-063	365-24-930	REP-P	93-15-086	365-300-090	NEW-P	93-07-112
356-47-046	REP-E	93-14-061	365-24-940	REP-P	93-15-086	365-300-090	NEW	93-11-039
356-47-046	REP-P	93-14-063	365-24-950	REP-P	93-15-086	374-60-020	AMD	93-04-041
356-47-060	REP-E	93-14-061	365-24-960	REP-P	93-15-086	374-60-060	AMD	93-04-041
356-47-060	REP-P	93-14-063	365-135-020	AMD-P	93-09-061	374-60-070	AMD	93-04-041
356-47-065	REP-E	93-14-061	365-135-020	AMD	93-13-012	374-60-120	AMD	93-04-041
356-47-065	REP-P	93-14-063	365-135-040	AMD-P	93-09-061	388-11-010	AMD	93-05-020
356-47-070	REP-E	93-14-061	365-135-040	AMD	93-13-012	388-11-011	AMD	93-05-020
356-47-070	REP-P	93-14-063	365-135-050	AMD-P	93-09-061	388-11-015	AMD-P	93-13-067
356-47-080	REP-E	93-14-061	365-135-050	AMD	93-13-012	388-11-030	AMD-P	93-13-067
356-47-080	REP-P	93-14-063	365-135-070	NEW-P	93-09-061	388-11-035	NEW-P	93-13-067
356-47-090	REP-E	93-14-061	365-135-070	NEW	93-13-012	388-11-045	AMD	93-05-020
356-47-090	REP-P	93-14-063	365-140-030	AMD-P	93-08-087	388-11-055	AMD-P	93-13-067
356-47-100	REP-E	93-14-061	365-140-040	AMD-P	93-08-087	388-11-115	REP-P	93-13-067
356-47-100	REP-P	93-14-063	365-140-050	AMD-P	93-08-087	388-11-120	AMD	93-05-020
356-47-120	REP-E	93-14-061	365-140-060	AMD-P	93-08-087	388-11-120	AMD-P	93-13-067
356-47-120	REP-P	93-14-063	365-195-210	AMD-P	93-13-138	388-11-135	AMD-P	93-13-067
356-56-020	NEW-E	93-14-091	365-195-220	AMD-P	93-13-138	388-11-143	NEW-P	93-16-057
356-56-020	NEW-P	93-16-019	365-195-620	AMD-P	93-13-138	388-11-145	AMD-P	93-13-067
356-56-021	NEW-E	93-14-091	365-195-700	AMD-P	93-13-138	388-11-150	AMD	93-05-020
356-56-021	NEW-P	93-16-019	365-195-705	NEW-P	93-13-138	388-11-170	AMD-P	93-13-067
365-24-010	REP-P	93-15-086	365-195-710	AMD-P	93-13-138	388-11-210	AMD	93-05-020
365-24-020	REP-P	93-15-086	365-195-715	NEW-P	93-13-138	388-14-030	AMD	93-05-020
365-24-030	REP-P	93-15-086	365-195-720	AMD-P	93-13-138	388-14-205	AMD	93-05-020
365-24-040	REP-P	93-15-086	365-195-725	NEW-P	93-13-138	388-14-385	AMD	93-05-020
365-24-050	REP-P	93-15-086	365-195-730	NEW-P	93-13-138	388-14-420	AMD	93-05-020
365-24-060	REP-P	93-15-086	365-195-735	NEW-P	93-13-138	388-14-427	NEW	93-05-020
365-24-100	REP-P	93-15-086	365-195-740	NEW-P	93-13-138	388-14-435	AMD	93-05-020
365-24-110	REP-P	93-15-086	365-195-745	NEW-P	93-13-138	388-15-132	AMD-P	93-10-093
365-24-210	REP-P	93-15-086	365-195-750	NEW-P	93-13-138	388-15-132	AMD	93-13-021
365-24-220	REP-P	93-15-086	365-195-755	NEW-P	93-13-138	388-15-136	REP-P	93-10-093
365-24-230	REP-P	93-15-086	365-195-760	NEW-P	93-13-138	388-15-136	REP	93-13-021
365-24-240	REP-P	93-15-086	365-195-765	NEW-P	93-13-138	388-15-170	AMD-P	93-07-018
365-24-310	REP-P	93-15-086	365-195-770	NEW-P	93-13-138	388-15-170	AMD-E	93-07-019
365-24-312	REP-P	93-15-086	365-195-800	AMD-P	93-13-138	388-15-170	AMD	93-10-021
365-24-320	REP-P	93-15-086	365-195-805	NEW-P	93-13-138	388-15-202	NEW-C	93-04-023
365-24-330	REP-P	93-15-086	365-195-810	AMD-P	93-13-138	388-15-202	NEW	93-06-042
365-24-410	REP-P	93-15-086	365-195-815	NEW-P	93-13-138	388-15-203	NEW-C	93-04-023
365-24-420	REP-P	93-15-086	365-195-820	AMD-P	93-13-138	388-15-203	NEW	93-06-042
365-24-430	REP-P	93-15-086	365-195-825	NEW-P	93-13-138	388-15-204	NEW-C	93-04-023
365-24-440	REP-P	93-15-086	365-195-830	AMD-P	93-13-138	388-15-204	NEW	93-06-042
365-24-450	REP-P	93-15-086	365-195-835	NEW-P	93-13-138	388-15-205	NEW-C	93-04-023
365-24-460	REP-P	93-15-086	365-195-840	AMD-P	93-13-138	388-15-205	NEW	93-06-042
365-24-510	REP-P	93-15-086	365-195-845	NEW-P	93-13-138	388-15-207	AMD	93-04-036
365-24-520	REP-P	93-15-086	365-195-850	NEW-P	93-13-138	388-15-208	AMD	93-04-036
365-24-530	REP-P	93-15-086	365-195-855	NEW-P	93-13-138	388-15-209	AMD	93-04-036
365-24-540	REP-P	93-15-086	365-195-860	NEW-P	93-13-138	388-15-212	AMD	93-04-036
365-24-610	REP-P	93-15-086	365-195-865	NEW-P	93-13-138	388-15-213	AMD	93-04-036
365-24-620	REP-P	93-15-086	365-300-010	NEW-E	93-07-063	388-15-214	AMD	93-04-036
365-24-710	REP-P	93-15-086	365-300-010	NEW-P	93-07-112	388-15-215	AMD	93-04-036
365-24-720	REP-P	93-15-086	365-300-010	NEW	93-11-039	388-15-216	AMD	93-04-036
365-24-730	REP-P	93-15-086	365-300-020	NEW-E	93-07-063	388-15-217	AMD	93-04-036
365-24-810	REP-P	93-15-086	365-300-020	NEW-P	93-07-112	388-15-600	AMD-P	93-11-085
365-24-820	REP-P	93-15-086	365-300-020	NEW	93-11-039	388-15-600	AMD	93-13-135
365-24-822	REP-P	93-15-086	365-300-030	NEW-E	93-07-063	388-15-610	AMD-P	93-11-085
365-24-824	REP-P	93-15-086	365-300-030	NEW-P	93-07-112	388-15-610	AMD	93-13-135
365-24-830	REP-P	93-15-086	365-300-030	NEW	93-11-039	388-15-615	AMD-P	93-11-085
365-24-832	REP-P	93-15-086	365-300-040	NEW-E	93-07-063	388-15-615	AMD	93-13-135
365-24-834	REP-P	93-15-086	365-300-040	NEW-P	93-07-112	388-15-620	AMD-P	93-11-085
365-24-840	REP-P	93-15-086	365-300-040	NEW	93-11-039	388-15-620	AMD	93-13-135

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-15-630	AMD-P	93-11-085	388-34-045	REP-W	93-08-113	388-37-030	REP	93-16-058
388-15-630	AMD	93-13-135	388-34-045	REP-P	93-16-106	388-37-032	REP-P	93-08-074
388-15-820	AMD-P	93-07-071	388-34-055	REP-P	93-06-040	388-37-032	REP	93-16-058
388-15-820	AMD	93-10-023	388-34-055	REP-W	93-08-113	388-37-035	REP-P	93-08-074
388-15-830	AMD-P	93-07-071	388-34-055	REP-P	93-16-106	388-37-035	REP	93-16-058
388-15-830	AMD	93-10-023	388-34-085	REP-P	93-06-040	388-37-037	REP-P	93-08-074
388-15-840	AMD-P	93-07-071	388-34-085	REP-W	93-08-113	388-37-037	REP	93-16-058
388-15-840	AMD	93-10-023	388-34-085	REP-P	93-16-106	388-37-038	REP-P	93-08-074
388-15-850	AMD-P	93-07-071	388-34-095	REP-P	93-06-040	388-37-038	REP	93-16-058
388-15-850	AMD	93-10-023	388-34-095	REP-W	93-08-113	388-37-039	REP-P	93-08-074
388-15-860	AMD-P	93-07-071	388-34-095	REP-P	93-16-106	388-37-039	REP	93-16-058
388-15-860	AMD	93-10-023	388-34-110	REP-P	93-06-040	388-37-040	REP-P	93-08-074
388-15-870	AMD-P	93-07-071	388-34-110	REP-W	93-08-113	388-37-040	REP	93-16-058
388-15-870	AMD	93-10-023	388-34-110	REP-P	93-16-106	388-37-045	NEW-C	93-04-025
388-15-880	AMD-P	93-07-071	388-34-120	REP-P	93-06-040	388-37-045	NEW	93-06-073
388-15-880	AMD	93-10-023	388-34-120	REP-W	93-08-113	388-37-045	REP-P	93-08-074
388-15-890	NEW-P	93-07-071	388-34-120	REP-P	93-16-106	388-37-045	REP	93-16-058
388-15-890	NEW	93-10-023	388-34-125	REP-P	93-06-040	388-37-050	AMD-C	93-04-025
388-21-005	NEW	93-04-037	388-34-125	REP-W	93-08-113	388-37-050	AMD	93-06-073
388-24-074	AMD-P	93-03-055	388-34-125	REP-P	93-16-106	388-37-050	REP-P	93-08-074
388-24-074	AMD	93-12-055	388-34-140	REP-P	93-06-040	388-37-050	REP	93-16-058
388-24-050	AMD-P	93-16-056	388-34-140	REP-W	93-08-113	388-37-100	REP-P	93-08-074
388-24-253	AMD-P	93-04-035	388-34-140	REP-P	93-16-106	388-37-100	REP	93-16-058
388-24-253	AMD	93-07-034	388-34-140	REP-P	93-06-040	388-37-100	REP-P	93-08-074
388-28-392	AMD	93-04-028	388-34-150	REP-P	93-06-040	388-37-110	REP-P	93-08-074
388-28-425	AMD-P	93-03-056	388-34-150	REP-W	93-08-113	388-37-110	REP	93-16-058
388-28-425	AMD	93-12-056	388-34-150	REP-P	93-16-106	388-37-115	REP-P	93-08-074
388-28-435	AMD-P	93-05-004	388-34-160	REP-P	93-06-040	388-37-115	REP	93-16-058
388-28-435	AMD	93-07-126	388-34-160	REP-W	93-08-113	388-37-120	REP-P	93-08-074
388-28-485	AMD-P	93-07-072	388-34-160	REP-P	93-16-106	388-37-120	REP	93-16-058
388-28-485	AMD	93-10-022	388-34-165	REP-P	93-06-040	388-37-130	REP-P	93-08-074
388-28-500	AMD-P	93-15-070	388-34-165	REP-W	93-08-113	388-37-130	REP	93-16-058
388-28-560	AMD-P	93-15-070	388-34-165	REP-P	93-16-106	388-37-135	REP-P	93-08-074
388-28-570	AMD-P	93-03-057	388-34-180	REP-P	93-06-040	388-37-135	REP	93-16-058
388-28-570	AMD	93-12-057	388-34-180	REP-W	93-08-113	388-37-140	REP-P	93-08-074
388-28-575	AMD-P	93-04-027	388-34-180	REP-P	93-16-106	388-37-140	REP	93-16-058
388-28-575	AMD	93-07-031	388-34-180	REP-P	93-06-040	388-37-150	REP-P	93-08-074
388-28-575	AMD-P	93-14-013	388-34-370	REP-W	93-08-113	388-37-150	REP	93-16-058
388-28-575	AMD-E	93-14-014	388-34-370	REP-P	93-16-106	388-37-160	REP-P	93-08-074
388-28-590	AMD-P	93-04-026	388-34-372	REP-P	93-06-040	388-37-160	REP	93-16-058
388-28-590	AMD	93-07-032	388-34-372	REP-W	93-08-113	388-37-170	REP-P	93-08-074
388-29-100	AMD	93-04-030	388-34-372	REP-P	93-16-106	388-37-170	REP	93-16-058
388-29-100	AMD-P	93-15-047	388-34-374	REP-P	93-06-040	388-37-180	REP-P	93-08-074
388-29-110	AMD	93-04-030	388-34-374	REP-W	93-08-113	388-37-180	REP	93-16-058
388-29-112	AMD	93-04-030	388-34-374	REP-P	93-16-106	388-37-190	REP-P	93-08-074
388-29-130	AMD-P	93-09-017	388-34-375	REP-P	93-06-040	388-37-190	REP	93-16-058
388-29-130	AMD	93-12-052	388-34-375	REP-W	93-08-113	388-37-300	REP-P	93-08-074
388-29-160	AMD	93-04-030	388-34-375	REP-P	93-16-106	388-37-300	REP	93-16-058
388-29-220	AMD	93-04-030	388-34-376	REP-P	93-06-040	388-37-310	REP-P	93-08-074
388-29-280	AMD-P	93-09-017	388-34-376	REP-W	93-08-113	388-37-310	REP	93-16-058
388-29-280	AMD	93-12-052	388-34-376	REP-P	93-16-106	388-37-320	REP-P	93-08-074
388-29-295	AMD	93-04-030	388-34-378	REP-P	93-06-040	388-37-320	REP	93-16-058
388-31-035	AMD-P	93-13-018	388-34-378	REP-W	93-08-113	388-37-330	REP-P	93-08-074
388-31-035	AMD	93-16-043	388-34-378	REP-P	93-16-106	388-37-330	REP	93-16-058
388-34-010	REP-P	93-06-040	388-34-380	REP-P	93-06-040	388-37-340	REP-P	93-08-074
388-34-010	REP-W	93-08-113	388-34-380	REP-W	93-08-113	388-37-340	REP	93-16-058
388-34-010	REP-P	93-16-106	388-34-380	REP-P	93-16-106	388-37-350	REP-P	93-08-074
388-34-015	REP-P	93-06-040	388-34-384	REP-P	93-06-040	388-37-350	REP	93-16-058
388-34-015	REP-W	93-08-113	388-34-384	REP-W	93-08-113	388-37-360	REP-P	93-08-074
388-34-015	REP-P	93-16-106	388-34-384	REP-P	93-16-106	388-37-360	REP	93-16-058
388-34-020	REP-P	93-06-040	388-37	REP-C	93-12-050	388-37-370	REP-P	93-08-074
388-34-020	REP-W	93-08-113	388-37	REP-C	93-13-022	388-37-370	REP	93-16-058
388-34-020	REP-P	93-16-106	388-37	REP-C	93-14-085	388-37-380	REP-P	93-08-074
388-34-025	REP-P	93-06-040	388-37-010	REP-P	93-08-074	388-37-380	REP	93-16-058
388-34-025	REP-W	93-08-113	388-37-010	REP	93-16-058	388-40-010	REP-P	93-15-080
388-34-025	REP-P	93-16-106	388-37-020	REP-P	93-08-074	388-40-020	REP-P	93-15-080
388-34-035	REP-P	93-06-040	388-37-020	REP	93-16-058	388-40-030	REP-P	93-15-080
388-34-035	REP-W	93-08-113	388-37-021	REP-P	93-08-074	388-40-040	REP-P	93-15-080
388-34-035	REP-P	93-16-106	388-37-021	REP	93-16-058	388-40-050	REP-P	93-15-080
388-34-040	REP-P	93-06-040	388-37-025	REP-P	93-08-074	388-40-055	REP-P	93-15-080
388-34-040	REP-W	93-08-113	388-37-029	REP-P	93-16-058	388-40-060	REP-P	93-15-080
388-34-040	REP-P	93-16-106	388-37-029	REP	93-08-074	388-40-070	REP-P	93-15-080
388-34-045	REP-P	93-06-040	388-37-029	REP	93-16-058	388-40-080	REP-P	93-15-080
			388-37-030	REP-P	93-08-074	388-40-090	REP-P	93-15-080

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-40-091	REP-P	93-15-080	388-51-123	AMD-P	93-07-073	388-77A-020	NEW-P	93-03-059
388-40-095	REP-P	93-15-080	388-51-123	AMD	93-12-059	388-77A-020	NEW	93-12-058
388-40-100	REP-P	93-15-080	388-51-125	REP-P	93-07-073	388-77A-030	NEW-P	93-03-059
388-40-110	REP-P	93-15-080	388-51-125	REP	93-12-059	388-77A-030	NEW	93-12-058
388-42-020	AMD	93-05-021	388-51-130	AMD-P	93-07-073	388-77A-040	NEW-P	93-03-059
388-42-020	REP-E	93-11-083	388-51-130	AMD	93-12-059	388-77A-040	NEW	93-12-058
388-42-020	REP-P	93-11-084	388-51-135	AMD-P	93-07-073	388-77A-041	NEW	93-12-058
388-42-020	REP	93-13-134	388-51-135	AMD	93-12-059	388-77A-050	NEW-P	93-03-059
388-42-025	AMD	93-05-021	388-51-150	REP-P	93-07-073	388-77A-050	NEW	93-12-058
388-42-025	REP-E	93-11-083	388-51-150	REP	93-12-059	388-77A-055	NEW	93-12-058
388-42-025	REP-P	93-11-084	388-51-155	NEW-P	93-07-073	388-81-047	AMD-P	93-13-120
388-42-025	REP	93-13-134	388-51-155	NEW	93-12-059	388-81-047	AMD	93-16-045
388-42-030	REP-E	93-11-083	388-51-160	NEW-P	93-07-073	388-81-047	AMD-E	93-16-046
388-42-030	REP-P	93-11-084	388-51-160	NEW	93-12-059	388-81-060	AMD	93-04-024
388-42-030	REP	93-13-134	388-51-170	NEW-P	93-07-073	388-81-065	NEW-E	93-13-121
388-42-040	REP-E	93-11-083	388-51-170	NEW	93-12-059	388-81-065	NEW-P	93-13-123
388-42-040	REP-P	93-11-084	388-51-180	NEW-P	93-07-073	388-81-065	NEW	93-16-036
388-42-040	REP	93-13-134	388-51-180	NEW	93-12-059	388-81-065	RESCIND	93-16-047
388-42-100	REP-E	93-11-083	388-51-200	REP-P	93-07-073	388-81-100	NEW-P	93-07-124
388-42-100	REP-P	93-11-084	388-51-200	REP	93-12-059	388-81-100	NEW	93-11-047
388-42-100	REP	93-13-134	388-51-210	NEW-P	93-07-073	388-82-010	AMD	93-04-033
388-42-110	REP-E	93-11-083	388-51-210	NEW	93-12-059	388-82-115	AMD-P	93-03-060
388-42-110	REP-P	93-11-084	388-51-250	NEW-P	93-07-073	388-82-115	AMD-E	93-03-061
388-42-110	REP	93-13-134	388-51-250	NEW	93-12-059	388-82-115	AMD	93-06-037
388-42-115	REP-E	93-11-083	388-51-260	NEW-P	93-07-073	388-82-140	AMD-P	93-08-022
388-42-115	REP-P	93-11-084	388-51-260	NEW	93-12-059	388-82-140	AMD-E	93-08-023
388-42-115	REP	93-13-134	388-51-300	REP-P	93-07-073	388-82-140	AMD	93-11-049
388-42-125	REP-E	93-11-083	388-51-300	REP	93-12-059	388-82-150	NEW	93-04-024
388-42-125	REP-P	93-11-084	388-60-005	NEW-P	93-06-082	388-82-150	AMD-P	93-08-022
388-42-125	REP	93-13-134	388-60-005	NEW	93-10-024	388-82-150	AMD-E	93-08-023
388-42-150	AMD	93-05-021	388-60-120	NEW-P	93-06-082	388-82-150	AMD	93-11-049
388-42-150	REP-E	93-11-083	388-60-120	NEW	93-10-024	388-82-160	AMD-P	93-08-022
388-42-150	REP-P	93-11-084	388-60-130	NEW-P	93-06-082	388-82-160	AMD-E	93-08-023
388-42-150	REP	93-13-134	388-60-130	NEW	93-10-024	388-82-160	AMD	93-11-049
388-47-115	AMD-P	93-03-058	388-60-140	NEW-P	93-06-082	388-83-006	AMD-P	93-14-027
388-47-115	AMD	93-12-060	388-60-140	NEW	93-10-024	388-83-006	AMD-E	93-14-031
388-49-015	AMD-E	93-11-029	388-60-150	NEW-P	93-06-082	388-83-015	AMD-P	93-06-009
388-49-015	AMD-P	93-11-030	388-60-150	NEW	93-10-024	388-83-015	AMD-E	93-06-010
388-49-015	AMD	93-13-132	388-60-160	NEW-P	93-06-082	388-83-015	AMD	93-08-111
388-49-020	AMD-P	93-08-038	388-60-160	NEW	93-10-024	388-83-015	AMD-P	93-13-079
388-49-020	AMD	93-11-041	388-60-170	NEW-P	93-06-082	388-83-015	AMD-E	93-13-082
388-49-120	AMD-P	93-07-075	388-60-170	NEW	93-10-024	388-83-015	AMD	93-16-042
388-49-120	AMD-C	93-10-019	388-60-180	NEW-P	93-06-082	388-83-017	AMD-P	93-15-046
388-49-120	AMD	93-14-087	388-60-180	NEW	93-10-024	388-83-020	AMD-P	93-15-046
388-49-200	AMD-P	93-08-039	388-62-020	REP-P	93-08-075	388-83-026	AMD-P	93-03-026
388-49-200	AMD	93-11-042	388-62-020	REP	93-12-054	388-83-026	AMD-E	93-03-028
388-49-220	AMD-P	93-08-040	388-62-025	REP-P	93-08-075	388-83-026	AMD	93-06-038
388-49-220	AMD	93-11-043	388-62-025	REP	93-12-054	388-83-029	AMD-P	93-11-067
388-49-430	AMD-P	93-13-053	388-62-035	REP-P	93-08-075	388-83-029	AMD	93-13-131
388-49-430	AMD	93-16-044	388-62-035	REP	93-12-054	388-83-031	AMD-P	93-14-023
388-49-450	AMD-P	93-14-044	388-62-070	REP-P	93-08-075	388-83-03101	NEW-P	93-13-069
388-49-450	AMD-E	93-14-049	388-62-070	REP	93-12-054	388-83-03101	NEW	93-16-035
388-49-470	AMD-P	93-14-044	388-62-075	REP-P	93-08-075	388-83-032	AMD-P	93-08-022
388-49-470	AMD-E	93-14-049	388-62-075	REP	93-12-054	388-83-032	AMD-E	93-08-023
388-49-505	AMD-P	93-15-060	388-62-080	REP-P	93-08-075	388-83-032	AMD	93-11-049
388-49-520	AMD-P	93-14-025	388-62-080	REP	93-12-054	388-83-033	AMD-P	93-03-060
388-49-520	AMD-E	93-14-030	388-62-095	REP-P	93-08-075	388-83-033	AMD-E	93-03-061
388-49-535	AMD-P	93-14-025	388-62-095	REP	93-12-054	388-83-033	AMD	93-06-037
388-49-535	AMD-E	93-14-030	388-62-135	REP-P	93-08-075	388-83-033	AMD-P	93-08-022
388-49-560	AMD	93-04-069	388-62-135	REP	93-12-054	388-83-033	AMD-E	93-08-023
388-49-610	AMD-P	93-11-024	388-62-190	REP-P	93-08-075	388-83-033	AMD	93-11-049
388-49-610	AMD	93-13-133	388-62-190	REP	93-12-054	388-83-041	AMD-P	93-03-026
388-49-700	AMD	93-04-034	388-62-200	REP-P	93-08-075	388-83-041	AMD-E	93-03-028
388-51-020	AMD-P	93-07-073	388-62-200	REP	93-12-054	388-83-041	AMD	93-06-038
388-51-020	AMD	93-12-059	388-70-520	AMD-E	93-03-081	388-83-046	NEW-P	93-07-122
388-51-040	AMD-P	93-07-073	388-70-520	AMD-P	93-03-082	388-83-046	NEW	93-11-045
388-51-040	AMD	93-12-059	388-70-520	AMD	93-07-030	388-83-046	AMD-P	93-16-054
388-51-110	AMD-P	93-07-073	388-74-010	NEW-P	93-09-018	388-83-046	AMD-E	93-16-055
388-51-110	AMD	93-12-059	388-74-010	NEW	93-12-053	388-83-130	AMD-P	93-03-060
388-51-115	AMD-P	93-07-073	388-74-030	NEW-P	93-09-018	388-83-130	AMD-E	93-03-061
388-51-115	AMD	93-12-059	388-74-030	NEW	93-12-053	388-83-130	AMD	93-06-037
388-51-120	AMD-P	93-07-073	388-77A-010	NEW-P	93-03-059	388-83-130	AMD-P	93-16-054
388-51-120	AMD	93-12-059	388-77A-010	NEW	93-12-058	388-83-130	AMD-E	93-16-055

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-83-200	AMD-P	93-07-123	388-88-170	NEW-P	93-16-005	388-96-585	AMD-P	93-08-065
388-83-200	AMD	93-11-044	388-88-180	NEW-E	93-16-003	388-96-585	AMD	93-12-051
388-83-210	AMD-P	93-07-123	388-88-180	NEW-P	93-16-005	388-96-585	AMD-P	93-14-075
388-83-210	AMD	93-11-044	388-88-190	NEW-E	93-16-003	388-96-585	AMD-E	93-14-077
388-83-220	AMD-P	93-07-123	388-88-190	NEW-P	93-16-005	388-96-709	NEW-P	93-08-065
388-83-220	AMD	93-11-044	388-92-025	AMD-P	93-07-122	388-96-709	NEW	93-12-051
388-84-105	AMD-P	93-03-060	388-92-025	AMD	93-11-045	388-96-710	AMD-P	93-08-065
388-84-105	AMD-E	93-03-061	388-92-027	NEW-P	93-07-122	388-96-710	AMD	93-12-051
388-84-105	AMD	93-06-037	388-92-027	NEW	93-11-045	388-96-710	AMD-P	93-14-075
388-84-115	AMD-P	93-13-122	388-92-036	AMD-E	93-06-053	388-96-710	AMD-E	93-14-077
388-84-115	AMD	93-16-041	388-92-036	AMD-P	93-06-054	388-96-713	AMD-P	93-14-078
388-86-005	AMD-P	93-14-027	388-92-036	AMD	93-08-112	388-96-713	AMD-E	93-14-079
388-86-005	AMD-E	93-14-031	388-92-045	AMD-P	93-03-026	388-96-716	AMD-P	93-14-078
388-86-008	REP-P	93-07-124	388-92-045	AMD-E	93-03-028	388-96-716	AMD-E	93-14-079
388-86-008	REP	93-11-047	388-92-045	AMD	93-06-038	388-96-719	AMD-P	93-14-078
388-86-00902	AMD-P	93-14-046	388-95-310	NEW-P	93-06-040	388-96-719	AMD-E	93-14-079
388-86-00902	AMD-E	93-14-047	388-95-310	NEW-W	93-08-113	388-96-722	AMD-P	93-14-078
388-86-012	AMD-P	93-03-034	388-95-310	NEW-P	93-16-106	388-96-722	AMD-E	93-14-079
388-86-012	AMD	93-06-039	388-95-337	AMD-E	93-04-031	388-96-727	AMD-P	93-14-078
388-86-021	AMD-P	93-08-006	388-95-337	AMD-P	93-04-032	388-96-727	AMD-E	93-14-079
388-86-021	AMD	93-11-048	388-95-337	AMD	93-07-029	388-96-735	AMD-P	93-14-078
388-86-024	AMD-P	93-14-027	388-95-340	AMD-P	93-03-027	388-96-735	AMD-E	93-14-079
388-86-024	AMD-E	93-14-031	388-95-340	AMD-E	93-03-029	388-96-737	NEW-P	93-14-078
388-86-035	AMD-P	93-13-069	388-95-340	AMD	93-06-041	388-96-737	NEW-E	93-14-079
388-86-035	AMD	93-16-035	388-95-340	AMD-P	93-16-105	388-96-745	AMD-P	93-14-078
388-86-047	AMD-P	93-13-024	388-95-360	AMD-P	93-03-027	388-96-745	AMD-E	93-14-079
388-86-047	AMD-E	93-13-129	388-95-360	AMD-E	93-03-029	388-96-754	AMD-P	93-08-065
388-86-047	AMD	93-16-040	388-95-360	AMD	93-06-041	388-96-754	AMD-W	93-12-048
388-86-071	AMD-P	93-14-045	388-95-360	AMD-P	93-08-022	388-96-754	AMD-P	93-14-078
388-86-071	AMD-E	93-14-048	388-95-360	AMD-E	93-08-023	388-96-754	AMD-E	93-14-079
388-86-100	AMD-C	93-02-034	388-95-360	AMD	93-11-049	388-96-756	REP-P	93-14-078
388-86-100	AMD-W	93-05-019	388-96-010	AMD-P	93-14-078	388-96-756	REP-E	93-14-079
388-86-120	AMD-P	93-13-037	388-96-010	AMD-E	93-14-079	388-96-757	NEW-P	93-14-078
388-86-120	AMD	93-16-038	388-96-023	AMD-P	93-14-078	388-96-757	NEW-E	93-14-079
388-86-200	NEW-P	93-07-074	388-96-023	AMD-E	93-14-079	388-96-762	AMD-P	93-14-078
388-86-200	NEW-C	93-10-017	388-96-026	AMD-P	93-08-065	388-96-762	AMD-E	93-14-079
388-86-200	NEW-C	93-11-009	388-96-026	AMD	93-12-051	388-96-764	AMD-P	93-14-078
388-86-200	NEW	93-11-086	388-96-113	AMD-P	93-08-065	388-96-764	AMD-E	93-14-079
388-86-200	AMD-P	93-13-080	388-96-113	AMD	93-12-051	388-96-765	AMD-P	93-14-078
388-86-200	AMD-E	93-13-081	388-96-210	AMD-P	93-14-078	388-96-765	AMD-E	93-14-079
388-86-200	AMD	93-16-037	388-96-210	AMD-E	93-14-079	388-96-768	AMD-P	93-14-078
388-86-300	NEW-P	93-14-027	388-96-226	AMD-P	93-14-078	388-96-768	AMD-E	93-14-079
388-86-300	NEW-E	93-14-031	388-96-226	AMD-E	93-14-079	388-96-774	AMD-P	93-08-065
388-87-005	AMD-P	93-08-021	388-96-228	AMD-P	93-14-078	388-96-774	AMD	93-12-051
388-87-005	AMD-E	93-08-024	388-96-228	AMD-E	93-14-079	388-96-774	AMD-P	93-14-075
388-87-005	AMD	93-11-046	388-96-505	AMD-P	93-14-078	388-96-774	AMD-E	93-14-077
388-87-005	AMD-P	93-14-027	388-96-505	AMD-E	93-14-079	388-96-775	REP-P	93-14-078
388-87-005	AMD-E	93-14-031	388-96-508	AMD-P	93-14-078	388-96-775	REP-E	93-14-079
388-87-200	NEW-P	93-14-026	388-96-508	AMD-E	93-14-079	388-99-010	AMD-P	93-03-060
388-87-200	NEW-E	93-14-029	388-96-509	AMD-P	93-14-078	388-99-010	AMD-E	93-03-061
388-88-080	REP-E	93-16-003	388-96-509	AMD-E	93-14-079	388-99-010	AMD	93-06-037
388-88-080	REP-P	93-16-005	388-96-513	AMD-P	93-14-078	388-99-011	AMD-P	93-14-023
388-88-095	AMD-E	93-16-003	388-96-513	AMD-E	93-14-079	388-99-020	AMD-E	93-04-087
388-88-095	AMD-P	93-16-005	388-96-521	AMD-P	93-14-078	388-99-020	AMD-P	93-04-090
388-88-096	NEW-E	93-16-003	388-96-521	AMD-E	93-14-079	388-99-020	AMD	93-07-028
388-88-096	NEW-P	93-16-005	388-96-523	AMD-P	93-14-078	388-99-020	AMD-P	93-16-054
388-88-097	AMD-E	93-16-003	388-96-523	AMD-E	93-14-079	388-99-020	AMD-E	93-16-055
388-88-097	AMD-P	93-16-005	388-96-525	AMD-P	93-14-078	388-99-030	AMD-P	93-16-107
388-88-098	AMD-E	93-16-003	388-96-525	AMD-E	93-14-079	388-99-055	AMD-E	93-04-088
388-88-098	AMD-P	93-16-005	388-96-529	AMD-P	93-14-078	388-99-055	AMD-P	93-04-089
388-88-099	REP-E	93-16-003	388-96-529	AMD-E	93-14-079	388-99-055	AMD	93-07-125
388-88-099	REP-P	93-16-005	388-96-531	AMD-P	93-14-078	388-99-060	AMD-P	93-13-024
388-88-102	REP-E	93-16-003	388-96-531	AMD-E	93-14-079	388-99-060	AMD-E	93-13-129
388-88-102	REP-P	93-16-005	388-96-533	AMD-P	93-14-078	388-99-060	AMD	93-16-040
388-88-130	REP-E	93-16-003	388-96-533	AMD-E	93-14-079	388-150	AMD-C	93-16-048
388-88-130	REP-P	93-16-005	388-96-535	AMD-P	93-14-078	388-150-010	AMD-P	93-13-056
388-88-145	REP-E	93-16-003	388-96-535	AMD-E	93-14-079	388-150-020	AMD-P	93-13-056
388-88-145	AMD-P	93-16-005	388-96-569	AMD-P	93-14-078	388-150-060	AMD-P	93-13-056
388-88-150	NEW-E	93-16-003	388-96-569	AMD-E	93-14-079	388-150-070	AMD-P	93-13-056
388-88-150	NEW-P	93-16-005	388-96-572	AMD-P	93-08-065	388-150-150	AMD-P	93-13-056
388-88-155	NEW-E	93-16-003	388-96-572	AMD	93-12-051	388-150-160	AMD-P	93-13-056
388-88-155	NEW-P	93-16-005	388-96-580	AMD-P	93-14-078	388-150-165	AMD-P	93-13-056
388-88-170	NEW-E	93-16-003	388-96-580	AMD-E	93-14-079	388-150-170	AMD-P	93-13-056

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-150-180	AMD-P	93-13-056	388-160-260	NEW	93-15-124	388-230-0090	NEW	93-16-059
388-150-190	AMD-P	93-13-056	388-160-270	NEW-P	93-05-031	388-230-0110	NEW-P	93-08-064
388-150-200	AMD-P	93-13-056	388-160-270	NEW	93-15-124	388-230-0110	NEW	93-16-059
388-150-210	AMD-P	93-13-056	388-160-280	NEW-P	93-05-031	388-230-0120	NEW-P	93-08-064
388-150-220	AMD-P	93-13-056	388-160-280	NEW	93-15-124	388-230-0120	NEW	93-16-059
388-150-240	AMD-P	93-13-056	388-160-290	NEW-P	93-05-031	388-230-0140	NEW-P	93-08-064
388-150-250	AMD-P	93-13-056	388-160-290	NEW	93-15-124	388-230-0140	NEW	93-16-059
388-150-270	AMD-P	93-13-056	388-160-300	NEW-P	93-05-031	388-233-0010	NEW-P	93-14-006
388-150-280	AMD-P	93-13-056	388-160-300	NEW	93-15-124	388-233-0010	NEW-E	93-14-007
388-150-295	NEW-P	93-13-056	388-160-310	NEW-P	93-05-031	388-233-0020	NEW-P	93-14-006
388-150-330	AMD-P	93-13-056	388-160-310	NEW	93-15-124	388-233-0020	NEW-E	93-14-007
388-150-340	AMD-P	93-13-056	388-160-320	NEW-P	93-05-031	388-233-0030	NEW-P	93-14-006
388-150-390	AMD-P	93-13-056	388-160-320	NEW	93-15-124	388-233-0030	NEW-E	93-14-007
388-150-460	AMD-P	93-13-056	388-160-340	NEW-P	93-05-031	388-233-0040	NEW-P	93-14-006
388-150-470	AMD-P	93-13-056	388-160-340	NEW	93-15-124	388-233-0040	NEW-E	93-14-007
388-150-490	AMD-P	93-13-056	388-160-350	NEW-P	93-05-031	388-233-0050	NEW-P	93-14-006
388-150-500	AMD-P	93-13-056	388-160-350	NEW	93-15-124	388-233-0050	NEW-E	93-14-007
388-160	NEW-C	93-08-009	388-160-360	NEW-P	93-05-031	388-233-0060	NEW-P	93-14-006
388-160	NEW-C	93-10-020	388-160-360	NEW	93-15-124	388-233-0060	NEW-E	93-14-007
388-160	NEW-C	93-12-095	388-160-370	NEW-P	93-05-031	388-233-0070	NEW-P	93-14-006
388-160	NEW-C	93-13-025	388-160-370	NEW	93-15-124	388-233-0070	NEW-E	93-14-007
388-160	NEW-C	93-15-039	388-160-380	NEW-P	93-05-031	388-233-0080	NEW-P	93-14-006
388-160-010	NEW-P	93-05-031	388-160-380	NEW	93-15-124	388-233-0080	NEW-E	93-14-007
388-160-010	NEW	93-15-124	388-160-390	NEW-P	93-05-031	388-233-0090	NEW-P	93-14-006
388-160-020	NEW-P	93-05-031	388-160-390	NEW	93-15-124	388-233-0090	NEW-E	93-14-007
388-160-020	NEW	93-15-124	388-160-400	NEW-P	93-05-031	388-233-0100	NEW-P	93-14-006
388-160-030	NEW-P	93-05-031	388-160-400	NEW	93-15-124	388-233-0100	NEW-E	93-14-007
388-160-030	NEW	93-15-124	388-160-410	NEW-P	93-05-031	388-235	NEW-C	93-12-050
388-160-040	NEW-P	93-05-031	388-160-410	NEW	93-15-124	388-235	NEW-C	93-13-022
388-160-040	NEW	93-15-124	388-160-420	NEW-P	93-05-031	388-235	NEW-C	93-14-085
388-160-050	NEW-P	93-05-031	388-160-420	NEW	93-15-124	388-235-0010	NEW-P	93-08-074
388-160-050	NEW	93-15-124	388-160-430	NEW-P	93-05-031	388-235-0010	NEW	93-16-058
388-160-060	NEW-P	93-05-031	388-160-430	NEW	93-15-124	388-235-0020	NEW-P	93-08-074
388-160-060	NEW	93-15-124	388-160-440	NEW-P	93-05-031	388-235-0020	NEW	93-16-058
388-160-070	NEW-P	93-05-031	388-160-440	NEW	93-15-124	388-235-0030	NEW-P	93-08-074
388-160-070	NEW	93-15-124	388-160-450	NEW-P	93-05-031	388-235-0030	NEW	93-16-058
388-160-080	NEW-P	93-05-031	388-160-450	NEW-W	93-15-123	388-235-0040	NEW-P	93-08-074
388-160-080	NEW	93-15-124	388-160-460	NEW-P	93-05-031	388-235-0040	NEW	93-16-058
388-160-090	NEW-P	93-05-031	388-160-460	NEW	93-15-124	388-235-0050	NEW-P	93-08-074
388-160-090	NEW	93-15-124	388-160-470	NEW-P	93-05-031	388-235-0050	NEW	93-16-058
388-160-100	NEW-P	93-05-031	388-160-470	NEW	93-15-124	388-235-0060	NEW-P	93-08-074
388-160-100	NEW	93-15-124	388-160-480	NEW-P	93-05-031	388-235-0060	NEW	93-16-058
388-160-110	NEW-P	93-05-031	388-160-480	NEW	93-15-124	388-235-0070	NEW-P	93-08-074
388-160-110	NEW	93-15-124	388-160-490	NEW-P	93-05-031	388-235-0070	NEW	93-16-058
388-160-120	NEW-P	93-05-031	388-160-490	NEW	93-15-124	388-235-0080	NEW-P	93-08-074
388-160-120	NEW	93-15-124	388-160-500	NEW-P	93-05-031	388-235-0080	NEW	93-16-058
388-160-130	NEW-P	93-05-031	388-160-500	NEW	93-15-124	388-235-0090	NEW-P	93-08-074
388-160-130	NEW	93-15-124	388-160-510	NEW-P	93-05-031	388-235-0090	NEW	93-16-058
388-160-140	NEW-P	93-05-031	388-160-510	NEW	93-15-124	388-235-0100	NEW-P	93-08-074
388-160-140	NEW	93-15-124	388-160-520	NEW-P	93-05-031	388-235-0100	NEW	93-16-058
388-160-150	NEW-P	93-05-031	388-160-520	NEW	93-15-124	388-235-0110	NEW-P	93-08-074
388-160-150	NEW	93-15-124	388-160-530	NEW-P	93-05-031	388-235-0110	NEW	93-16-058
388-160-160	NEW-P	93-05-031	388-160-530	NEW	93-15-124	388-235-1500	NEW-P	93-08-074
388-160-160	NEW	93-15-124	388-160-540	NEW-P	93-05-031	388-235-1500	NEW	93-16-058
388-160-170	NEW-P	93-05-031	388-160-540	NEW	93-15-124	388-235-2000	NEW-P	93-08-074
388-160-170	NEW	93-15-124	388-160-560	NEW-P	93-05-031	388-235-2000	NEW	93-16-058
388-160-180	NEW-P	93-05-031	388-160-560	NEW	93-15-124	388-235-3000	NEW-P	93-08-074
388-160-180	NEW	93-15-124	388-230	NEW-C	93-12-049	388-235-3000	NEW	93-16-058
388-160-190	NEW-P	93-05-031	388-230	NEW-C	93-13-023	388-235-4000	NEW-P	93-08-074
388-160-190	NEW	93-15-124	388-230	NEW-C	93-14-086	388-235-4000	NEW	93-16-058
388-160-200	NEW-P	93-05-031	388-230-0010	NEW-P	93-08-064	388-235-5000	NEW-P	93-08-074
388-160-200	NEW	93-15-124	388-230-0010	NEW	93-16-059	388-235-5000	NEW	93-16-058
388-160-210	NEW-P	93-05-031	388-230-0030	NEW-P	93-08-064	388-235-5040	NEW-P	93-08-074
388-160-210	NEW	93-15-124	388-230-0030	NEW	93-16-059	388-235-5050	NEW-P	93-08-074
388-160-220	NEW-P	93-05-031	388-230-0040	NEW-P	93-08-064	388-235-5050	NEW	93-16-058
388-160-220	NEW	93-15-124	388-230-0040	NEW	93-16-059	388-235-5060	NEW	93-16-058
388-160-230	NEW-P	93-05-031	388-230-0050	NEW-P	93-08-064	388-235-5070	NEW-P	93-08-074
388-160-230	NEW	93-15-124	388-230-0050	NEW	93-16-059	388-235-5070	NEW	93-16-058
388-160-240	NEW-P	93-05-031	388-230-0060	NEW-P	93-08-064	388-235-5080	NEW-P	93-08-074
388-160-240	NEW	93-15-124	388-230-0060	NEW	93-16-059	388-235-5080	NEW	93-16-058
388-160-250	NEW-P	93-05-031	388-230-0080	NEW-P	93-08-064	388-235-5090	NEW-P	93-08-074
388-160-250	NEW	93-15-124	388-230-0080	NEW	93-16-059	388-235-5090	NEW	93-16-058
388-160-260	NEW-P	93-05-031	388-230-0090	NEW-P	93-08-064	388-235-5100	NEW-P	93-08-074

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-235-5100	NEW	93-16-058	388-240-4100	NEW-P	93-15-080	388-538-120	NEW-E	93-14-047
388-235-5200	NEW-P	93-08-074	388-240-4200	NEW-P	93-15-080	388-538-130	NEW-P	93-14-046
388-235-5200	NEW	93-16-058	388-240-4400	NEW-P	93-15-080	388-538-130	NEW-E	93-14-047
388-235-5300	NEW-P	93-08-074	388-240-4600	NEW-P	93-15-080	388-538-140	NEW-P	93-14-046
388-235-5300	NEW	93-16-058	388-240-5100	NEW-P	93-15-080	388-538-140	NEW-E	93-14-047
388-235-5400	NEW-P	93-08-074	388-240-6100	NEW-P	93-15-080	388-538-150	NEW-P	93-14-046
388-235-5400	NEW	93-16-058	388-280-1010	NEW-P	93-08-075	388-538-150	NEW-E	93-14-047
388-235-5500	NEW-P	93-08-074	388-280-1010	NEW	93-12-054	388-539-001	NEW-P	93-14-024
388-235-5500	NEW	93-16-058	388-280-1020	NEW-P	93-08-075	388-539-001	NEW-E	93-14-028
388-235-5600	NEW-P	93-08-074	388-280-1020	NEW	93-12-054	388-539-050	NEW-P	93-14-024
388-235-5600	NEW	93-16-058	388-280-1030	NEW-P	93-08-075	388-539-050	NEW-E	93-14-028
388-235-5700	NEW-P	93-08-074	388-280-1030	NEW	93-12-054	388-539-100	NEW-P	93-14-024
388-235-5700	NEW	93-16-058	388-280-1040	NEW-P	93-08-075	388-539-100	NEW-E	93-14-028
388-235-5800	NEW-P	93-08-074	388-280-1040	NEW	93-12-054	388-539-150	NEW-P	93-14-024
388-235-5800	NEW	93-16-058	388-280-1050	NEW-P	93-08-075	388-539-150	NEW-E	93-14-028
388-235-5900	NEW-P	93-08-074	388-280-1050	NEW	93-12-054	388-540-001	NEW-P	93-13-001
388-235-5900	NEW	93-16-058	388-280-1060	NEW-P	93-08-075	388-540-001	NEW-E	93-13-130
388-235-6000	NEW-P	93-08-074	388-280-1060	NEW	93-12-054	388-540-001	NEW	93-16-039
388-235-6000	NEW	93-16-058	388-280-1070	NEW-P	93-08-075	388-540-005	NEW-P	93-13-001
388-235-7000	NEW-P	93-08-074	388-280-1070	NEW	93-12-054	388-540-005	NEW-E	93-13-130
388-235-7000	NEW	93-16-058	388-280-1080	NEW-P	93-08-075	388-540-005	NEW	93-16-039
388-235-7100	NEW-P	93-08-074	388-280-1080	NEW	93-12-054	388-540-010	NEW-P	93-13-001
388-235-7100	NEW	93-16-058	388-280-1090	NEW-P	93-08-075	388-540-010	NEW-E	93-13-130
388-235-7200	NEW-P	93-08-074	388-280-1090	NEW	93-12-054	388-540-010	NEW	93-16-039
388-235-7200	NEW	93-16-058	388-280-1100	NEW-P	93-08-075	388-540-010	NEW-P	93-13-001
388-235-7300	NEW-P	93-08-074	388-280-1100	NEW	93-12-054	388-540-020	NEW-E	93-13-130
388-235-7300	NEW	93-16-058	388-280-1110	NEW-P	93-08-075	388-540-020	NEW	93-16-039
388-235-7500	NEW-P	93-08-074	388-280-1110	NEW	93-12-054	388-540-030	NEW-P	93-13-001
388-235-7500	NEW	93-16-058	388-280-1120	NEW-P	93-08-075	388-540-030	NEW-E	93-13-130
388-235-7600	NEW-P	93-08-074	388-280-1120	NEW	93-12-054	388-540-030	NEW	93-16-039
388-235-7600	NEW	93-16-058	388-280-1130	NEW-P	93-08-075	388-540-040	NEW-P	93-13-001
388-235-8000	NEW-P	93-08-074	388-280-1130	NEW	93-12-054	388-540-040	NEW-E	93-13-130
388-235-8000	NEW	93-16-058	388-280-1140	NEW-P	93-08-075	388-540-040	NEW	93-16-039
388-235-8100	NEW-P	93-08-074	388-280-1140	NEW	93-12-054	388-540-050	NEW-P	93-13-001
388-235-8100	NEW	93-16-058	388-280-1150	NEW-P	93-08-075	388-540-050	NEW-E	93-13-130
388-235-8130	NEW-P	93-08-074	388-280-1150	NEW	93-12-054	388-540-050	NEW	93-16-039
388-235-8130	NEW	93-16-058	388-280-1160	NEW-P	93-08-075	388-540-060	NEW-P	93-13-001
388-235-8140	NEW-P	93-08-074	388-280-1160	NEW	93-12-054	388-540-060	NEW-E	93-13-130
388-235-8140	NEW	93-16-058	388-330-010	AMD-P	93-07-035	388-540-060	NEW	93-16-039
388-235-8150	NEW-P	93-08-074	388-330-010	AMD-C	93-10-018	390-05-190	NEW-P	93-12-019
388-235-8150	NEW	93-16-058	388-330-010	AMD-C	93-12-096	390-05-190	NEW	93-16-064
388-235-8200	NEW-P	93-08-074	388-330-010	AMD	93-15-040	390-05-200	AMD-P	93-12-020
388-235-8200	NEW	93-16-058	388-330-020	AMD-P	93-07-035	390-05-200	AMD	93-16-064
388-235-9000	NEW-P	93-08-074	388-330-020	AMD-C	93-10-018	390-05-205	AMD-P	93-12-021
388-235-9000	NEW	93-16-058	388-330-020	AMD-C	93-12-096	390-05-205	AMD	93-16-064
388-235-9100	NEW-P	93-08-074	388-330-020	AMD	93-15-040	390-05-210	AMD-P	93-12-022
388-235-9100	NEW	93-16-058	388-330-030	AMD-P	93-07-035	390-05-210	AMD	93-16-064
388-235-9200	NEW-P	93-08-074	388-330-030	AMD-C	93-10-018	390-05-215	AMD-P	93-12-023
388-235-9200	NEW	93-16-058	388-330-030	AMD-C	93-12-096	390-05-215	AMD	93-16-064
388-235-9300	NEW-P	93-08-074	388-330-030	AMD	93-15-040	390-12-170	AMD-P	93-15-101
388-235-9300	NEW	93-16-058	388-330-050	AMD-P	93-07-035	390-16-011	AMD-P	93-10-049
388-235-9500	NEW-P	93-08-074	388-330-050	AMD-C	93-10-018	390-16-011	AMD-E	93-10-051
388-235-9520	NEW-P	93-08-074	388-330-050	AMD-C	93-12-096	390-16-011	AMD	93-15-004
388-235-9530	NEW-P	93-08-074	388-330-050	AMD	93-15-040	390-16-012	AMD-P	93-10-049
388-235-9540	NEW-P	93-08-074	388-538-001	NEW-P	93-14-046	390-16-012	AMD-E	93-10-051
388-235-9550	NEW-P	93-08-074	388-538-001	NEW-E	93-14-047	390-16-012	AMD	93-15-004
388-235-9560	NEW-P	93-08-074	388-538-050	NEW-P	93-14-046	390-16-031	AMD-P	93-04-127
388-235-9570	NEW-P	93-08-074	388-538-050	NEW-E	93-14-047	390-16-031	AMD	93-09-002
388-235-9580	NEW-P	93-08-074	388-538-060	NEW-P	93-14-046	390-16-038	AMD-P	93-12-024
388-235-9600	NEW-P	93-08-074	388-538-060	NEW-E	93-14-047	390-16-038	AMD-P	93-16-062
388-240-0010	NEW-P	93-15-080	388-538-070	NEW-P	93-14-046	390-16-038	AMD-E	93-16-063
388-240-0020	NEW-P	93-15-080	388-538-070	NEW-E	93-14-047	390-16-041	AMD-P	93-04-127
388-240-1100	NEW-P	93-15-080	388-538-080	NEW-P	93-14-046	390-16-041	AMD	93-09-002
388-240-1200	NEW-P	93-15-080	388-538-080	NEW-E	93-14-047	390-16-044	NEW-P	93-15-002
388-240-2100	NEW-P	93-15-080	388-538-090	NEW-P	93-14-046	390-16-044	NEW-E	93-15-003
388-240-2300	NEW-P	93-15-080	388-538-090	NEW-E	93-14-047	390-16-200	AMD-P	93-12-025
388-240-2400	NEW-P	93-15-080	388-538-095	NEW-P	93-14-046	390-16-207	AMD-P	93-12-026
388-240-2450	NEW-P	93-15-080	388-538-095	NEW-E	93-14-047	390-16-207	AMD	93-16-064
388-240-2500	NEW-P	93-15-080	388-538-100	NEW-P	93-14-046	390-16-226	NEW-P	93-12-031
388-240-2550	NEW-P	93-15-080	388-538-100	NEW-E	93-14-047	390-16-226	NEW	93-16-064
388-240-2570	NEW-P	93-15-080	388-538-110	NEW-P	93-14-046	390-16-230	AMD-P	93-12-027
388-240-2600	NEW-P	93-15-080	388-538-110	NEW-E	93-14-047	390-16-230	AMD	93-16-064
388-240-3100	NEW-P	93-15-080	388-538-120	NEW-P	93-14-046	390-16-232	NEW-P	93-12-032

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
390-16-232	NEW	93-16-064	392-122-410	NEW-P	93-07-046	392-168-132	NEW-P	93-15-084
390-16-234	NEW-P	93-12-033	392-122-410	NEW	93-12-017	392-168-167	NEW-P	93-15-084
390-16-234	NEW	93-16-064	392-122-415	NEW-P	93-07-046	392-171-300	AMD-P	93-15-085
390-16-240	AMD-P	93-12-028	392-122-415	NEW	93-12-017	392-171-305	AMD-P	93-15-085
390-16-240	AMD	93-16-064	392-123-046	AMD-P	93-11-034	392-171-310	AMD-P	93-15-085
390-16-308	AMD	93-04-072	392-123-054	AMD-P	93-11-034	392-171-315	AMD-P	93-15-085
390-16-310	AMD-P	93-12-029	392-123-071	AMD-P	93-11-034	392-171-320	AMD-P	93-15-085
390-16-310	AMD	93-16-064	392-123-072	AMD-P	93-11-034	392-171-321	AMD-P	93-15-085
390-16-312	AMD-P	93-12-030	392-140-250	REP-P	93-07-047	392-171-323	NEW-P	93-15-085
390-16-312	AMD	93-16-064	392-140-250	REP	93-12-015	392-171-324	NEW-P	93-15-085
390-17-011	NEW-P	93-12-018	392-140-252	REP-P	93-07-047	392-171-325	AMD-P	93-15-085
390-17-011	NEW	93-16-064	392-140-252	REP	93-12-015	392-171-336	AMD-P	93-15-085
390-17-013	NEW-P	93-12-018	392-140-253	REP-P	93-07-047	392-171-341	AMD-P	93-15-085
390-17-013	NEW	93-16-064	392-140-253	REP	93-12-015	392-171-351	AMD-P	93-15-085
390-17-015	NEW-P	93-12-018	392-140-254	REP-P	93-07-047	392-171-371	AMD-P	93-15-085
390-17-015	NEW	93-16-064	392-140-254	REP	93-12-015	392-171-381	AMD-P	93-15-085
390-17-017	NEW-P	93-12-018	392-140-255	REP-P	93-07-047	392-171-382	AMD-P	93-15-085
390-17-017	NEW	93-16-064	392-140-255	REP	93-12-015	392-171-383	AMD-P	93-15-085
390-17-030	NEW-P	93-12-018	392-140-256	REP-P	93-07-047	392-171-384	REP-P	93-15-085
390-17-030	NEW	93-16-064	392-140-256	REP	93-12-015	392-171-401	AMD-P	93-15-085
390-17-050	NEW-P	93-12-018	392-140-257	REP-P	93-07-047	392-171-452	NEW-P	93-15-085
390-17-050	NEW-P	93-16-062	392-140-257	REP	93-12-015	392-171-454	NEW-P	93-15-085
390-17-050	NEW-E	93-16-063	392-140-258	REP-P	93-07-047	392-171-456	AMD-P	93-15-085
390-17-052	NEW-P	93-12-018	392-140-258	REP	93-12-015	392-171-457	NEW-P	93-15-085
390-17-052	NEW	93-16-064	392-140-259	REP-P	93-07-047	392-171-461	AMD-P	93-15-085
390-17-060	NEW-P	93-12-018	392-140-259	REP	93-12-015	392-171-462	NEW-P	93-15-085
390-17-060	NEW-P	93-12-046	392-140-265	REP-P	93-07-047	392-171-463	NEW-P	93-15-085
390-17-065	NEW-P	93-12-018	392-140-265	REP	93-12-015	392-171-464	NEW-P	93-15-085
390-17-100	NEW-P	93-12-018	392-140-266	REP-P	93-07-047	392-171-466	AMD-P	93-15-085
390-17-100	NEW	93-16-064	392-140-266	REP	93-12-015	392-171-471	AMD-P	93-15-085
390-17-200	NEW-P	93-12-018	392-140-267	REP-P	93-07-047	392-171-476	AMD-P	93-15-085
390-17-200	NEW	93-16-064	392-140-267	REP	93-12-015	392-171-481	AMD-P	93-15-085
390-17-205	NEW-P	93-12-018	392-142-240	AMD-P	93-09-019	392-171-504	NEW-P	93-15-085
390-17-205	NEW	93-16-064	392-142-240	AMD	93-13-083	392-171-507	NEW-P	93-15-085
390-17-300	NEW-P	93-12-018	392-145-030	AMD	93-05-023	392-171-508	NEW-P	93-15-085
390-17-300	NEW	93-16-064	392-167A-005	NEW-P	93-07-048	392-171-509	NEW-P	93-15-085
390-17-305	NEW-P	93-12-018	392-167A-005	NEW	93-12-016	392-171-511	AMD-P	93-15-085
390-17-305	NEW	93-16-064	392-167A-010	NEW-P	93-07-048	392-171-512	AMD-P	93-15-085
390-17-310	NEW-P	93-12-018	392-167A-010	NEW	93-12-016	392-171-522	NEW-P	93-15-085
390-17-310	NEW	93-16-064	392-167A-015	NEW-P	93-07-048	392-171-524	NEW-P	93-15-085
390-17-315	NEW-P	93-12-018	392-167A-015	NEW	93-12-016	392-171-526	AMD-P	93-15-085
390-17-315	NEW	93-16-064	392-167A-020	NEW-P	93-07-048	392-171-531	AMD-P	93-15-085
390-17-400	NEW-P	93-12-018	392-167A-020	NEW	93-12-016	392-171-536	AMD-P	93-15-085
390-17-400	NEW	93-16-064	392-167A-025	NEW-P	93-07-048	392-171-551	AMD-P	93-15-085
390-18-010	AMD-P	93-12-034	392-167A-025	NEW	93-12-016	392-171-556	AMD-P	93-15-085
390-18-010	AMD	93-16-064	392-167A-030	NEW-P	93-07-048	392-171-561	AMD-P	93-15-085
390-18-020	AMD-P	93-12-035	392-167A-030	NEW	93-12-016	392-171-564	NEW-P	93-15-085
390-18-020	AMD	93-16-064	392-167A-035	NEW-P	93-07-048	392-171-581	AMD-P	93-15-085
390-18-050	NEW	93-04-072	392-167A-035	NEW	93-12-016	392-171-593	NEW-P	93-15-085
390-20-020	AMD	93-04-072	392-167A-040	NEW-P	93-07-048	392-171-596	AMD-P	93-15-085
390-20-110	AMD	93-04-072	392-167A-040	NEW	93-12-016	392-171-646	AMD-P	93-15-085
390-37-140	AMD-P	93-09-001	392-167A-045	NEW-P	93-07-048	392-171-651	AMD-P	93-15-085
390-37-140	AMD-C	93-10-050	392-167A-045	NEW	93-12-016	392-171-688	NEW-P	93-15-085
390-37-140	AMD	93-15-004	392-167A-050	NEW-P	93-07-048	392-171-691	AMD-P	93-15-085
390-37-142	AMD-P	93-09-001	392-167A-050	NEW	93-12-016	392-171-696	AMD-P	93-15-085
390-37-142	AMD-C	93-10-050	392-167A-055	NEW-P	93-07-048	392-171-728	NEW-P	93-15-085
390-37-142	AMD	93-15-004	392-167A-055	NEW	93-12-016	392-171-736	AMD-P	93-15-085
392-12-170	AMD-P	93-15-101	392-167A-060	NEW-P	93-07-048	392-171-835	NEW-P	93-15-085
392-105-030	AMD-P	93-03-002	392-167A-060	NEW	93-12-016	392-171-900	NEW-P	93-15-085
392-105-030	AMD	93-07-039	392-167A-065	NEW-P	93-07-048	392-171-901	NEW-P	93-15-085
392-105-035	AMD-P	93-03-002	392-167A-065	NEW	93-12-016	392-171-905	NEW-P	93-15-085
392-105-035	AMD	93-07-039	392-167A-070	NEW-P	93-07-048	392-171-910	NEW-P	93-15-085
392-105-040	AMD-P	93-03-002	392-167A-070	NEW	93-12-016	392-171-915	NEW-P	93-15-085
392-105-040	AMD	93-07-039	392-167A-075	NEW-P	93-07-048	392-171-925	NEW-P	93-15-085
392-105-060	AMD-P	93-03-002	392-167A-075	NEW	93-12-016	392-171-930	NEW-P	93-15-085
392-105-060	AMD	93-07-039	392-167A-080	NEW-P	93-07-048	392-171-935	NEW-P	93-15-085
392-121-445	AMD	93-04-054	392-167A-080	NEW	93-12-016	392-171-940	NEW-P	93-15-085
392-122-400	NEW-P	93-07-046	392-167A-085	NEW-P	93-07-048	392-171-945	NEW-P	93-15-085
392-122-400	NEW	93-12-017	392-167A-085	NEW	93-12-016	392-171-950	NEW-P	93-15-085
392-122-401	NEW-P	93-07-046	392-167A-090	NEW-P	93-07-048	392-171-955	NEW-P	93-15-085
392-122-401	NEW	93-12-017	392-167A-090	NEW	93-12-016	392-171-960	NEW-P	93-15-085
392-122-405	NEW-P	93-07-046	392-168-110	AMD-P	93-15-084	392-173-005	AMD-P	93-15-083
392-122-405	NEW	93-12-017	392-168-115	AMD-P	93-15-084	392-173-010	AMD-P	93-15-083

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
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
392-173-047	NEW-P	93-15-083	392-315-165	REP-P	93-11-033	415-08-330	REP-P	93-08-054
392-173-080	AMD-P	93-15-083	399-10-010	AMD-P	93-15-089	415-08-330	REP	93-11-079
392-196-005	AMD	93-07-037	399-10-020	AMD-P	93-15-089	415-08-340	REP-P	93-08-054
392-196-030	AMD	93-07-037	399-10-030	AMD-P	93-15-089	415-08-340	REP	93-11-079
392-196-080	AMD	93-07-037	399-30-040	AMD-P	93-15-090	415-08-350	REP-P	93-08-054
392-196-095	AMD	93-07-037	415-04-010	AMD-P	93-08-054	415-08-350	REP	93-11-079
392-202-110	AMD	93-08-005	415-04-010	AMD	93-11-079	415-08-360	REP-P	93-08-054
392-202-110	AMD-P	93-15-034	415-04-020	AMD-P	93-08-054	415-08-360	REP	93-11-079
392-315-005	REP-E	93-08-037	415-04-020	AMD	93-11-079	415-08-370	REP-P	93-08-054
392-315-005	REP-P	93-11-033	415-08-010	AMD-P	93-08-054	415-08-370	REP	93-11-079
392-315-010	REP-E	93-08-037	415-08-010	AMD	93-11-079	415-08-380	REP-P	93-08-054
392-315-010	REP-P	93-11-033	415-08-020	AMD-P	93-08-054	415-08-380	REP	93-11-079
392-315-015	REP-E	93-08-037	415-08-020	AMD	93-11-079	415-08-390	REP-P	93-08-054
392-315-015	REP-P	93-11-033	415-08-025	NEW-P	93-08-054	415-08-390	REP	93-11-079
392-315-020	REP-E	93-08-037	415-08-025	NEW	93-11-079	415-08-400	REP-P	93-08-054
392-315-020	REP-P	93-11-033	415-08-030	AMD-P	93-08-054	415-08-400	REP	93-11-079
392-315-025	REP-E	93-08-037	415-08-030	AMD	93-11-079	415-08-410	REP-P	93-08-054
392-315-025	REP-P	93-11-033	415-08-040	AMD-P	93-08-054	415-08-410	REP	93-11-079
392-315-030	REP-E	93-08-037	415-08-040	AMD	93-11-079	415-08-420	AMD-P	93-08-054
392-315-030	REP-P	93-11-033	415-08-060	REP-P	93-08-054	415-08-420	AMD	93-11-079
392-315-035	REP-E	93-08-037	415-08-060	REP	93-11-079	415-08-430	REP-P	93-08-054
392-315-035	REP-P	93-11-033	415-08-080	AMD-P	93-08-054	415-08-430	REP	93-11-079
392-315-040	REP-E	93-08-037	415-08-080	AMD	93-11-079	415-08-440	REP-P	93-08-054
392-315-040	REP-P	93-11-033	415-08-090	AMD-P	93-08-054	415-08-440	REP	93-11-079
392-315-045	REP-E	93-08-037	415-08-090	AMD	93-11-079	415-08-450	REP-P	93-08-054
392-315-045	REP-P	93-11-033	415-08-100	AMD-P	93-08-054	415-08-450	REP	93-11-079
392-315-050	REP-E	93-08-037	415-08-100	AMD	93-11-079	415-08-460	REP-P	93-08-054
392-315-050	REP-P	93-11-033	415-08-105	NEW-P	93-08-054	415-08-460	REP	93-11-079
392-315-055	REP-E	93-08-037	415-08-105	NEW	93-11-079	415-08-470	REP-P	93-08-054
392-315-055	REP-P	93-11-033	415-08-110	REP-P	93-08-054	415-08-470	REP	93-11-079
392-315-060	REP-E	93-08-037	415-08-110	REP	93-11-079	415-08-480	REP-P	93-08-054
392-315-060	REP-P	93-11-033	415-08-120	REP-P	93-08-054	415-08-480	REP	93-11-079
392-315-065	REP-E	93-08-037	415-08-120	REP	93-11-079	415-104-011	NEW-P	93-08-053
392-315-065	REP-P	93-11-033	415-08-130	REP-P	93-08-054	415-104-011	NEW	93-11-078
392-315-070	REP-E	93-08-037	415-08-130	REP	93-11-079	415-104-782	NEW-P	93-08-053
392-315-070	REP-P	93-11-033	415-08-140	REP-P	93-08-054	415-104-782	NEW	93-11-078
392-315-075	REP-E	93-08-037	415-08-140	REP	93-11-079	415-104-783	NEW-P	93-08-053
392-315-075	REP-P	93-11-033	415-08-150	REP-P	93-08-054	415-104-783	NEW	93-11-078
392-315-080	REP-E	93-08-037	415-08-150	REP	93-11-079	415-104-784	NEW-P	93-08-053
392-315-080	REP-P	93-11-033	415-08-160	REP-P	93-08-054	415-104-784	NEW	93-11-078
392-315-085	REP-E	93-08-037	415-08-160	REP	93-11-079	415-104-785	NEW-P	93-08-053
392-315-085	REP-P	93-11-033	415-08-170	REP-P	93-08-054	415-104-785	NEW	93-11-078
392-315-090	REP-E	93-08-037	415-08-170	REP	93-11-079	415-108-010	AMD-P	93-08-052
392-315-090	REP-P	93-11-033	415-08-180	REP-P	93-08-054	415-108-010	AMD	93-11-077
392-315-095	REP-E	93-08-037	415-08-180	REP	93-11-079	415-108-100	REP-P	93-08-052
392-315-095	REP-P	93-11-033	415-08-190	REP-P	93-08-054	415-108-100	REP	93-11-077
392-315-100	REP-E	93-08-037	415-08-190	REP	93-11-079	415-108-110	REP-P	93-08-052
392-315-100	REP-P	93-11-033	415-08-200	REP-P	93-08-054	415-108-110	REP	93-11-077
392-315-105	REP-E	93-08-037	415-08-200	REP	93-11-079	415-108-120	REP-P	93-08-052
392-315-105	REP-P	93-11-033	415-08-210	REP-P	93-08-054	415-108-120	REP	93-11-077
392-315-110	REP-E	93-08-037	415-08-210	REP	93-11-079	415-108-130	REP-P	93-08-052
392-315-110	REP-P	93-11-033	415-08-220	REP-P	93-08-054	415-108-130	REP	93-11-077
392-315-115	REP-E	93-08-037	415-08-220	REP	93-11-079	415-108-150	REP-P	93-08-052
392-315-115	REP-P	93-11-033	415-08-230	REP-P	93-08-054	415-108-150	REP	93-11-077
392-315-120	REP-E	93-08-037	415-08-230	REP	93-11-079	415-108-160	REP-P	93-08-052
392-315-120	REP-P	93-11-033	415-08-240	REP-P	93-08-054	415-108-160	REP	93-11-077
392-315-125	REP-E	93-08-037	415-08-240	REP	93-11-079	415-108-620	NEW-P	93-08-052
392-315-125	REP-P	93-11-033	415-08-250	REP-P	93-08-054	415-108-620	NEW	93-11-077
392-315-130	REP-E	93-08-037	415-08-250	REP	93-11-079	415-108-630	NEW-P	93-08-052
392-315-130	REP-P	93-11-033	415-08-260	REP-P	93-08-054	415-108-630	NEW	93-11-077
392-315-135	REP-E	93-08-037	415-08-260	REP	93-11-079	415-108-640	NEW-P	93-08-052
392-315-135	REP-P	93-11-033	415-08-270	REP-P	93-08-054	415-108-640	NEW	93-11-077
392-315-140	REP-E	93-08-037	415-08-270	REP	93-11-079	415-108-650	NEW-P	93-08-052
392-315-140	REP-P	93-11-033	415-08-280	AMD-P	93-08-054	415-108-650	NEW	93-11-077
392-315-145	REP-E	93-08-037	415-08-280	AMD	93-11-079	415-108-660	NEW-P	93-08-052
392-315-145	REP-P	93-11-033	415-08-290	REP-P	93-08-054	415-108-660	NEW	93-11-077
392-315-150	REP-E	93-08-037	415-08-290	REP	93-11-079	415-108-671	NEW-E	93-15-059
392-315-150	REP-P	93-11-033	415-08-300	REP-P	93-08-054	415-108-671	NEW-P	93-15-082
392-315-155	REP-E	93-08-037	415-08-300	REP	93-11-079	415-112-015	NEW-P	93-08-051
392-315-155	REP-P	93-11-033	415-08-310	REP-P	93-08-054	415-112-535	REP-P	93-08-051
392-315-160	REP-E	93-08-037	415-08-310	REP	93-11-079	415-112-561	NEW-E	93-15-059

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
415-112-561	NEW-P	93-15-082	434-60-050	NEW-P	93-15-058	440-25-030	NEW-P	93-11-052
415-112-722	REP-P	93-08-051	434-60-060	NEW-P	93-15-058	440-25-030	NEW	93-15-014
415-112-810	AMD-P	93-08-051	434-60-070	NEW-P	93-15-058	440-25-040	NEW-E	93-11-050
415-112-820	AMD-P	93-08-051	434-60-080	NEW-P	93-15-058	440-25-040	NEW-P	93-11-052
415-112-830	NEW-P	93-08-051	434-60-090	NEW-P	93-15-058	440-25-040	NEW	93-15-014
434-19-012	AMD-E	93-14-081	434-60-100	NEW-P	93-15-058	440-25-050	NEW-E	93-11-050
434-19-014	AMD-E	93-14-081	434-60-110	NEW-P	93-15-058	440-25-050	NEW-P	93-11-052
434-19-020	AMD-E	93-14-081	434-60-120	NEW-P	93-15-058	440-25-050	NEW	93-15-014
434-19-056	AMD-E	93-14-081	434-60-130	NEW-P	93-15-058	440-25-060	NEW-E	93-11-050
434-19-080	AMD-E	93-14-081	434-60-140	NEW-P	93-15-058	440-25-060	NEW-P	93-11-052
434-19-081	AMD-E	93-14-081	434-60-150	NEW-P	93-15-058	440-25-060	NEW	93-15-014
434-19-082	AMD-E	93-14-081	434-60-160	NEW-P	93-15-058	440-25-070	NEW-E	93-11-050
434-19-083	AMD-E	93-14-081	434-60-170	NEW-P	93-15-058	440-25-070	NEW-P	93-11-052
434-19-084	AMD-E	93-14-081	434-60-180	NEW-P	93-15-058	440-25-070	NEW	93-15-014
434-19-085	AMD-E	93-14-081	434-60-190	NEW-P	93-15-058	440-25-080	NEW-E	93-11-050
434-19-086	AMD-E	93-14-081	434-60-200	NEW-P	93-15-058	440-25-080	NEW-P	93-11-052
434-19-087	AMD-E	93-14-081	434-79-010	AMD-E	93-14-088	440-25-080	NEW	93-15-014
434-19-088	AMD-E	93-14-081	434-110-010	NEW-P	93-16-114	440-25-090	NEW-E	93-11-050
434-19-097	AMD-E	93-14-081	434-110-020	NEW-P	93-16-114	440-25-090	NEW-P	93-11-052
434-19-098	AMD-E	93-14-081	434-110-030	NEW-P	93-16-114	440-25-090	NEW	93-15-014
434-19-101	AMD-E	93-14-081	434-110-040	NEW-P	93-16-114	440-25-100	NEW-E	93-11-050
434-19-102	REP-E	93-14-081	434-110-050	NEW-P	93-16-114	440-25-100	NEW-P	93-11-052
434-19-114	AMD-E	93-14-081	434-110-060	NEW-P	93-16-114	440-25-100	NEW	93-15-014
434-19-118	AMD-E	93-14-081	434-110-070	NEW-P	93-16-114	440-25-110	NEW-E	93-11-050
434-19-190	AMD-E	93-14-081	434-110-075	NEW-P	93-16-114	440-25-110	NEW-P	93-11-052
434-19-191	AMD-E	93-14-081	434-110-080	NEW-P	93-16-114	440-25-110	NEW	93-15-014
434-19-192	AMD-E	93-14-081	434-110-090	NEW-P	93-16-114	440-25-120	NEW-E	93-11-050
434-19-193	AMD-E	93-14-081	434-110-100	NEW-P	93-16-114	440-25-120	NEW-P	93-11-052
434-19-194	AMD-E	93-14-081	434-110-120	NEW-P	93-16-114	440-25-120	NEW	93-15-014
434-19-195	AMD-E	93-14-081	434-110-130	NEW-P	93-16-114	446-40-070	AMD-P	93-10-001
434-50-010	AMD-E	93-14-080	434-600-010	NEW	93-04-001	446-40-070	AMD	93-15-074
434-50-010	AMD-E	93-14-107	434-610-010	NEW	93-04-001	446-80-005	NEW-P	93-13-119
434-50-010	REP-P	93-16-114	434-610-020	NEW	93-04-001	446-80-010	NEW-P	93-13-119
434-50-015	AMD-E	93-14-080	434-610-025	NEW	93-04-001	458-12-010	AMD-P	93-05-016
434-50-015	AMD-E	93-14-107	434-610-030	NEW	93-04-001	458-12-010	AMD	93-08-049
434-50-015	REP-P	93-16-114	434-610-040	NEW	93-04-001	458-12-240	REP-P	93-05-016
434-50-020	AMD-E	93-14-080	434-610-050	NEW	93-04-001	458-12-240	REP	93-08-049
434-50-020	AMD-E	93-14-107	434-610-060	NEW	93-04-001	458-12-342	AMD-P	93-05-016
434-50-020	REP-P	93-16-114	434-610-070	NEW	93-04-001	458-12-342	AMD	93-08-049
434-50-025	REP-P	93-16-114	434-610-080	NEW	93-04-001	458-14-015	AMD-P	93-05-015
434-50-030	REP-P	93-16-114	434-610-090	NEW	93-04-001	458-14-015	AMD	93-08-050
434-50-031	NEW-E	93-14-080	434-610-100	NEW	93-04-001	458-14-025	AMD-P	93-05-015
434-50-031	NEW-E	93-14-107	434-610-110	NEW	93-04-001	458-14-025	AMD	93-08-050
434-50-032	NEW-E	93-14-080	434-610-120	NEW	93-04-001	458-14-026	NEW-P	93-05-015
434-50-032	NEW-E	93-14-107	434-615-010	NEW	93-04-001	458-14-026	NEW	93-08-050
434-50-033	NEW-E	93-14-080	434-615-020	NEW	93-04-001	458-14-127	AMD-P	93-05-015
434-50-033	NEW-E	93-14-107	434-615-030	NEW	93-04-001	458-14-127	AMD	93-08-050
434-50-034	NEW-E	93-14-080	434-620-010	NEW	93-04-001	458-14-170	AMD-P	93-05-015
434-50-034	NEW-E	93-14-107	434-624-010	NEW	93-04-001	458-14-170	AMD	93-08-050
434-50-035	AMD-E	93-14-080	434-624-020	NEW	93-04-001	458-14-171	NEW-P	93-05-015
434-50-035	AMD-E	93-14-107	434-624-030	NEW	93-04-001	458-14-171	NEW	93-08-050
434-50-035	REP-P	93-16-114	434-624-040	NEW	93-04-001	458-16-160	NEW-E	93-16-012
434-50-036	NEW-E	93-14-080	434-624-050	NEW	93-04-001	458-16-210	AMD-E	93-16-012
434-50-036	NEW-E	93-14-107	434-626-010	NEW	93-04-001	458-16-240	AMD-E	93-16-012
434-50-037	NEW-E	93-14-080	434-626-020	NEW	93-04-001	458-16-300	AMD-E	93-16-012
434-50-037	NEW-E	93-14-107	434-660-010	NEW-P	93-14-002	458-16-310	AMD-E	93-16-012
434-50-038	NEW-E	93-14-109	434-663-001	NEW-P	93-14-001	458-18-220	AMD-P	93-03-024
434-50-040	AMD-E	93-14-080	434-663-005	NEW-P	93-14-001	458-18-220	AMD-E	93-03-025
434-50-040	AMD-E	93-14-107	434-663-020	NEW-P	93-14-001	458-18-220	AMD	93-06-096
434-50-040	REP-P	93-16-114	434-663-030	NEW-P	93-14-001	458-19	PREP	93-16-103
434-50-045	AMD-E	93-14-080	434-663-050	NEW-P	93-14-001	458-20-101	PREP	93-02-046
434-50-045	AMD-E	93-14-107	434-663-060	NEW-P	93-14-001	458-20-101	AMD-P	93-08-013
434-50-045	REP-P	93-16-114	434-663-070	NEW-P	93-14-001	458-20-101	AMD	93-13-126
434-50-050	AMD-E	93-14-080	440-25-005	NEW-E	93-11-050	458-20-102	AMD-E	93-13-085
434-50-050	AMD-E	93-14-107	440-25-005	NEW-P	93-11-052	458-20-115	PREP	93-12-111
434-50-050	REP-P	93-16-114	440-25-005	NEW	93-15-014	458-20-115	AMD-P	93-15-064
434-50-055	AMD-E	93-14-080	440-25-010	NEW-E	93-11-050	458-20-116	PREP	93-12-112
434-50-055	AMD-E	93-14-107	440-25-010	NEW-P	93-11-052	458-20-116	AMD-P	93-15-065
434-50-055	REP-P	93-16-114	440-25-010	NEW	93-15-014	458-20-117	PREP	93-12-113
434-60-010	NEW-P	93-15-058	440-25-020	NEW-E	93-11-050	458-20-117	AMD-P	93-15-066
434-60-020	NEW-P	93-15-058	440-25-020	NEW-P	93-11-052	458-20-119	AMD-P	93-07-069
434-60-030	NEW-P	93-15-058	440-25-020	NEW	93-15-014	458-20-122	PREP	93-16-086
434-60-040	NEW-P	93-15-058	440-25-030	NEW-E	93-11-050	458-20-124	AMD-P	93-07-070

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
458-20-125	PREP	93-16-083	458-61-470	AMD-E	93-14-015	478-116-420	REP-P	93-08-110
458-20-149	REP	93-03-005	458-61-480	AMD-E	93-14-015	478-116-420	REP	93-14-130
458-20-150	PREP	93-12-114	458-61-490	REP-E	93-14-015	478-116-430	REP-P	93-08-110
458-20-150	AMD-P	93-15-067	458-61-500	REP-E	93-14-015	478-116-430	REP	93-14-130
458-20-165	PREP	93-16-084	458-61-510	AMD-E	93-14-015	478-116-440	AMD-P	93-08-110
458-20-167	PREP	93-12-115	458-61-520	AMD-E	93-14-015	478-116-440	AMD	93-14-130
458-20-168	AMD-E	93-13-086	458-61-530	REP-E	93-14-015	478-116-450	AMD-P	93-08-110
458-20-174	PREP	93-02-047	458-61-540	AMD-E	93-14-015	478-116-450	AMD	93-14-130
458-20-17901	AMD-P	93-04-045	458-61-548	NEW-E	93-14-015	478-116-460	AMD-P	93-08-110
458-20-17901	AMD	93-07-066	458-61-550	AMD-E	93-14-015	478-116-460	AMD	93-14-130
458-20-209	PREP	93-16-087	458-61-553	NEW-E	93-14-015	478-116-470	REP-P	93-08-110
458-20-210	PREP	93-16-085	458-61-555	AMD-E	93-14-015	478-116-470	REP	93-14-130
458-20-229	AMD	93-04-077	458-61-560	REP-E	93-14-015	478-116-480	REP-P	93-08-110
458-20-230	AMD	93-03-004	458-61-570	REP-E	93-14-015	478-116-480	REP	93-14-130
458-20-900	NEW-E	93-13-087	458-61-590	AMD-E	93-14-015	478-116-490	REP-P	93-08-110
458-30-262	AMD-P	93-04-020	458-61-610	AMD-E	93-14-015	478-116-490	REP	93-14-130
458-30-262	AMD-E	93-04-021	458-61-620	REP-E	93-14-015	478-116-500	REP-P	93-08-110
458-30-262	AMD	93-07-067	458-61-630	REP-E	93-14-015	478-116-500	REP	93-14-130
458-40-634	PREP	93-07-068	458-61-640	AMD-E	93-14-015	478-116-510	REP-P	93-08-110
458-40-634	AMD-P	93-11-081	458-61-650	AMD-E	93-14-015	478-116-510	REP	93-14-130
458-40-634	AMD	93-14-090	458-61-660	AMD-E	93-14-015	478-116-511	REP-P	93-08-110
458-40-640	PREP	93-13-102	458-61-670	AMD-E	93-14-015	478-116-511	REP	93-14-130
458-40-660	AMD-P	93-10-091	458-61-680	REP-E	93-14-015	478-116-520	AMD-P	93-08-110
458-40-660	AMD	93-14-051	458-61-690	REP-E	93-14-015	478-116-520	AMD	93-14-130
458-40-670	AMD-P	93-10-091	460-20A-220	PREP	93-16-025	478-116-530	REP-P	93-08-110
458-40-670	AMD	93-14-051	460-20A-230	PREP	93-16-025	478-116-530	REP	93-14-130
458-40-690	PREP	93-09-029	460-24A-050	PREP	93-16-025	478-116-540	AMD-P	93-08-110
458-61-010	REP-E	93-14-015	460-24A-150	NEW-P	93-16-026	478-116-540	AMD	93-14-130
458-61-015	NEW-E	93-14-015	460-24A-170	PREP	93-16-024	478-116-550	AMD-P	93-08-110
458-61-020	REP-E	93-14-015	463-30-055	NEW-P	93-07-094	478-116-550	AMD	93-14-130
458-61-025	NEW-E	93-14-015	463-30-055	NEW	93-12-013	478-116-560	REP-P	93-08-110
458-61-030	AMD-E	93-14-015	468-16-030	AMD	93-03-020	478-116-560	REP	93-14-130
458-61-040	REP-E	93-14-015	468-16-040	AMD	93-03-020	478-116-582	AMD-P	93-08-110
458-61-050	AMD-E	93-14-015	468-16-050	AMD	93-03-020	478-116-582	AMD	93-14-130
458-61-060	AMD-E	93-14-015	468-16-060	AMD	93-03-020	478-116-586	AMD-P	93-08-110
458-61-070	AMD-E	93-14-015	468-16-070	AMD	93-03-020	478-116-586	AMD	93-14-130
458-61-080	AMD-E	93-14-015	468-16-090	AMD	93-03-020	478-116-588	AMD-P	93-08-110
458-61-090	AMD-E	93-14-015	468-16-100	AMD	93-03-020	478-116-588	AMD	93-14-130
458-61-100	AMD-E	93-14-015	468-16-120	AMD	93-03-020	478-116-589	NEW-P	93-08-110
458-61-110	REP-E	93-14-015	468-16-130	AMD	93-03-020	478-116-589	NEW	93-14-130
458-61-120	AMD-E	93-14-015	468-16-140	AMD	93-03-020	478-116-601	AMD-P	93-08-110
458-61-130	AMD-E	93-14-015	468-16-150	AMD	93-03-020	478-116-601	AMD	93-14-130
458-61-140	REP-E	93-14-015	468-16-160	AMD	93-03-020	480-12-010	AMD-P	93-11-098
458-61-150	AMD-E	93-14-015	468-16-170	AMD	93-03-020	480-12-010	AMD	93-15-036
458-61-200	AMD-E	93-14-015	468-16-180	AMD	93-03-020	480-12-083	AMD-P	93-11-099
458-61-210	AMD-E	93-14-015	468-16-190	AMD	93-03-020	480-12-083	AMD	93-15-035
458-61-220	AMD-E	93-14-015	468-16-200	AMD	93-03-020	480-12-150	AMD-P	93-11-097
458-61-230	AMD-E	93-14-015	468-38-280	AMD-P	93-16-069	480-12-150	AMD	93-15-038
458-61-235	NEW-E	93-14-015	468-38-360	AMD	93-04-071	480-12-181	AMD	93-05-038
458-61-240	REP-E	93-14-015	468-52-010	NEW	93-03-033	480-12-285	AMD-P	93-11-098
458-61-250	AMD-E	93-14-015	468-52-020	NEW	93-03-033	480-12-285	AMD	93-15-036
458-61-255	NEW-E	93-14-015	468-52-030	NEW	93-03-033	480-30-015	AMD-P	93-11-099
458-61-270	REP-E	93-14-015	468-52-040	NEW	93-03-033	480-30-015	AMD	93-15-035
458-61-280	REP-E	93-14-015	468-52-050	NEW	93-03-033	480-30-030	AMD-P	93-11-096
458-61-300	AMD-E	93-14-015	468-52-060	NEW	93-03-033	480-30-030	AMD	93-15-037
458-61-310	REP-E	93-14-015	468-52-070	NEW	93-03-033	480-35-030	AMD-P	93-11-096
458-61-320	REP-E	93-14-015	468-95-035	NEW-C	93-07-055	480-35-030	AMD	93-15-037
458-61-330	AMD-E	93-14-015	468-95-035	NEW-C	93-10-068	480-40-015	AMD-P	93-11-099
458-61-335	AMD-E	93-14-015	468-95-037	NEW-C	93-07-055	480-40-015	AMD	93-15-035
458-61-340	AMD-E	93-14-015	468-95-037	NEW-C	93-10-068	480-40-030	AMD-P	93-11-096
458-61-360	REP-E	93-14-015	468-300-010	AMD-P	93-14-113	480-40-030	AMD	93-15-037
458-61-370	AMD-E	93-14-015	468-300-020	AMD-P	93-14-113	480-70-055	AMD-P	93-11-099
458-61-375	NEW-E	93-14-015	468-300-040	AMD-P	93-14-113	480-70-055	AMD	93-15-035
458-61-376	NEW-E	93-14-015	468-300-700	AMD-P	93-08-012	480-70-700	NEW-P	93-13-139
458-61-380	REP-E	93-14-015	468-300-700	AMD-W	93-09-048	480-70-710	NEW-P	93-13-139
458-61-390	REP-E	93-14-015	468-300-700	AMD-E	93-13-027	480-70-720	NEW-P	93-13-139
458-61-400	AMD-E	93-14-015	468-300-700	AMD-P	93-13-059	480-70-730	NEW-P	93-13-139
458-61-410	AMD-E	93-14-015	478-116-370	AMD-P	93-08-110	480-70-740	NEW-P	93-13-139
458-61-420	AMD-E	93-14-015	478-116-370	AMD	93-14-130	480-70-750	NEW-P	93-13-139
458-61-430	AMD-E	93-14-015	478-116-400	AMD-P	93-08-110	480-70-760	NEW-P	93-13-139
458-61-440	REP-E	93-14-015	478-116-400	AMD	93-14-130	480-70-770	NEW-P	93-13-139
458-61-450	REP-E	93-14-015	478-116-410	REP-P	93-08-110	480-70-780	NEW-P	93-13-139
458-61-460	REP-E	93-14-015	478-116-410	REP	93-14-130	480-70-790	NEW-P	93-13-139

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
480-80-390	AMD	93-09-050	490-276-140	NEW	93-06-005	495B-140-020	NEW	93-05-018
480-93-010	AMD-P	93-13-035	491-10-010	NEW-E	93-16-015	495B-140-030	NEW	93-05-018
480-110-023	NEW-P	93-06-056	491-10-010	NEW-P	93-16-016	495B-140-040	NEW	93-05-018
480-110-023	NEW	93-12-062	495B-104-010	NEW	93-05-018	495B-140-050	NEW	93-05-018
480-110-176	AMD-P	93-06-056	495B-104-020	NEW	93-05-018	495B-140-060	NEW	93-05-018
480-110-176	AMD	93-12-062	495B-104-030	NEW	93-05-018	495B-140-070	NEW	93-05-018
480-120-021	AMD	93-06-055	495B-108-010	NEW	93-05-018	495B-140-080	NEW	93-05-018
480-120-031	AMD-P	93-02-068	495B-108-020	NEW	93-05-018	495B-140-090	NEW	93-05-018
480-120-031	AMD	93-07-089	495B-108-030	NEW	93-05-018	495B-140-100	NEW	93-05-018
480-120-051	AMD	93-06-055	495B-108-040	NEW	93-05-018	495B-140-110	NEW	93-05-018
480-120-086	REP	93-06-055	495B-108-050	NEW	93-05-018	495B-168-010	NEW	93-05-018
480-120-350	NEW-P	93-05-013	495B-108-060	NEW	93-05-018	495B-168-020	NEW	93-05-018
480-120-350	NEW	93-11-026	495B-108-070	NEW	93-05-018	495B-168-030	NEW	93-05-018
480-120-500	NEW	93-06-055	495B-108-080	NEW	93-05-018	495B-168-040	NEW	93-05-018
480-120-505	NEW	93-06-055	495B-116-010	NEW	93-05-018	495B-168-050	NEW	93-05-018
480-120-510	NEW	93-06-055	495B-116-020	NEW	93-05-018	495B-168-060	NEW	93-05-018
480-120-515	NEW	93-06-055	495B-116-030	NEW	93-05-018	495B-276-010	NEW	93-05-018
480-120-520	NEW	93-06-055	495B-116-040	NEW	93-05-018	495B-276-020	NEW	93-05-018
480-120-525	NEW	93-06-055	495B-116-050	NEW	93-05-018	495B-276-030	NEW	93-05-018
480-120-530	NEW	93-06-055	495B-116-060	NEW	93-05-018	495B-276-040	NEW	93-05-018
480-120-535	NEW	93-06-055	495B-116-070	NEW	93-05-018	495B-276-050	NEW	93-05-018
480-120-535	NEW	93-14-119	495B-116-080	NEW	93-05-018	495B-276-060	NEW	93-05-018
490-04B-010	NEW-P	93-02-045	495B-116-090	NEW	93-05-018	495B-276-070	NEW	93-05-018
490-04B-010	NEW	93-06-005	495B-116-100	NEW	93-05-018	495B-276-080	NEW	93-05-018
490-08B-010	NEW-P	93-02-045	495B-116-110	NEW	93-05-018	495B-276-090	NEW	93-05-018
490-08B-010	NEW	93-06-005	495B-116-120	NEW	93-05-018	495B-276-100	NEW	93-05-018
490-08B-020	NEW-P	93-02-045	495B-116-130	NEW	93-05-018	495B-276-110	NEW	93-05-018
490-08B-020	NEW	93-06-005	495B-116-140	NEW	93-05-018	495B-276-120	NEW	93-05-018
490-08B-030	NEW-P	93-02-045	495B-116-150	NEW	93-05-018	495B-276-130	NEW	93-05-018
490-08B-030	NEW	93-06-005	495B-116-160	NEW	93-05-018	495B-276-140	NEW	93-05-018
490-08B-040	NEW-P	93-02-045	495B-116-170	NEW	93-05-018	495B-280-010	NEW	93-05-018
490-08B-040	NEW	93-06-005	495B-116-180	NEW	93-05-018	495B-280-015	NEW	93-05-018
490-08B-050	NEW-P	93-02-045	495B-116-190	NEW	93-05-018	495B-280-020	NEW	93-05-018
490-08B-050	NEW	93-06-005	495B-116-200	NEW	93-05-018	495B-280-030	NEW	93-05-018
490-08B-060	NEW-P	93-02-045	495B-116-210	NEW	93-05-018	495B-280-040	NEW	93-05-018
490-08B-060	NEW	93-06-005	495B-116-220	NEW	93-05-018	495B-280-050	NEW	93-05-018
490-08B-070	NEW-P	93-02-045	495B-116-230	NEW	93-05-018	495B-280-060	NEW	93-05-018
490-08B-070	NEW	93-06-005	495B-116-240	NEW	93-05-018	495B-280-070	NEW	93-05-018
490-08B-080	NEW-P	93-02-045	495B-116-250	NEW	93-05-018	495B-280-080	NEW	93-05-018
490-08B-080	NEW	93-06-005	495B-116-260	NEW	93-05-018	495B-280-090	NEW	93-05-018
490-10-010	NEW-P	93-02-045	495B-116-270	NEW	93-05-018	495B-280-100	NEW	93-05-018
490-10-010	NEW	93-06-005	495B-116-280	NEW	93-05-018	495B-280-110	NEW	93-05-018
490-13-010	NEW-P	93-02-045	495B-120-010	NEW	93-05-018	495B-280-120	NEW	93-05-018
490-13-010	NEW	93-06-005	495B-120-020	NEW	93-05-018	495B-300-010	NEW	93-05-018
490-100-250	AMD-P	93-02-044	495B-120-030	NEW	93-05-018	495B-300-020	NEW	93-05-018
490-100-250	AMD	93-06-006	495B-120-040	NEW	93-05-018	495B-300-030	NEW	93-05-018
490-276-010	NEW-P	93-02-045	495B-120-045	NEW	93-05-018	495B-300-040	NEW	93-05-018
490-276-010	NEW	93-06-005	495B-120-050	NEW	93-05-018	495B-310-010	NEW	93-05-018
490-276-020	NEW-P	93-02-045	495B-120-060	NEW	93-05-018	495B-310-020	NEW	93-05-018
490-276-020	NEW	93-06-005	495B-120-070	NEW	93-05-018	495B-310-030	NEW	93-05-018
490-276-030	NEW-P	93-02-045	495B-120-080	NEW	93-05-018	495B-310-040	NEW	93-05-018
490-276-030	NEW	93-06-005	495B-120-090	NEW	93-05-018	495B-325-010	NEW	93-05-018
490-276-040	NEW-P	93-02-045	495B-120-100	NEW	93-05-018	495D-104-010	AMD	93-03-086
490-276-040	NEW	93-06-005	495B-120-110	NEW	93-05-018	495D-135-040	AMD-E	93-15-073
490-276-050	NEW-P	93-02-045	495B-120-120	NEW	93-05-018	495D-135-040	AMD-P	93-16-093
490-276-050	NEW	93-06-005	495B-120-130	NEW	93-05-018	495E-104-010	NEW-P	93-09-031
490-276-060	NEW-P	93-02-045	495B-120-135	NEW	93-05-018	495E-104-010	NEW	93-13-104
490-276-060	NEW	93-06-005	495B-120-140	NEW	93-05-018	495E-104-020	NEW-P	93-09-031
490-276-070	NEW-P	93-02-045	495B-120-150	NEW	93-05-018	495E-104-020	NEW	93-13-104
490-276-070	NEW	93-06-005	495B-120-160	NEW	93-05-018	495E-104-030	NEW-P	93-09-031
490-276-080	NEW-P	93-02-045	495B-120-170	NEW	93-05-018	495E-104-030	NEW	93-13-104
490-276-080	NEW	93-06-005	495B-120-180	NEW	93-05-018	495E-108-010	NEW-P	93-09-032
490-276-090	NEW-P	93-02-045	495B-120-190	NEW	93-05-018	495E-108-010	NEW	93-13-105
490-276-090	NEW	93-06-005	495B-120-200	NEW	93-05-018	495E-108-020	NEW-P	93-09-032
490-276-100	NEW-P	93-02-045	495B-122-010	NEW	93-05-018	495E-108-020	NEW	93-13-105
490-276-100	NEW	93-06-005	495B-122-020	NEW	93-05-018	495E-108-030	NEW-P	93-09-032
490-276-110	NEW-P	93-02-045	495B-122-030	NEW	93-05-018	495E-108-030	NEW	93-13-105
490-276-110	NEW	93-06-005	495B-130-010	NEW	93-05-018	495E-108-040	NEW-P	93-09-032
490-276-120	NEW-P	93-02-045	495B-131-010	NEW	93-05-018	495E-108-040	NEW	93-13-105
490-276-120	NEW	93-06-005	495B-132-010	NEW	93-05-018	495E-108-050	NEW-P	93-09-032
490-276-130	NEW-P	93-02-045	495B-133-020	NEW	93-05-018	495E-108-050	NEW	93-13-105
490-276-130	NEW	93-06-005	495B-134-010	NEW	93-05-018	495E-108-060	NEW-P	93-09-032
490-276-140	NEW-P	93-02-045	495B-140-010	NEW	93-05-018	495E-108-060	NEW	93-13-105

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
495E-108-070	NEW-P	93-09-032	495E-120-150	NEW	93-13-107
495E-108-070	NEW	93-13-105	495E-120-160	NEW-P	93-09-034
495E-108-080	NEW-P	93-09-032	495E-120-160	NEW	93-13-107
495E-108-080	NEW	93-13-105	495E-120-170	NEW-P	93-09-034
495E-116-010	NEW-P	93-09-033	495E-120-170	NEW	93-13-107
495E-116-010	NEW	93-13-106	495E-120-180	NEW-P	93-09-034
495E-116-020	NEW-P	93-09-033	495E-120-180	NEW	93-13-107
495E-116-020	NEW	93-13-106	495E-120-190	NEW-P	93-09-034
495E-116-030	NEW-P	93-09-033	495E-120-190	NEW	93-13-107
495E-116-030	NEW	93-13-106	495E-122-010	NEW-P	93-09-035
495E-116-040	NEW-P	93-09-033	495E-122-010	NEW	93-13-108
495E-116-040	NEW	93-13-106	495E-122-020	NEW-P	93-09-035
495E-116-050	NEW-P	93-09-033	495E-122-020	NEW	93-13-108
495E-116-050	NEW	93-13-106	495E-122-030	NEW-P	93-09-035
495E-116-060	NEW-P	93-09-033	495E-122-030	NEW	93-13-108
495E-116-060	NEW	93-13-106	495E-122-040	NEW-P	93-09-035
495E-116-070	NEW-P	93-09-033	495E-122-040	NEW	93-13-108
495E-116-070	NEW	93-13-106	495E-132-010	NEW-P	93-09-036
495E-116-080	NEW-P	93-09-033	495E-132-010	NEW	93-13-109
495E-116-080	NEW	93-13-106	495E-133-020	NEW-P	93-09-037
495E-116-090	NEW-P	93-09-033	495E-133-020	NEW	93-13-110
495E-116-090	NEW	93-13-106	495E-134-010	NEW-P	93-09-038
495E-116-100	NEW-P	93-09-033	495E-134-010	NEW	93-13-111
495E-116-100	NEW	93-13-106	495E-140-010	NEW-P	93-09-039
495E-116-110	NEW-P	93-09-033	495E-140-010	NEW	93-13-112
495E-116-110	NEW	93-13-106	495E-140-020	NEW-P	93-09-039
495E-116-120	NEW-P	93-09-033	495E-140-020	NEW	93-13-112
495E-116-120	NEW	93-13-106	495E-140-030	NEW-P	93-09-039
495E-116-130	NEW-P	93-09-033	495E-140-030	NEW	93-13-112
495E-116-130	NEW	93-13-106	495E-140-040	NEW-P	93-09-039
495E-116-140	NEW-P	93-09-033	495E-140-040	NEW	93-13-112
495E-116-140	NEW	93-13-106	495E-140-050	NEW-P	93-09-039
495E-116-150	NEW-P	93-09-033	495E-140-050	NEW	93-13-112
495E-116-150	NEW	93-13-106	495E-140-060	NEW-P	93-09-039
495E-116-160	NEW-P	93-09-033	495E-140-060	NEW	93-13-112
495E-116-160	NEW	93-13-106	495E-140-070	NEW-P	93-09-039
495E-116-170	NEW-P	93-09-033	495E-140-070	NEW	93-13-112
495E-116-170	NEW	93-13-106	495E-140-080	NEW-P	93-09-039
495E-116-180	NEW-P	93-09-033	495E-140-080	NEW	93-13-112
495E-116-180	NEW	93-13-106	495E-140-090	NEW-P	93-09-039
495E-116-190	NEW-P	93-09-033	495E-140-090	NEW	93-13-112
495E-116-190	NEW	93-13-106	495E-140-100	NEW-P	93-09-039
495E-120-010	NEW-P	93-09-034	495E-140-100	NEW	93-13-112
495E-120-010	NEW	93-13-107	495E-140-110	NEW-P	93-09-039
495E-120-020	NEW-P	93-09-034	495E-140-110	NEW	93-13-112
495E-120-020	NEW	93-13-107	495E-168-010	NEW-P	93-09-040
495E-120-030	NEW-P	93-09-034	495E-168-010	NEW	93-13-113
495E-120-030	NEW	93-13-107	495E-168-020	NEW-P	93-09-040
495E-120-040	NEW-P	93-09-034	495E-168-020	NEW	93-13-113
495E-120-040	NEW	93-13-107	495E-168-030	NEW-P	93-09-040
495E-120-045	NEW-P	93-09-034	495E-168-030	NEW	93-13-113
495E-120-045	NEW	93-13-107	495E-168-040	NEW-P	93-09-040
495E-120-050	NEW-P	93-09-034	495E-168-040	NEW	93-13-113
495E-120-050	NEW	93-13-107	495E-168-050	NEW-P	93-09-040
495E-120-060	NEW-P	93-09-034	495E-168-050	NEW	93-13-113
495E-120-060	NEW	93-13-107	495E-168-060	NEW-P	93-09-040
495E-120-070	NEW-P	93-09-034	495E-168-060	NEW	93-13-113
495E-120-070	NEW	93-13-107	495E-168-060	NEW-P	93-09-041
495E-120-080	NEW-P	93-09-034	495E-276-010	NEW	93-13-114
495E-120-080	NEW	93-13-107	495E-276-020	NEW-P	93-09-041
495E-120-090	NEW-P	93-09-034	495E-276-020	NEW	93-13-114
495E-120-090	NEW	93-13-107	495E-276-030	NEW-P	93-09-041
495E-120-100	NEW-P	93-09-034	495E-276-030	NEW	93-13-114
495E-120-100	NEW	93-13-107	495E-276-040	NEW-P	93-09-041
495E-120-110	NEW-P	93-09-034	495E-276-040	NEW	93-13-114
495E-120-110	NEW	93-13-107	495E-276-050	NEW-P	93-09-041
495E-120-120	NEW-P	93-09-034	495E-276-050	NEW	93-13-114
495E-120-120	NEW	93-13-107	495E-276-060	NEW-P	93-09-041
495E-120-130	NEW-P	93-09-034	495E-276-060	NEW	93-13-114
495E-120-130	NEW	93-13-107	495E-276-070	NEW-P	93-09-041
495E-120-140	NEW-P	93-09-034	495E-276-070	NEW	93-13-114
495E-120-140	NEW	93-13-107	495E-276-080	NEW-P	93-09-041
495E-120-150	NEW-P	93-09-034	495E-276-080	NEW	93-13-114

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF

Address changes	PROP	93-08-096
	PERM	93-12-073
Adjudicative proceedings	PROP	93-08-095
	PERM	93-12-074
Board inquiries, duty to response	PROP	93-08-097
	PERM	93-12-072
Confidential information	PROP	93-08-092
	PERM	93-12-076
CPA certificates applications	PROP	93-08-102
	PERM	93-12-067
education requirements	PROP	93-08-098
	PERM	93-12-071
examinations	PROP	93-08-089
	PERM	93-12-064
	PROP	93-08-099
	PERM	93-12-070
	PROP	93-08-100
	PERM	93-12-069
experience requirements	PROP	93-08-101
	PERM	93-12-068
reinstatement	PROP	93-08-104
	PERM	93-12-065
temporary permits	PROP	93-08-103
	PERM	93-12-066
Fees	PROP	93-08-094
	PERM	93-12-075
Liability insurance for corporations	PROP	93-08-088
Licensing requirements	PROP	93-08-089
	PERM	93-12-064
	PROP	93-08-098
	PERM	93-12-071
	PROP	93-08-101
	PERM	93-12-068
	PROP	93-08-102
	PERM	93-12-067
	PROP	93-08-103
	PERM	93-12-066
	PROP	93-08-104
	PERM	93-12-065
Meetings	PROP	93-08-091
	PERM	93-12-077
Officers	PROP	93-08-091
	PERM	93-12-077
Practice and procedure	PROP	93-08-089
	PERM	93-12-064
Preamble	PROP	93-08-090
	PERM	93-12-063
Public records, availability	PROP	93-08-089
	PERM	93-12-064
	PROP	93-08-093
	PERM	93-14-050

ADMINISTRATIVE HEARINGS, OFFICE OF

Adjudicative proceedings interpreters	PROP	93-07-096
	PERM	93-10-097
Organization and operation	PROP	93-07-097
	PERM	93-10-098

AGRICULTURE, DEPARTMENT OF

Adjudicative proceedings presiding officers	PROP	93-07-021
	EMER	93-07-022
	PERM	93-10-059
Animals diseases		
hog cholera	PROP	93-16-091
reporting	PROP	93-16-090
tuberculosis	PROP	93-16-092
importation		
health requirements	PROP	93-16-089
semen, disease testing	PROP	93-16-088

Apiaries				
identification markings	EMER	93-12-039		
	PROP	93-15-100		
inspection fees	PROP	93-15-099		
pesticides, use restrictions	EMER	93-12-038		
	PROP	93-12-129		
	PROP	93-16-018		
Apples				
apple maggot survey and detection program				
funding	EMER	93-04-078		
	PROP	93-04-103		
	PERM	93-07-105		
assessments on shipments	EMER	93-04-078		
	PROP	93-04-103		
labeling as to state or country of origin	PROP	93-13-141		
Artificial insemination				
animal semen, disease testing	PROP	93-16-088		
Asparagus				
container and packaging standards	PROP	93-01-131		
	PROP	93-05-022		
Asparagus commission meetings	MISC	93-01-117		
Barley commission meetings	MISC	93-06-034		
Beef commission meetings	MISC	93-03-052		
County and area fairs				
special assistance grant limits	PERM	93-02-028		
Environmental Protection Agency/state agreement	MISC	93-13-040		
Fairs				
county and area fairs				
special assistance grant limits	PERM	93-02-028		
Farmed salmon commission meetings	MISC	93-08-056		
Fertilizers				
bulk storage and containment	PROP	93-12-044		
Fruits and vegetables				
origin labeling of product	PROP	93-08-060		
	PROP	93-12-047		
Fryer commission meetings	MISC	93-04-085		
Grapes				
certified nursery stock, application and fees	PROP	93-13-091		
Hop commission				
baled hops labeling	PROP	93-06-083		
	PERM	93-09-014		
meetings	MISC	93-01-128		
Hops				
certified rootstock, field standards for production	PROP	93-13-090		
certification analysis	PROP	93-12-134		
	PERM	93-15-069		
fees	PROP	93-12-134		
	PERM	93-15-069		
Livestock				
diseases				
hog cholera	PROP	93-16-091		
reporting	PROP	93-16-090		
tuberculosis	PROP	93-16-092		
importation				
health requirements	PROP	93-16-089		
semen, disease testing	PROP	93-16-088		
Noxious weed control board				
meetings	MISC	93-01-094		
noxious weed list and schedule of penalties	PERM	93-01-004		
practice and procedure	PERM	93-01-004		
Noxious weed seed				
prohibited noxious weed seeds	PERM	93-01-069		
restricted noxious weed seeds	PERM	93-01-069		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Pesticides					
apiaries, pesticide use restrictions	EMER	93-12-038	campaign contributions, use for nonreimbursed public office related expenses (1993, No. 12)	MISC	93-14-020
	PROP	93-12-129	commercial paper investments by state and local governments (1993, No. 8)	MISC	93-13-072
	PROP	93-16-018	emergency medical care and services		
microencapsulated methyl parathion, use restrictions	EMER	93-12-038	property tax levies (1993, No. 7)	MISC	93-13-071
	PROP	93-12-129	firearms possession by convicted person upon pardon or final discharge (1993, No. 10)	MISC	93-13-074
	PROP	93-16-018	fisheries department authority regarding fish possession and size limits (1993, No.2)	MISC	93-10-033
penalty assignment schedule	PROP	93-04-114	hazardous waste plans, fees for implementation (1993, No 6)	MISC	93-10-037
	PROP	93-06-007	library fees for services (1992, No. 31)	MISC	93-02-058
	PROP	93-06-075	municipal firemen's pension board membership (1993, No. 4)	MISC	93-10-035
	PERM	93-10-047	natural resources department, earned interest credits (1992, No. 29)	MISC	93-01-062
phosdrin, use restrictions	PROP	93-12-128	pesticide use, state preemption of local authority to regulate (1993, No. 5)	MISC	93-10-036
	EMER	93-13-038	prisoners, authority of county to charge booking fees (1993, No. 11)	MISC	93-13-075
	EMER	93-13-045	state investment board, elected officials as members (1993, No. 13)	MISC	93-14-020A
	EMER	93-13-046	traffic school attendance, ability of district courts to require (1993, No. 9)	MISC	93-13-073
	PERM	93-16-017	Rules coordinator	MISC	93-12-130
violations, rights of persons aggrieved by	PROP	93-04-113			
	PROP	93-06-008			
	PROP	93-06-076			
	PERM	93-10-046			
ziram, use restrictions	PROP	93-12-128			
	PERM	93-16-017			
Plant services					
holly, cut spray standards	PROP	93-07-053			
nursery stock standards	PROP	93-07-053			
Rapeseed					
production districts	PROP	93-07-085			
	PERM	93-11-032			
Red raspberry commission					
meetings	MISC	93-01-052			
promotional hosting expenditures	PROP	93-16-070			
Rules coordinator	MISC	93-11-100			
Semen					
disease testing requirements	PROP	93-16-088			
State/Environmental Protection Agency agreement	MISC	93-13-040			
Strawberry commission					
affected producer, definition	PROP	93-04-094			
	PERM	93-10-063			
chemical regulation	PROP	93-04-094			
	PERM	93-10-063			
meetings	MISC	93-02-061			
Weeds					
noxious weed seeds, prohibited	PERM	93-01-069			
noxious weed seeds, restricted	PERM	93-01-069			
Weights and measures					
city sealers					
report forms	PROP	93-02-016			
	PERM	93-03-079			
inspection fees	PROP	93-02-016			
	PERM	93-03-079			
railroad scale testing requirements	PROP	93-02-016			
	PERM	93-03-079			
Wheat commission					
meetings	MISC	93-01-043			
Wine commission					
meetings	MISC	93-03-074			
	MISC	93-15-007			
ASIAN AMERICAN AFFAIRS, COMMISSION ON					
Meetings	MISC	93-10-009			
ATTORNEY GENERAL'S OFFICE					
Lemon Law					
arbitration requests	EMER	93-07-017			
Opinion requests					
comments, manner of submission	MISC	93-15-116			
notice	MISC	93-15-116			
	MISC	93-16-109			
Opinions					
campaign contributions, reporting requirements (1993, No. 3)	MISC	93-10-034			
			BEEF COMMISSION		
			(See AGRICULTURE, DEPARTMENT OF)		
			BELLEVUE COMMUNITY COLLEGE		
			Federal aid recipients, refunds	PROP	93-12-097
				PROP	93-12-098
				PERM	93-16-050
				PERM	93-16-051
			Meetings	MISC	93-06-047
				MISC	93-12-006
			Parking and traffic	PROP	93-08-067
				PERM	93-12-007
			Refund policy	PROP	93-12-097
				PROP	93-12-098
				PERM	93-16-050
				PERM	93-16-051
			Rules coordinator	MISC	93-05-051
			Student conduct code	PROP	93-08-068
				PERM	93-12-008
			BELLINGHAM TECHNICAL COLLEGE		
			Board of trustees	PERM	93-05-018
			Debts, services withheld for outstanding	PERM	93-05-018
			Discrimination	PERM	93-05-018
			Facilities use	PERM	93-05-018
			Family Educational Rights and Privacy Act compliance	PERM	93-05-018
			Financial aid	PERM	93-05-018
			Grievance procedures	PERM	93-05-018
			Library-media center code	PERM	93-05-018
			Meetings	MISC	93-01-021
				MISC	93-05-003
				MISC	93-06-071
				MISC	93-08-057
				MISC	93-08-058
				MISC	93-11-019
				MISC	93-12-131
				MISC	93-15-029
				MISC	93-16-094
			Organization and operation	PERM	93-05-018
			Parking and traffic	PERM	93-05-018
			Practice and procedure	PERM	93-05-018
			Public records, availability	PERM	93-05-018

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Rules coordinator	PERM	93-05-018	CENTRAL WASHINGTON UNIVERSITY		
Scholarships	PERM	93-05-018	Meetings	MISC	93-08-001
State Environmental Policy				MISC	93-14-054
Act compliance	PERM	93-05-018	Rules coordinator	MISC	93-01-095
Student conduct code	PERM	93-05-018			
Tuition and fee schedule	PERM	93-05-018			
BENTON FRANKLIN WALLA WALLA COUNTIES AIR POLLUTION CONTROL AUTHORITY			CENTRALIA COLLEGE		
Agricultural burning	PROP	93-13-128	Meetings	MISC	93-01-071
Air operating permits	PROP	93-13-128	Organization and operation	PROP	93-06-067
Appeals from board orders	PROP	93-13-128		PERM	93-13-050
Asbestos projects	PROP	93-13-128	Rules coordinator	MISC	93-06-084
Board powers and duties	PROP	93-13-128			
Control officer's powers and duties	PROP	93-13-128			
Fees and charges	PROP	93-13-128			
Open burning	PROP	93-13-128			
Solid fuel burning devices	PROP	93-13-128			
Source registration	PROP	93-13-128			
Variances	PROP	93-13-128			
BLIND, DEPARTMENT OF SERVICES FOR THE			CLARK COLLEGE		
Definitions			Meetings	MISC	93-02-005
challenge test licensee, term deleted	PROP	93-07-117	Parking and traffic	PROP	93-15-081
	PERM	93-10-067	Rules coordinator	MISC	93-02-005
Vending facilities					
operation in absence of assigned vendor	PERM	93-01-026			
vendor or licensee selection	PERM	93-01-026			
vendor selection review	PERM	93-01-026			
Vendors					
eligibility	PROP	93-06-048			
	PERM	93-09-013			
BLIND, WASHINGTON STATE SCHOOL FOR THE			CLEMENCY AND PARDONS BOARD		
Rules coordinator	MISC	93-01-118	Meetings	MISC	93-01-040
				MISC	93-02-022
BOILER RULES, BOARD OF (See LABOR AND INDUSTRIES, DEPARTMENT OF)			CLOVER PARK TECHNICAL COLLEGE		
			Meetings	MISC	93-12-061
			Parking and traffic	PROP	93-01-033
BUILDING CODE COUNCIL			CODE REVISER'S OFFICE		
Amendments to State Building Code policies and procedures	PROP	93-16-110	Rules coordinator	MISC	93-01-001
Barrier-free facilities	PERM	93-01-166			
Energy code					
efficiency requirements for nonresidential buildings	PROP	93-08-077			
	PROP	93-08-084			
	PROP	93-10-004			
	PROP	93-16-111			
	PROP	93-16-112			
	PROP	93-16-113			
window thermal testing					
Fireworks					
storage, use, and handling	PERM	93-01-162			
Fueling tank vehicles					
fleet fueling requirements	PERM	93-01-163			
Indoor air quality					
ventilation and indoor air quality code	PROP	93-01-016			
	PERM	93-02-056			
Meetings	MISC	93-01-160			
Policies and procedures	PROP	93-01-161			
	PROP	93-14-017			
	MISC	93-05-025			
Rules coordinator					
Uniform codes					
fire code and fire code standards	PERM	93-01-162			
	PERM	93-01-163			
Ventilation and indoor air quality code	PROP	93-01-016			
	PERM	93-02-056			
Water conservation performance standards	PERM	93-01-164			
			COLUMBIA RIVER GORGE COMMISSION		
			Appeals from decisions	MISC	93-11-020
				MISC	93-11-021
				MISC	93-14-132
			Land use ordinance	MISC	93-03-093
				MISC	93-11-022
				MISC	93-11-023
			Clark County	MISC	93-04-126
				MISC	93-11-022
				MISC	93-11-023
			Hood River County, Oregon	MISC	93-04-125
				MISC	93-11-022
				MISC	93-11-023
			Klickitat County	MISC	93-04-124
				MISC	93-11-022
				MISC	93-11-023
			Wasco County, Oregon	MISC	93-04-123
				MISC	93-11-022
				MISC	93-11-023
			COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR		
			Adult education program	EMER	93-14-009
			Annuity contract repurchase	PERM	93-01-015
			General education development (GED) program	EMER	93-14-010
			Personnel standards	PROP	93-10-103
				PERM	93-14-008
			Project even start	EMER	93-09-047
				PROP	93-14-052
				EMER	93-14-053
			Running start program	PERM	93-01-014
			COMMUNITY DEVELOPMENT, DEPARTMENT OF		
			Bond cap allocation	PROP	93-09-061
				PERM	93-13-012
			Comprehensive plans and development regulations		
			criteria for adoption	PROP	93-13-138
			Development loan fund meetings	MISC	93-01-121
			Development regulations and comprehensive plans		
			criteria for adoption	PROP	93-13-138
			Emergency food assistance program funding	PROP	93-08-087
			Emergency worker program	PROP	93-15-087

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Enhanced 911 funding	EMER 93-07-063	Fire marshals training requirements	PROP 93-10-029
	PROP 93-07-112		PROP 93-10-030
	PERM 93-11-039		PERM 93-13-100
Fire marshal standards	PROP 93-04-060		PERM 93-13-101
	EMER 93-04-061		
	PERM 93-05-032	DEAF, WASHINGTON SCHOOL FOR THE	
Fire protection services division meetings	MISC 93-05-005	Rules coordinator	MISC 93-01-129
Growth management comprehensive plans and development regulations, criteria for	PROP 93-13-138	EASTERN WASHINGTON UNIVERSITY	
Low-income home energy assistance program hearings	MISC 93-13-010	Discrimination	PERM 93-01-073
Public works board application evaluation procedure meetings	PROP 93-15-090	Meetings	MISC 93-14-114
	MISC 93-01-127		MISC 93-16-077
	MISC 93-07-059	ECOLOGY, DEPARTMENT OF	
organization and operation rules coordinator	PROP 93-15-089	Agricultural activities	
Relocation assistance and real property acquisition	MISC 93-04-104	burning permit	PROP 93-03-090
Rules coordinator	PROP 93-15-086		EMER 93-04-002
	MISC 93-04-104	grass seed production permit	EMER 93-09-063
			EMER 93-12-012
COMMUNITY ECONOMIC REVITALIZATION BOARD			PERM 93-14-022
(See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		Air quality	
		agricultural burning, permit	PROP 93-03-090
CONSERVATION AND RENEWABLE ENERGY SYSTEM			EMER 93-04-002
Meetings	MISC 93-03-076		PROP 93-09-063
	MISC 93-05-002	air pollution sources, regulation	EMER 93-12-012
			PERM 93-14-022
CONSERVATION COMMISSION			PROP 93-03-065
Meetings	MISC 93-03-035		PERM 93-05-044
			PROP 93-05-048
CONVENTION AND TRADE CENTER			PROP 93-07-042
Meetings	MISC 93-01-145		PROP 93-07-062
	MISC 93-03-053	gasoline vapor control, compliance schedules	PROP 93-15-052
	MISC 93-06-004		PROP 93-15-053
	MISC 93-07-025		PERM 93-03-089
	MISC 93-07-056		PROP 93-04-108
	MISC 93-09-011		PERM 93-13-011
	MISC 93-09-046	motor vehicle emission inspection	PERM 93-13-068
	MISC 93-11-066		PROP 93-03-092
	MISC 93-13-031		PERM 93-10-062
	MISC 93-15-030		PROP 93-12-080
CORRECTIONS, DEPARTMENT OF			EMER 93-12-081
Rules coordinator	MISC 93-08-014	operating permits	PROP 93-07-062
		solid fuel burning devices	
COUNTY ROAD ADMINISTRATION BOARD		emission performance standards	PERM 93-04-105
Land area ratio, computation	EMER 93-16-006	fees	EMER 93-01-137
	EMER 93-16-078		PERM 93-04-105
Meetings	MISC 93-14-128	Tacoma, Environmental Protection Agency redesignation	MISC 93-13-043
Pavement management systems	PROP 93-07-045	toxic air pollutants, control of sources	PROP 93-14-118
	PERM 93-14-003	transportation activities, conformity to air quality implementation plans	PERM 93-04-006
Rules coordinator	MISC 93-02-059	Chlorofluorocarbon refrigerants reclamation and recycling	EMER 93-02-049
CRIMINAL JUSTICE TRAINING COMMISSION			PERM 93-02-050
Basic law enforcement academy curriculum	PROP 93-08-055	recycling requirements	EMER 93-02-049
	PERM 93-13-097		PERM 93-02-050
readmission	PROP 93-03-084	Clean Air Act	
	PROP 93-08-030	toxic air pollutants, control of sources	PROP 93-14-118
	PERM 93-13-103	violations	
requirements	PROP 93-05-039	maximum penalty	EMER 93-02-012
training requirements	PROP 93-07-118	Dam safety regulations	PERM 93-01-090
	PERM 93-13-098	Dangerous waste	
Corrections academies		chlorofluorocarbon refrigerants	EMER 93-02-049
readmission	PROP 93-03-085		PERM 93-02-050
	PERM 93-07-119	designation	PROP 93-12-109
requirements	PROP 93-05-040		PROP 93-14-005
	PROP 93-07-120	facilities, requirements	PROP 93-12-109
	PERM 93-13-099		PROP 93-14-005

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

tracking system	PROP 93-12-109	Tumwater, city of	PROP 93-14-117
Drinking water	PROP 93-14-005	Vancouver, city of	PERM 93-01-109
remedial action grants	PROP 93-12-108	Whatcom County	PROP 93-02-011
Environmental laboratories		Solid fuel burning devices	PERM 93-04-063
accreditation	PROP 93-13-127	emission performance standards	PERM 93-04-105
fees	PROP 93-13-127	fees	EMER 93-01-137
Environmental Protection Agency/state agreement	MISC 93-13-040	Solid waste	PERM 93-04-105
Flood control		municipal solid waste landfills, criteria	PROP 93-12-110
grant funding priorities	MISC 93-09-066	State/Environmental Protection Agency agreement	MISC 93-13-040
Forest practices		Tacoma	
aquatic habitat protection	PERM 93-01-091	Environmental Protection Agency air quality redesignation	MISC 93-13-043
water quality protection	PERM 93-01-091	Transportation activities, conformity to air quality implementation plans	PERM 93-04-006
	PROP 93-05-042	Waste	
	EMER 93-07-090	discharge general permit program	PROP 93-03-066
	PERM 93-11-062		EMER 93-03-067
Hazardous waste			PERM 93-10-099
Model Toxics Control Act		mixed waste facilities	
remedial action costs, payment	PROP 93-15-125	management fees	PERM 93-09-065
Mixed waste		national pollutant discharge elimination system permit program	PROP 93-03-066
management fees	PERM 93-09-065		EMER 93-03-067
Model Toxics Control Act		solid waste	
remedial action costs, payment	PROP 93-15-125	municipal solid waste landfills, criteria	PROP 93-12-110
Motor vehicles		state waste discharge permit program	PROP 93-03-066
emission inspection	PROP 93-03-092		EMER 93-03-067
	PERM 93-10-062		
	PROP 93-12-080	Wastewater	
	EMER 93-12-081	construction grants priority and ranking system	PROP 93-09-064
Oil spills		discharge permit program	PERM 93-14-116
gasoline vapor control, compliance schedules	PERM 93-03-089		PROP 93-03-066
	PROP 93-04-108		EMER 93-03-067
	PERM 93-13-011		PERM 93-10-099
	PERM 93-13-068		
oil transfer and handling facilities, personnel training and certification	PERM 93-01-089	Water quality	
Oil transfer and handling facilities personnel training and certification	PERM 93-01-089	drinking water	
	MISC 93-01-087	remedial action grants	PROP 93-12-108
Rules coordinator		forest practices	EMER 93-07-090
Service stations		whole effluent toxicity testing and limits	PROP 93-08-085
gasoline vapor control, compliance schedules	PERM 93-03-089		PROP 93-14-004
	PROP 93-04-108	Water rate charges	PROP 93-09-064
	PERM 93-13-011		PERM 93-14-116
	PERM 93-13-068	Water resources management program	
Shoreline master programs		Columbia River main stem	PERM 93-01-009
Brewster, City of	PROP 93-15-054	Snake River main stem	PERM 93-01-010
Clark County	PERM 93-01-108	Water rights	
Dupont, city of	PROP 93-04-064	Columbia River water withdrawal	PERM 93-01-009
	PERM 93-08-026	Snake River water withdrawal	PERM 93-01-010
Edmonds, city of	PROP 93-03-091	Woodstoves	
	PERM 93-13-020	emission performance standards	PERM 93-04-105
Jefferson County	PROP 93-10-100	fees	PERM 93-04-105
Montesano, city of	PROP 93-09-062		
Mountlake Terrace, city of	PROP 93-06-051	EDMONDS COMMUNITY COLLEGE	
	PROP 93-13-047	Meetings	MISC 93-01-079
	PERM 93-16-013		MISC 93-02-013
Olympia, city of	PROP 93-06-050		MISC 93-05-049
	PROP 93-11-061		MISC 93-07-049
	PERM 93-12-107		MISC 93-09-005
Pierce County	PERM 93-02-048		MISC 93-13-032
Port Townsend, city of	PROP 93-01-088		MISC 93-15-033
	PERM 93-07-116		
	PROP 93-10-100	EDUCATION, STATE BOARD OF	
San Juan County	PERM 93-01-138	Architectural and engineering services	PROP 93-08-041
Seattle, city of	PERM 93-04-106		PERM 93-13-026
	PROP 93-05-043	Corporal punishment reporting requirement	PERM 93-01-077
	PERM 93-12-011	High school graduation requirements	PERM 93-04-115
Stevens County	PROP 93-04-065	Instructional specialist certificate	PERM 93-05-007
	PROP 93-07-091	Meetings	MISC 93-08-008
	PROP 93-11-074		
Tacoma, city of	PERM 93-01-110		

Subject/Agency Index
(Citation in **bold type** refer to material in this issue)

Racial imbalance prohibition acceptance criteria	PROP	93-04-119	FISHERIES, DEPARTMENT OF <u>Commercial</u> baitfish seasons bottomfish coastal bottomfish catch limits Puget Sound bottomfish seasons buoy brands crabs areas and seasons gear experimental fishery permit advisory board geoducks gear and unlawful acts licenses salmon coastal harbors seasons and gear Columbia River above Bonneville, seasons Columbia River below Bonneville, seasons Columbia River tributaries Grays Harbor Puget Sound seasons and gear troll season Willapa Bay scallops areas and seasons coastal waters Puget Sound			
	PROP	93-07-100				
School bus drivers standards and qualifications	PROP	93-04-117			EMER	93-06-044
	PERM	93-08-007				
School construction funding assistance, priority system	PERM	93-04-019			EMER	93-01-140
Site conditions					EMER	93-04-095
acceptance criteria	PROP	93-04-118			PERM	93-07-093
	PERM	93-07-104			EMER	93-09-067
Teachers					EMER	93-10-094
definitions of terms	PROP	93-04-120			EMER	93-12-078
	PERM	93-07-101			PROP	93-12-092
out-of-endorsement placement	PROP	93-04-116			PROP	93-15-050
	PERM	93-07-102			PERM	93-15-051
teacher preparation programs	PROP	93-04-120			EMER	93-11-010
	PERM	93-07-101			PROP	93-12-092
					PROP	93-15-050
					PERM	93-15-051
EMPLOYMENT SECURITY DEPARTMENT						
Rules coordinator	MISC	93-01-167			PROP	93-12-092
	MISC	93-05-008			PROP	93-15-050
Training					PERM	93-15-051
commissioner approval	PROP	93-13-137			PROP	93-12-092
	PERM	93-16-053			PROP	93-15-050
Unemployment compensation					PERM	93-15-051
commissioner approved training	PROP	93-11-005			PROP	93-12-092
temporary total disability	PROP	93-16-104			PROP	93-15-050
voluntary layoffs	EMER	93-13-007			PERM	93-15-051
waiting period credit or benefits, claims	PROP	93-07-086				
	PERM	93-10-025			PROP	93-12-092
Voluntary layoffs	EMER	93-13-007		PROP	93-15-050	
	PROP	93-15-115		PERM	93-15-051	
				PROP	93-12-092	
				PROP	93-15-050	
				PERM	93-15-051	
				PROP	93-12-092	
				PROP	93-15-050	
				PERM	93-15-051	
ENERGY FACILITY SITE EVALUATION COUNCIL						
Meetings	MISC	93-02-023				
Members						
salaries and benefits, applicant funding of	PROP	93-07-094		PROP	93-09-074	
	PERM	93-12-013		PROP	93-13-006	
				PERM	93-14-042	
ENERGY OFFICE						
Organization	PERM	93-02-033		EMER	93-04-073	
Public records				EMER	93-06-015	
availability	PERM	93-02-033		EMER	93-06-069	
copying fees	PERM	93-02-033		EMER	93-15-049	
				EMER	93-15-098	
ENGINEERS AND LAND SURVEYORS, BOARD OF REGISTRATION FOR PROFESSIONAL						
Adjudicative proceedings						
failure to meet prerequisites	PROP	93-09-024		EMER	93-05-017	
	PERM	93-13-064		EMER	93-06-014	
Comity	PERM	93-01-081		EMER	93-06-070	
Document preparation requirements	PROP	93-09-023		EMER	93-07-001	
	PERM	93-13-066		EMER	93-10-061	
Evaluation of license candidates	PERM	93-01-081		EMER	93-12-010	
Examinations	PERM	93-01-081		EMER	93-13-030	
Meetings	MISC	93-03-041		EMER	93-14-108	
Seal/stamp usage	PROP	93-09-022		EMER	93-16-034	
	PERM	93-13-065				
				PROP	93-09-073	
				PERM	93-14-041	
				EMER	93-10-043	
				EMER	93-15-008	
				EMER	93-15-097	
				EMER	93-16-031	
				EMER	93-16-082	
				EMER	93-16-034	
EVERETT COMMUNITY COLLEGE						
Meetings	MISC	93-02-030				
EVERGREEN STATE COLLEGE, THE						
Meetings	MISC	93-01-112				
FARMED SALMON COMMISSION (See AGRICULTURE, DEPARTMENT OF)						
				EMER	93-07-043	
				PROP	93-12-092	
				PROP	93-15-050	
				PERM	93-15-051	
				PROP	93-12-092	
				PROP	93-15-050	
				PERM	93-15-051	

Subject/Agency Index

(Citation in bold type refer to material in this issue)

sea cucumbers			rules and definitions, amendments	PROP	93-04-096
areas and seasons	EMER	93-10-044		PROP	93-08-033
	PROP	93-12-092		PERM	93-08-034
	EMER	93-13-058		PERM	93-14-043
	EMER	93-13-089	salmon		
	PROP	93-15-050	area closures	EMER	93-14-071
	PERM	93-15-051	areas and seasons	EMER	93-08-016
sea urchins			Chehalis River	EMER	93-14-040
areas and seasons	EMER	93-05-006	Columbia River	EMER	93-04-043
	EMER	93-07-006		EMER	93-06-013
shad				EMER	93-06-068
Columbia River	EMER	93-12-041		EMER	93-08-018
	EMER	93-13-078	Klickitat River	EMER	93-13-009
shellfish			Puyallup River	EMER	93-15-016
harvest logs	PROP	93-12-092	Skagit River	EMER	93-15-016
	PROP	93-15-050	saltwater seasons and bag limits	EMER	93-10-045
	PERM	93-15-051		EMER	93-13-036
lawful and unlawful acts	EMER	93-11-040		EMER	93-14-012
shrimp			Wind River	EMER	93-15-016
coastal waters	PROP	93-12-092	shad	EMER	93-15-017
	PROP	93-15-050	areas and seasons	EMER	93-13-029
	PERM	93-15-051	shrimp		
Puget Sound	EMER	93-09-028	area and seasons	EMER	93-09-026
	EMER	93-11-057		EMER	93-11-057
	PROP	93-12-092		EMER	93-11-063
	PROP	93-15-050		EMER	93-12-079
	PERM	93-15-051		EMER	93-13-057
smelt			smelt		
areas and seasons	EMER	93-01-008	areas and seasons	EMER	93-01-008
sturgeon			sturgeon		
coastal harbors			areas and seasons	EMER	93-09-026
seasons and gear	PROP	93-09-074	size limits	PROP	93-10-095
Columbia River				PROP	93-15-009
above Bonneville, seasons	EMER	93-02-008		PROP	93-15-010
trawl gear	PROP	93-12-092	Rules coordinator	MISC	93-05-014
	PROP	93-15-050			
	PERM	93-15-051			
<u>Personal use</u>			FOREST PRACTICES BOARD		
clams			Application and notification	PROP	93-05-010
area closures	EMER	93-08-059		PERM	93-12-001
	EMER	93-09-025	Chemicals	PROP	93-05-010
	EMER	93-15-022		PERM	93-12-001
areas and seasons			Definitions	PROP	93-05-010
hardshell	EMER	93-15-032		PERM	93-12-001
razor	EMER	93-01-017	Endangered Species Act		
	EMER	93-01-104	relationship to Forest Practices Act	EMER	93-07-060
	EMER	93-07-092		EMER	93-15-071
	EMER	93-08-017	Enforcement	PROP	93-05-010
	EMER	93-10-096		PERM	93-12-001
seasons	PROP	93-10-095	Forest landowners		
	PROP	93-15-009	stewardship management plan	EMER	93-02-010
	PERM	93-15-011	Marbled murrelet		
crab			critical wildlife habitats	EMER	93-07-060
areas and seasons	EMER	93-11-063		EMER	93-15-071
	EMER	93-13-057	Meetings	MISC	93-01-132
definitions and rules, amendments	PROP	93-04-096		MISC	93-03-088
	PROP	93-08-033		MISC	93-06-029
	PERM	93-08-034		MISC	93-08-086
	PERM	93-14-043		MISC	93-11-082
food fish				MISC	93-14-131
bag limits	EMER	93-09-026	Policy and organization	PROP	93-05-010
	PROP	93-10-095		PERM	93-12-001
	PROP	93-15-009	Practices and procedure	PROP	93-05-010
	PERM	93-15-011		PERM	93-12-001
	EMER	93-13-028	Reforestation	PROP	93-05-010
free fishing days				PERM	93-12-001
halibut			Road construction and maintenance	PROP	93-05-010
areas and seasons	EMER	93-13-002		PERM	93-12-001
	PROP	93-10-095			
	PERM	93-15-011	State Environmental Policy Act (SEPA)		
	EMER	93-15-015	compliance	PROP	93-05-010
	EMER	93-15-068		PERM	93-12-001
oysters			Stewardship management plan	EMER	93-02-010
areas and seasons	PERM	93-09-027	Stream shade cover	EMER	93-02-009
	EMER	93-15-022		EMER	93-10-015

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Timber harvesting	PROP	93-05-010	liquor raffled during members only		
	PERM	93-12-001	raffle	PROP	93-13-061
Watershed analysis	PROP	93-05-010	managers, operators, and employees	PROP	93-13-061
	PERM	93-12-001	Record-keeping requirements	PROP	93-08-066
				PERM	93-12-082
				PERM	93-13-063
				MISC	93-04-084
GAMBLING COMMISSION			Rules coordinator		
Amusement games			Washington blackjack		
charitable and nonprofit organizations	PROP	93-15-042	rules of play	PROP	93-10-042
deposit of receipts	PROP	93-15-042		PERM	93-13-062
fee schedule	PROP	93-16-052	wager limits, exception	PROP	93-04-044
license requirements	PROP	93-15-042		PROP	93-10-042
locations authorized	PROP	93-15-042		PERM	93-13-062
locations within grocery stores authorized	PERM	93-01-013			
managers, operators, and employees	PROP	93-13-061	GENERAL ADMINISTRATION,		
operating requirements	PROP	93-07-082	DEPARTMENT OF		
	PERM	93-12-082	Banking, division of		
	PROP	93-15-042	check sellers		
recordkeeping requirements	PROP	93-15-042	bonding requirements	PROP	93-13-143
wager and prize limits	PROP	93-07-082		PERM	93-16-032
	PERM	93-12-082	consumer loan companies		
			charges, restrictions	PROP	93-13-144
Bingo				PERM	93-16-033
accounting requirements	PROP	93-10-042	interstate acquisition reciprocity	PROP	93-05-052
	PERM	93-13-062		PERM	93-07-113
authorized activities	PROP	93-10-042	mutual holding companies		
	PERM	93-13-062	establishment and operation	PROP	93-11-087
certification procedure for charitable and nonprofit organizations	PROP	93-10-042		PERM	93-13-142
	PERM	93-13-062	Facilities off state capitol grounds		
disclosure of prizes and rules	PROP	93-10-042	parking program	PROP	93-09-068
	PERM	93-13-062		PROP	93-10-090
limitations on prizes and receipts	PROP	93-10-042		PROP	93-12-091
	PERM	93-13-062	Parking fees	PROP	93-15-126
live performances as gifts	EMER	93-07-080		PROP	93-05-041
	PROP	93-07-083		PROP	93-09-068
	PERM	93-15-041		PROP	93-10-090
managers, operators, and employees	PROP	93-13-061	Retrospective rating advisory group	PROP	93-12-091
procedures for conducting	PROP	93-10-042	meetings	PROP	93-15-126
	PERM	93-13-062		MISC	93-13-017
Card games			Risk management, division of		
daily records	PROP	93-06-036	local government self-insurance	PROP	93-07-014
	PERM	93-10-005		PROP	93-09-030
definition	PROP	93-13-061	Rules coordinator	PERM	93-16-079
tournaments for fees and prizes	PROP	93-07-082	Savings and loan associations, division of	MISC	93-07-084
	PERM	93-12-082	credit union supervisory		
wager limits	PROP	93-04-044	committees	PROP	93-07-103
Field offices and operations	PROP	93-01-133			
	PERM	93-06-011	GOVERNOR, OFFICE OF THE		
Licenses			Affirmative action policy committee		
denial, suspension, or revocation	PROP	93-07-082	meetings	MISC	93-13-051
	PERM	93-12-082	Americans with Disabilities Act		
Liquor as prizes	PROP	93-13-061	implementation	MISC	93-06-049
raffles for members only	MISC	93-03-009	Ethical conduct standards for executive		
Meetings	MISC	93-13-060	branch employees	MISC	93-03-049
Punchboards and pull tabs			Higher education coordinating board designated		
coin-operated pull tab dispensing devices	PROP	93-07-083	as review entity for Program Integrity		
	PROP	93-07-087	Triad	MISC	93-03-023
	PERM	93-12-082	Independent living and rehabilitation		
electronic punchboards	PROP	93-07-081	advisory councils established	MISC	93-10-065
	PERM	93-12-082	Log export rules	MISC	93-15-001
flares, standards	PROP	93-06-036	Rehabilitation and independent living		
	PERM	93-10-005	advisory councils established	MISC	93-10-065
fund raising events, pull tabs at	PROP	93-07-081	State of emergency		
	PERM	93-12-082	proclamation	MISC	93-04-005
inventory and retention	PROP	93-08-066	termination	MISC	93-04-076
	PERM	93-12-082	Travel expenditures for agencies,		
	PERM	93-13-063	standards	MISC	93-10-06
name of manufacturer, display required	PROP	93-07-083			
	PERM	93-12-082	GRAYS HARBOR COLLEGE		
prizes, minimum percentages	PERM	93-04-007	Meetings	MISC	93-01-130
recall of defective devices	PROP	93-06-036			
	PERM	93-10-005			
Raffles					

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

GREEN RIVER COMMUNITY COLLEGE

Adjudicative proceedings PROP 93-15-118
 Meetings MISC 93-02-004
 Parking and traffic PROP 93-15-118
 PROP 93-15-119
 Smoking regulations PROP 93-15-121
 Student code of conduct PERM 93-04-022
 Tenure PROP 93-15-120

GROWTH PLANNING HEARINGS BOARDS

Meetings MISC 93-01-105
 MISC 93-03-017
 Petitions for review, filing PROP 93-08-032
 PERM 93-11-068
 Practice and procedure PROP 93-06-045

HARDWOODS COMMISSION

(See **TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**)

HEALTH CARE AUTHORITY

Basic health plan EMER 93-14-089
 Rules coordinator MISC 93-08-019

HEALTH, DEPARTMENT OF

Abortion facilities
 authority of department to regulate EMER 93-14-034
 PROP 93-14-035

 criminal history disclosure and background inquiries PROP 93-04-091
 PROP 93-08-078
 PERM 93-16-030

 Adjudicative proceedings
 disciplinary boards PROP 93-04-102
 PERM 93-08-003
 secretary programs and professions PROP 93-08-071
 PERM 93-13-005

Adult residential rehabilitation centers
 criminal history disclosure and background inquiries PROP 93-04-091
 PROP 93-08-078
 PERM 93-16-030

AIDS
 prescription drug and HIV intervention programs
 eligibility PROP 93-06-095
 PROP 93-11-006
 reporting requirements PROP 93-03-003
 PERM 93-08-036
 spending limitations EMER 93-04-015
 Blood lead levels reporting PROP 93-06-094
 PERM 93-10-038

Boarding homes
 criminal history disclosure and background inquiries PROP 93-04-091
 PROP 93-08-078
 PERM 93-16-030
 nursing care for residents EMER 93-12-004

Certification
 expiration PROP 93-10-071
 PERM 93-14-011
 fees PROP 93-10-071
 PERM 93-14-011
 temporary and provisional
 certificates PROP 93-10-072
 PERM 93-14-095

Certificate of need
 kidney disease treatment centers EMER 93-01-150
 PROP 93-08-070
 PERM 93-13-015
 nursing homes EMER 93-13-044

Childbirth centers
 criminal history disclosure and background inquiries PROP 93-04-091
 PROP 93-08-078
 PERM 93-16-030

Chiropractic disciplinary board
 cost of services, disclosure PROP 93-14-094
 future care contracts PROP 93-14-094
 meetings MISC 93-02-064
 professional standards,
 mandatory reporting EMER 93-10-006
 PROP 93-14-094
 records, maintenance and retention PROP 93-14-094
 sexual misconduct PROP 93-14-094
 substance abuse monitoring programs PROP 93-14-094

Chiropractic examiners, board of
 adjudicative proceedings **PROP 93-16-100**
 AIDS education PROP 93-06-090
 PERM 93-09-055
 continuing education PROP 93-06-090
 PROP 93-09-054
 PERM 93-09-055
 PROP 93-16-100
 educational symposia, course content meetings **PROP 93-16-100**
 MISC 93-01-151
 MISC 93-08-062
 MISC 93-14-039
 temporary permits PROP 93-06-090
 PERM 93-09-055
 PROP 93-06-090
 PERM 93-09-055

 x-ray technicians, registration PROP 93-06-090
 PERM 93-09-055

Contact lenses
 fitting and dispensing PROP 93-02-066
 PROP 93-16-023
 records retention PROP 93-02-066
 PROP 93-16-023

Counselors
 fees PROP 93-10-071
 PERM 93-14-011

Criminal history disclosure and background inquiries PROP 93-04-091
 PROP 93-08-078
 PERM 93-16-030

Dental disciplinary board
 anesthesia, administration **PROP 93-16-029**
 dental lab technicians
 permitted acts PROP 93-08-106
 PROP 93-13-014

unlicensed persons
 permitted acts PROP 93-08-106
 PROP 93-13-014
 PROP 93-16-028

Dental examiners, board of
 licensure without examination
 application procedures PROP 93-01-025
 PROP 93-07-107
 PERM 93-12-005
 eligibility PROP 93-01-025
 PERM 93-07-108
 examination standards PROP 93-01-025
 PERM 93-07-108
 licensing standards PROP 93-01-025
 PERM 93-07-108

Dental hygienists
 licenses PROP 93-12-121
 fees **PERM 93-16-073**
 PROP 93-01-147
 out-of-state applicants PERM 93-06-042A
 PROP 93-01-007
 PERM 93-08-004

Description and organization PERM 93-08-004

Disciplinary boards
 adjudicative proceedings PROP 93-04-102
 PERM 93-08-003

Drinking water
 operating permit PERM 93-03-047
 fees PERM 93-03-047
 requirements PROP 93-04-122
 surface water standards and treatment PERM 93-08-011

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Emergency medical services and trauma			Massage practitioners		
care systems			fees	PROP	93-10-071
administration	PERM	93-01-148		PERM	93-14-011
certification	PERM	93-01-148	Medical examiners, board of		
continuing education	PERM	93-01-148	licenses	PERM	93-01-078
definitions	PERM	93-01-148	retired active physicians		
designation standards	PROP	93-13-124	fees	PROP	93-11-073
facilities	PERM	93-01-148		PROP	93-12-122
fees	PROP	93-13-124		EMER	93-12-124
licensure	PERM	93-01-148		PERM	93-16-102
training	PERM	93-01-148	license renewal	PERM	93-01-078
trauma registry	PERM	93-01-148	licenses	PERM	93-01-078
verification of trauma care services	PERM	93-01-148	special purpose examination	PROP	93-05-047
Environmental Protection Agency/state				PERM	93-11-008
agreement	MISC	93-13-040	surgical assistants		
Funds, allocation			utilization and supervision	PROP	93-05-047
local health departments	EMER	93-15-012		PERM	93-11-008
	PROP	93-15-091	Medical test sites		
Health, board of			licensure	PROP	93-14-036
rule-making authority	PROP	93-11-075	Naturopathic physicians		
Hearing aids, council on			fees	PROP	93-10-071
hearing aid businesses				PERM	93-14-011
adjudicative proceedings	PROP	93-13-145	Nursing, board of		
bonding requirements	PERM	93-07-010	adjudicative proceedings	PROP	93-16-097
licenses			advanced registered nurse practitioners	PROP	93-16-098
activities requiring	PERM	93-07-009	mailing address, responsibility		
continuing education requirements	PERM	93-07-007	for maintaining	PROP	93-06-091
fees	PROP	93-10-071		PERM	93-11-007
	PERM	93-14-011	registered nurses		
temporary practice permits	PERM	93-07-008	fees	PROP	93-08-080
meetings	MISC	93-15-078		PERM	93-12-125
Home care agencies			Nursing home administrators, board of		
criminal history disclosure and background			definitions	PROP	93-08-105
inquiries	PROP	93-04-091		PERM	93-13-004
	PROP	93-08-078	examinations	PROP	93-08-105
	PERM	93-16-030		PERM	93-13-004
fees	EMER	93-14-093	fees	PROP	93-10-071
licenses	EMER	93-14-093		PERM	93-14-011
Home health agencies			licenses	PROP	93-08-105
criminal history disclosure and background				PERM	93-13-004
inquiries	PROP	93-04-091	standards of conduct	PROP	93-08-105
	PROP	93-08-078		PERM	93-13-004
	PERM	93-16-030	Nursing homes		
fees	EMER	93-14-093	certificate of need	EMER	93-13-044
licenses	EMER	93-14-093	Nursing pools		
Hospice agencies			fees	PROP	93-10-071
criminal history disclosure and background				PERM	93-14-011
inquiries	PROP	93-04-091	quality assurance standards	PROP	93-10-039
	PROP	93-08-078		PERM	93-14-011
	PERM	93-16-030	registration	PROP	93-10-039
fees	EMER	93-14-093		PERM	93-14-011
licenses	EMER	93-14-093	Occupational therapy practice board		
Hospitals			licensure		
criminal history disclosure and background			application	PROP	93-12-089
inquiries	PROP	93-04-091	examinations	PROP	93-12-089
	PROP	93-08-078	inactive status	PROP	93-12-089
	PERM	93-16-030	out-of-state applicants	PROP	93-12-089
new construction regulations	PROP	93-01-149	renewals	PROP	93-12-089
	PERM	93-07-011	Ocularists		
Kidney disease treatment centers			training and licensing requirements	PROP	93-03-046
certificate of need				PERM	93-10-008
application moratorium	EMER	93-01-150	Opticians		
dialysis station need formula	PROP	93-08-070	contact lens		
	PERM	93-13-015	fitting and dispensing	PROP	93-02-066
kidney disease program	PROP	93-16-099		PROP	93-16-023
Lead poisoning			records retention	PROP	93-02-066
blood lead levels reporting	PROP	93-06-094		PROP	93-16-023
	PERM	93-10-038	licensure		
Local health departments			application	PROP	93-10-040
funds allocation	EMER	93-15-012		PERM	93-14-011
	PROP	93-15-091	fees	PROP	93-10-040
Massage, board of				PROP	93-10-071
continuing education	PROP	93-14-133	retired active license	PERM	93-14-011
meetings	MISC	93-15-078		PROP	93-10-040
				PERM	93-14-011

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

temporary permits	PROP	93-10-040	confidentiality of clients	PROP	93-02-067
	PERM	93-14-011		PERM	93-07-036
records retention	PROP	93-02-066	education prerequisites to licensing	PROP	93-02-065
meetings	MISC	93-01-153		PERM	93-06-092
Optometry board			ethical conduct	PROP	93-02-067
contact lens				PERM	93-07-036
emergency replacement	PROP	93-08-079	examination	PROP	93-04-014
identification on prescriptions	MISC	93-03-030		PERM	93-07-078
	PROP	93-08-079		EMER	93-06-023
prescription, definition	MISC	93-03-030	experience prerequisites to licensing	PROP	93-02-065
prescription release	PROP	93-08-079		PERM	93-06-092
records retention	MISC	93-03-030	fees	PROP	93-02-067
specifications	MISC	93-03-030		PERM	93-07-036
	PROP	93-08-079	fraud, misrepresentation, or deception	PROP	93-02-067
continuing education	PROP	93-08-079		PERM	93-07-036
			meetings	MISC	93-13-088
Pharmacy, board of			misconduct	PROP	93-02-067
address notification	PROP	93-04-101		PERM	93-07-036
	PERM	93-10-007	reciprocity	PROP	93-16-074
aminorex	PROP	93-08-108		EMER	93-16-075
	PERM	93-14-037	records retention	PROP	93-02-067
authority to order medications for				PERM	93-07-036
administration	PROP	93-04-018	Public records, availability	PROP	93-01-007
cattle anabolic steroid implants	PERM	93-06-093		PERM	93-08-004
ephedrine prescription restrictions	PERM	93-05-046			
licenses			Radiation protection, division of		
fees	PROP	93-01-146	fee schedule	PROP	93-08-069
	PERM	93-05-045		PERM	93-13-019
	PROP	93-12-003	Registration		
nuclear pharmacies			expiration	PROP	93-10-071
accepted professional standards,				PERM	93-14-011
definition	PERM	93-04-016	fees	PROP	93-10-071
patient medication, customized				PERM	93-14-011
packages	PERM	93-01-051	Residential treatment centers for psychiatrically		
pharmacy assistants			impaired children and youth		
certification	PROP	93-08-107	criminal history disclosure and		
education and training	PROP	93-08-107	background inquiries	PROP	93-04-091
	PROP	93-13-039		PROP	93-08-078
specialized functions	PROP	93-12-123	Rules coordinator	MISC	93-01-050
physician assistants, registration	PROP	93-12-003	Rural health care facilities		
practice and procedures	PERM	93-04-017	criminal history disclosure and background		
prescription drug repackaging	PERM	93-01-051	inquiries	PROP	93-04-091
	PROP	93-07-051		PROP	93-08-078
	PROP	93-08-109		PERM	93-16-030
steroid compounds	PERM	93-14-038	Shellfish		
			certification fees	PROP	93-13-125
Physical therapy, board of			State/Environmental Protection Agency		
aide supervision ratio	PROP	93-04-082	agreement	MISC	93-13-040
continuing competency	PROP	93-04-082	Temporary-worker housing		
examination requirements for those			operating licenses	PERM	93-03-031
failing exam twice	PERM	93-04-081	standards	PERM	93-03-032
renewal of license	PERM	93-04-081		EMER	93-07-052
unapproved schools, applicants	PERM	93-04-081		PROP	93-07-106
Podiatric medical board				PERM	93-12-043
address notification	PROP	93-08-082	Veterinary board of governors		
advertising, prohibited types	PROP	93-08-082	adjudicative proceedings		
temporary practice permits	PROP	93-08-082	model procedural rules	PROP	93-13-052
Practical nursing, board of			animal technicians		
adjudicative proceedings	PROP	93-16-101	examinations	PROP	93-04-079
ethical conduct, standards	PROP	93-16-101		PERM	93-08-029
executive secretary	PROP	93-16-101		PROP	93-08-081
impaired practical nurse program	PERM	93-04-080	definitions	PERM	93-12-126
	PERM	93-07-023		PROP	93-04-079
licenses, fees	PERM	93-07-023		PERM	93-08-029
licensure	PROP	93-16-101	fees	PROP	93-10-071
Practice and procedure	PROP	93-01-007		PERM	93-11-011
	PERM	93-08-004	licenses	PROP	93-04-079
Psychology, examining board of				PERM	93-08-029
adjudicative proceedings			registration	PROP	93-04-079
model procedural rules	PROP	93-11-038		PERM	93-08-029
	EMER	93-12-042	veterinarian fees	PROP	93-04-121
	PERM	93-16-027		PERM	93-08-028
assessment procedures	PROP	93-02-067		PROP	93-10-071
	PERM	93-07-036		PERM	93-11-011
competence	PROP	93-02-067			
	PERM	93-07-036			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Water			Layoff lists	EMER	93-13-008
drinking water			Layoff options	PERM	93-01-155
operating permit	PERM	93-03-047	Leave of absence without pay	PROP	93-11-103
surface water standards and treatment	PROP	93-04-122		PERM	93-14-115
	PERM	93-08-011	excepted work period	PERM	93-16-061
water system evaluation project review and approval fees	PERM	93-01-006		PROP	93-01-141
			Meetings	PERM	93-06-032
			Parental leave	MISC	93-01-154
				PROP	93-11-103
				PERM	93-14-115
				PERM	93-16-061
HIGHER EDUCATION COORDINATING BOARD			Personnel resources board, application of rules to higher education personnel board	EMER	93-14-092
American Indian endowed scholarship program	PROP	93-11-091	Qualifications	PERM	93-01-158
	PROP	93-14-101	Recruitment and examination process	PERM	93-01-158
Award for excellence in education academic grant	PROP	93-11-092	Serious health condition leave	PROP	93-11-103
	PROP	93-14-102		PERM	93-14-115
Degree Authorization Act administration and governance application requirements institution authorization private vocational schools surety bond requirement	PROP	93-12-106	Transfer/lateral movement	PERM	93-16-061
Displaced homemaker program	PERM	93-01-103	Trial service period	EMER	93-13-008
	PERM	93-01-103		EMER	93-13-008
	PERM	93-01-103			
	PROP	93-01-099			
	PERM	93-07-061			
Educational opportunity grant program	PROP	93-11-090	HIGHLINE COMMUNITY COLLEGE		
	PROP	93-14-100	Adult education, advisory council for meetings	MISC	93-01-070
Future teacher conditional scholarship program	PROP	93-11-089	Meetings	MISC	93-14-121
	PROP	93-14-099		MISC	93-16-068
Health professional loan repayment and scholarship program	PROP	93-11-088			
	PROP	93-14-098	HISPANIC AFFAIRS, COMMISSION ON		
Residency status	PROP	93-16-076	Meetings	MISC	93-02-052
State need grant program student eligibility	PROP	93-03-087		MISC	93-07-050
	EMER	93-04-070			
	PERM	93-08-010	HORSE RACING COMMISSION		
technical corrections	PROP	93-03-087	Appeals	PROP	93-01-107
	EMER	93-04-070	Detention stalls, supervision	EMER	93-15-020
State work study program	PROP	93-11-093		EMER	93-15-021
	EMER	93-13-034	Entry, wager on one is wager on all	EMER	93-09-008
	PROP	93-15-043		PROP	93-11-060
Washington state scholars program	PROP	93-11-094	Rules coordinator, Stewards	PERM	93-14-124
	PROP	93-14-103	detention stalls, assignments	MISC	93-09-051
Work study program	PROP	93-11-093	punishment, authority to award	EMER	93-15-021
	EMER	93-13-034	Trifecta rules	PROP	93-01-107
			Twin trifecta rules	PROP	93-11-101
				PERM	93-14-125
				PROP	93-11-102
				PERM	93-14-126
HIGHER EDUCATION, JOINT CENTER FOR			HOUSING FINANCE COMMISSION		
Meetings	MISC	93-01-082	Qualified allocation plan	PERM	93-01-122
	MISC	93-03-083			
	MISC	93-16-014	HUMAN RIGHTS COMMISSION		
HIGHER EDUCATION PERSONNEL BOARD			Disability discrimination	PROP	93-15-122
Appeals			Meetings	MISC	93-01-020
board responsibilities	PROP	93-01-142		MISC	93-01-064
	PERM	93-06-033		MISC	93-01-065
burden of proof	PROP	93-01-142		MISC	93-02-042
	PERM	93-06-033		MISC	93-05-036
preparation of record	PROP	93-01-142		MISC	93-06-046
	PERM	93-06-033		MISC	93-09-052
rights of applicants	PERM	93-01-157		MISC	93-11-065
	PERM	93-01-158		MISC	93-12-103
Demotion, voluntary	EMER	93-13-008	Preemployment inquiries	PROP	93-15-094
Disability leave	PROP	93-11-103	Pregnancy discrimination	PROP	93-15-122
	PERM	93-14-115	Sex discrimination	PROP	93-15-122
	PERM	93-16-061			
Eligible lists	PERM	93-01-156	INDETERMINATE SENTENCE REVIEW BOARD		
	EMER	93-13-008	Rules coordinator	MISC	93-03-077
Examination process	PERM	93-01-156			
	PERM	93-01-158			
Family and medical leave	PROP	93-11-103			
	PERM	93-14-115			
	PERM	93-16-061			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

INSURANCE COMMISSIONER, OFFICE OF			parent/school authorization	PERM	93-01-068
Actuaries			prohibited and hazardous work variances	PERM	93-01-068
statement of actuarial opinion, qualifications to sign	PROP	93-01-159	Electrical board meetings	MISC	93-06-043
	PROP	93-04-062	Electrical installations		
Earned surplus, defined	PERM	93-07-020	licensing exemptions	PERM	93-03-048
Financial reports	PROP	93-15-106	National Electrical Code, adoption	PROP	93-01-144
electronic form for filing				PERM	93-06-072
Health care service contractors			Electricians		
participating provider contracts	PROP	93-15-092	journeyman electricians		
Health maintenance organizations			certificate of competency	PERM	93-03-048
participating provider contracts	PROP	93-15-093	Longshore, stevedore, and waterfront operations		
Insurer holding companies	PROP	93-15-107		PROP	93-02-057
Insurers				PERM	93-04-111
investments, valuation	PROP	93-15-109		PERM	93-07-044
statement of actuarial opinion	PROP	93-01-159		PROP	93-10-101
	PROP	93-04-062	Minors	PROP	93-15-031
	PERM	93-07-020	nonagricultural employment	PERM	93-01-068
Liability risk retention	PROP	93-15-108		PERM	93-01-116
Limited surplus line brokers	PROP	93-15-110		PERM	93-04-112
Longshore and harbor workers			Nonagricultural employment of minors	PERM	93-01-068
assigned risk plan	EMER	93-14-072		PERM	93-01-116
Managing general agents	PROP	93-15-111		PERM	93-04-112
Medicare supplement insurance			Occupational health standards		
standardized policy forms	PERM	93-01-048	general	PERM	93-01-005
Real estate appraisals	PROP	93-15-112		PERM	93-01-067
Reinsurance				PROP	93-02-057
Credit	PROP	93-15-104		PERM	93-07-044
Intermediaries	PROP	93-15-113		PROP	93-10-101
Risk-based capital (RBC)	PROP	93-15-114		PROP	93-15-031
Rules coordinator	MISC	93-01-022		PROP	93-16-108
Washington insurance guaranty association			Safety and health standards		
settlement of claims	PROP	93-15-103	agriculture	PROP	93-02-031
				PROP	93-02-057
INTEREST RATES				PERM	93-07-012
(See inside front cover)				PERM	93-07-044
				PROP	93-10-041
INVESTMENT BOARD, STATE			construction work	PERM	93-01-067
Rules coordinator	MISC	93-09-015		PROP	93-02-057
Rules of conduct	PERM	93-04-008		PERM	93-04-111
				PERM	93-07-044
				PROP	93-10-101
				PROP	93-15-031
				PROP	93-16-108
JUDICIAL CONDUCT, COMMISSION ON			general	PROP	93-10-101
Meetings	MISC	93-01-019		PROP	93-15-031
	MISC	93-06-065			
Rules coordinator	MISC	93-01-041			
			longshore, stevedore, and waterfront operations	PROP	93-02-057
LABOR AND INDUSTRIES, DEPARTMENT OF				PERM	93-04-111
Agricultural safety standards	PROP	93-02-031		PERM	93-07-044
	PROP	93-02-057		PROP	93-10-101
	PERM	93-07-012		PROP	93-15-031
	PERM	93-07-044	ship repairing, shipbuilding, and shipbreaking	PROP	93-10-101
Apprenticeship and training council				PROP	93-15-031
apprenticeship agreements	PERM	93-04-100			
on-the-job training programs	PERM	93-04-100	signage		
Asbestos, notice to employees of hazards	PERM	93-01-005	Prevailing wages		
Boiler rules, board of definitions	PROP	93-08-073	payment, fees for filing statements	EMER	93-16-071
	PERM	93-12-014	Workers' compensation		
fees	PROP	93-08-073	health care providers' reimbursement	PROP	93-11-095
	PERM	93-12-014		PERM	93-16-072
meetings	MISC	93-01-063	manual of rules, classifications, and rate tables	PROP	93-07-114
new construction standards	PROP	93-08-073		PERM	93-12-093
	PERM	93-12-014		PROP	93-15-102
nonnuclear repairs and alterations	PROP	93-08-073	retrospective rating, enrollment	PROP	93-07-115
	PERM	93-12-014	self-insurance certification	PERM	93-11-064
Chemicals, highly hazardous process safety management	PROP	93-16-108	signaling	PERM	93-01-067
Child labor regulations					
hours of work	PERM	93-01-068			
	PERM	93-01-116	LAKE WASHINGTON TECHNICAL COLLEGE		
house-to-house sales	PERM	93-01-068	Affirmative action	PERM	93-01-084
minimum age of employment	PERM	93-01-068	Board of trustees	PERM	93-03-086
minor work permits	PERM	93-01-068	Bookstore operation	PERM	93-01-084

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

College calendar	PERM	93-01-084	examinations	PROP	93-03-019
Copyright and patent policy	PERM	93-01-084		PROP	93-12-127
Debts, services withheld for outstanding	PERM	93-01-084	experience requirements	PROP	93-03-019
Meetings	MISC	93-01-042		PROP	93-12-127
	MISC	93-01-124	fees	PROP	93-03-019
	PERM	93-03-086	reciprocity	PROP	93-12-127
Nepotism policy	PERM	93-01-084	records, accessibility	PROP	93-12-127
Tuition and fees			temporary practice	PROP	93-03-019
refunds	PERM	93-01-084		PROP	93-12-127
	EMER	93-15-073	Real estate commission		
	PROP	93-16-093	meetings	MISC	93-01-045
LEGAL FOUNDATION OF WASHINGTON			Rules coordinator	MISC	93-01-092
Meetings	MISC	93-06-003	Securities division		
LICENSING, DEPARTMENT OF			broker-dealers and salespersons		
Cemetery board			registration and examination	PROP	93-16-025
fees	PROP	93-03-062	financial planner, what constitutes	PERM	93-01-113
	PERM	93-07-041	investment advisers		
Cremated remains disposition			capital requirements	PROP	93-16-024
business licensing	PROP	93-03-063	performance compensation	PROP	93-16-026
	PERM	93-07-040	investment counselor, what constitutes	PERM	93-01-113
Engineers and land surveyors			NASAA statements of policy, adoption	PERM	93-01-075
fees	PROP	93-07-111	preferred stock issuance standards	PERM	93-01-074
	PERM	93-10-057	registered offerings		
Hulk haulers/scrap processors	PROP	93-01-115	NASAA statements of policy, adoption	PERM	93-01-075
	PERM	93-08-076	Security guards, private		
Landscape architects			licensing fees	PROP	93-07-098
licenses				PERM	93-11-025
examinations	PROP	93-12-105	Title and registration advisory committee		
	PERM	93-16-009	meetings	MISC	93-12-045
reinstatement	PROP	93-12-105	Unauthorized and abandoned vehicles	PROP	93-01-115
	PERM	93-16-009		PERM	93-08-076
Motor vehicles			Uniform commercial code		
dealer temporary permits,			fees for program services	PERM	93-01-061
display	PROP	93-10-073	forms, standardized	PERM	93-01-061
	PERM	93-14-084	Vessels		
hulk haulers/scrap processors	PROP	93-01-115	dealer decals fee	PROP	93-01-111
	PERM	93-08-076		PROP	93-14-120
imported vehicles			dealer registration fees	PROP	93-01-111
ownership documentation	PROP	93-10-073		PERM	93-14-120
	PERM	93-14-084	fees	PROP	93-11-076
license plates, personalized			registration and certificate of title	PERM	93-14-082
or specialized	PROP	93-11-069	Wreckers	PROP	93-11-076
	PERM	93-14-083		PROP	93-01-115
registration and certificates of				PERM	93-08-076
title	PROP	93-10-073	LIQUOR CONTROL BOARD		
	PERM	93-14-084	Beer		
rental cars			bottles and containers, reuse	PROP	93-12-118
taxation and licensing of	PERM	93-01-066		PERM	93-15-025
title and registration advisory committee			Crazy Horse beer,		
meetings	MISC	93-12-045	label approval request	MISC	93-15-063
unauthorized and abandoned vehicles	PROP	93-01-115	kegs, retail sale of malt liquor in	PROP	93-12-119
	PERM	93-08-076		PERM	93-15-026
wreckers	PROP	93-01-115	partial beer tax exemption	EMER	93-11-027
	PERM	93-08-076		PROP	93-12-116
Motorcycle safety advisory board				PERM	93-15-023
meetings	MISC	93-04-003	Breweries, retail sale of beer on		
Notaries public	PERM	93-05-009	premises	PROP	93-07-109
	PROP	93-08-083		PERM	93-11-028
Private detectives			Destruction of liquor by enforcement		
licensing fees	PROP	93-07-099	officers	PROP	93-07-109
	PROP	93-12-040		PERM	93-11-028
	PROP	93-13-146	Dispensing apparatus and container	PERM	93-10-070
	PERM	93-16-060	Licenses		
Private security guards			applicants		
licensing fees	PROP	93-07-098	certification	PROP	93-12-120
	PERM	93-11-025		PERM	93-15-027
Real estate appraisers			class H restaurant operation	PROP	93-06-066
address notification	PROP	93-12-127		PERM	93-10-092
certification application	PROP	93-03-019	class M motel	EMER	93-15-061
continuing education	PROP	93-12-127	criminal history record checks	PROP	93-12-117
definitions	PROP	93-03-019		PERM	93-15-024
	PROP	93-12-127	defective beer or keg claims	PROP	93-06-066
	PROP	93-12-127		PERM	93-10-092

Subject/Agency Index

(Citation in bold type refer to material in this issue)

fingerprinting	PROP 93-12-117	ticket validation	PROP 93-03-094
	PERM 93-15-024		PERM 93-07-016
names on license to reflect true party of interest qualifications	PROP 93-15-117	<u>Instant game number 97 - Lucky Charm</u>	PROP 93-03-094
	PROP 93-07-110	criteria	PERM 93-07-016
	PROP 93-10-069	definitions	PROP 93-03-094
	PROP 93-12-117		PERM 93-07-016
	PROP 93-12-120	ticket validation	PROP 93-03-094
	PERM 93-15-024		PERM 93-07-016
	PERM 93-15-027	<u>Instant game number 98 - Ace in the Hole</u>	
requirements for qualification	PROP 93-07-110	criteria	PROP 93-07-121
	PROP 93-10-069		PERM 93-11-056
	PROP 93-12-117	definitions	PROP 93-07-121
	PROP 93-12-120		PERM 93-11-056
	PERM 93-15-024	ticket validation	PROP 93-07-121
	PERM 93-15-027		PERM 93-11-056
true party of interest	PROP 93-06-066	<u>Instant game number 99 - Megamoney</u>	
Meetings	MISC 93-01-052A	criteria	PROP 93-07-121
Minors			PERM 93-11-056
sale of tobacco products to	EMER 93-15-062		PROP 93-16-096
Motels	EMER 93-15-061	definitions	PROP 93-07-121
Novelty advertising	PROP 93-07-109		PERM 93-11-056
	PERM 93-11-028		PROP 93-16-096
Packaging	PERM 93-10-070	ticket validation	PROP 93-07-121
Private clubs, licensing	PROP 93-07-109		PERM 93-11-056
	PERM 93-11-028		PROP 93-16-096
Prohibited practices	PERM 93-10-070	<u>Instant game number 100 - Top Banana</u>	
Public hearings	MISC 93-01-134	criteria	PROP 93-07-121
Rules coordinator	MISC 93-02-032		PERM 93-11-056
Temporary licenses	PERM 93-10-070	definitions	PROP 93-07-121
Tobacco products			PERM 93-11-056
sale to minors, prohibition enforcement	EMER 93-15-062	ticket validation	PROP 93-07-121
Wine			PERM 93-11-056
fortified wine	PROP 93-07-109	<u>Instant game number 101 - Top Banana</u>	
	PERM 93-11-028	criteria	PROP 93-12-104
			PERM 93-15-019
Wineries, retail sale of wine on premises	PROP 93-07-109	definitions	PROP 93-12-104
	PERM 93-11-028		PERM 93-15-019
		ticket validation	PROP 93-12-104
			PERM 93-15-019
LOTTERY COMMISSION		<u>Instant game number 102 - Mistledeough</u>	
Adjudicative proceedings	PROP 93-12-104	criteria	PROP 93-12-104
	PERM 93-15-019		PERM 93-15-019
Beat the State	PROP 93-16-096	definitions	PROP 93-12-104
Debts owed the state	PROP 93-07-121		PERM 93-15-019
	PERM 93-11-056	ticket validation	PROP 93-12-104
	PROP 93-16-096		PERM 93-15-019
<u>Instant game number 89 - Lucky 8's</u>		<u>Instant game number 103 - Lucky Duck</u>	
definitions	PROP 93-03-094	criteria	PROP 93-12-104
	PERM 93-07-016		PERM 93-15-019
<u>Instant game number 92 - Triple Play</u>		definitions	PROP 93-12-104
criteria	PERM 93-03-008		PERM 93-15-019
definitions	PERM 93-03-008	ticket validation	PROP 93-12-104
ticket validation	PERM 93-03-008		PERM 93-15-019
<u>Instant game number 93 - Hog Mania</u>		<u>Instant game number 104 - Money Match</u>	
criteria	PERM 93-03-008	criteria	PROP 93-12-104
definitions	PERM 93-03-008		PERM 93-15-019
ticket validation	PERM 93-03-008	definitions	PROP 93-12-104
<u>Instant game number 94 - Applebucks II</u>			PERM 93-15-019
criteria	PERM 93-03-008	ticket validation	PROP 93-12-104
definitions	PERM 93-03-008		PERM 93-15-019
ticket validation	PERM 93-03-008	<u>Instant game number 105 - Cash Cards</u>	
<u>Instant game number 95 - High Roller</u>		criteria	PROP 93-12-104
criteria	PROP 93-03-094		PERM 93-15-019
	PERM 93-07-016	definitions	PROP 93-12-104
	PROP 93-03-094		PERM 93-15-019
definitions	PERM 93-07-016	ticket validation	PROP 93-12-104
	PROP 93-03-094		PERM 93-15-019
ticket validation	PERM 93-07-016	<u>Instant game number 106 - Cash Explosion</u>	
		criteria	PROP 93-16-096
<u>Instant game number 96 - Tic-Tac-Dough</u>		definitions	PROP 93-16-096
criteria	PROP 93-03-094	ticket validation	PROP 93-16-096
	PERM 93-07-016		
definitions	PROP 93-03-094	<u>Instant game number 107 - Break the Bank</u>	
	PERM 93-07-016	criteria	PROP 93-16-096
		definitions	PROP 93-16-096

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ticket validation	PROP	93-16-096	Vessel assessment schedule	PROP	93-11-072
<u>Instant game number 108 - Money Bags</u>				PERM	93-14-105
criteria	PROP	93-16-096		EMER	93-14-106
definitions	PROP	93-16-096			
ticket validation	PROP	93-16-096			
<u>Instant game number 109 - Black Jacks</u>			MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF		
criteria	PROP	93-16-096	Annual goals for participation	EMER	93-15-088
definitions	PROP	93-16-096	Bid criteria		
ticket validation	PROP	93-16-096	monetary value	EMER	93-05-037
Lotto				EMER	93-16-081
prizes	PERM	93-03-008	Fees	PROP	93-12-135
Prizes				EMER	93-12-136
claim, defined	PERM	93-04-004		PERM	93-16-080
debts owed state	PERM	93-04-004	Office account, creation	PROP	93-12-135
payable after death or disability	PERM	93-04-004		EMER	93-12-136
payments	PERM	93-04-004		PERM	93-16-080
Quinto			NATURAL RESOURCES, DEPARTMENT OF		
drawings	PROP	93-16-096	Fire hazard closures	EMER	93-15-048
play	PROP	93-16-096	Forest closures		
ticket purchases	PROP	93-16-096	closed seasons	EMER	93-09-020
Rules coordinator	MISC	93-07-015		EMER	93-10-058
			Forest fire advisory board		
MARINE OVERSIGHT BOARD			meetings	MISC	93-10-106
Meetings	MISC	93-01-106	Forest practices board		
	MISC	93-02-015	(see FOREST PRACTICES BOARD)		
	MISC	93-03-040	Forest protection zones		
	MISC	93-10-104	King County	PROP	93-04-107
	MISC	93-10-105		PROP	93-10-107
	MISC	93-12-082A		PROP	93-10-108
	MISC	93-16-001		PERM	93-14-016
			Kitsap County	PERM	93-03-007
MARINE SAFETY, OFFICE OF			Pierce County	PROP	93-03-064
Cargo and passenger vessel screening	PROP	93-02-054		PERM	93-07-002
	PERM	93-07-003	Natural heritage advisory council		
Definitions	PROP	93-02-053	meetings	MISC	93-04-092
	PERM	93-07-004	Natural resources, board of		
General information	PROP	93-06-086	meetings	MISC	93-01-018
	PERM	93-11-004		MISC	93-01-119
Oil spill contingency plans	PROP	93-06-089		MISC	93-04-059
	PROP	93-09-069	Rules coordinator	MISC	93-05-024
	PERM	93-11-001	Timber sales, policies and procedures	MISC	93-01-114
	PERM	93-14-096	for conditioning or denying permits	PERM	93-01-126
Oil spill prevention plans	PROP	93-02-055	White Salmon Oak natural resources		
	PERM	93-07-005	conservation area	MISC	93-09-072
Passenger and cargo vessel screening	PROP	93-02-054	Woodard Bay natural resources		
	PERM	93-07-003	conservation area	MISC	93-09-071
Public records, availability	PROP	93-06-087			
	PERM	93-11-003	NORTHWEST AIR POLLUTION AUTHORITY		
Regional marine safety committees			Air contaminant sources		
guidelines and procedures	PROP	93-06-088	registration classes	PROP	93-16-049
	PERM	93-11-002	reporting	PROP	93-16-049
meetings	MISC	93-02-014	Construction, notice	PROP	93-16-049
	MISC	93-05-035	Fees	PROP	93-16-049
	MISC	93-09-007	Operating permits	PROP	93-16-049
	MISC	93-10-003	Penalties	PROP	93-16-049
	MISC	93-10-064	Regulations updated	PROP	93-04-009
	MISC	93-11-070		PERM	93-10-016
Rules coordinator	MISC	93-03-022			
State Environmental Policy Act			NOXIOUS WEED CONTROL BOARD		
compliance	PROP	93-09-070	(See AGRICULTURE, DEPARTMENT OF)		
	PERM	93-14-097			
Tank vessel oil spill prevention			OLYMPIC AIR POLLUTION CONTROL AUTHORITY		
plans	PROP	93-02-055	Appeals from board orders	PROP	93-13-077
	PERM	93-07-005	Asbestos	PROP	93-13-077
			Compliance schedules	PROP	93-13-077
MARITIME COMMISSION			Construction		
Assessment schedule	PROP	93-11-072	notice and application	PROP	93-13-077
	PERM	93-14-105	Control officer		
	EMER	93-14-106	powers and duties	PROP	93-13-077
Definitions	PROP	93-11-072	Definitions	PROP	93-13-077
	PERM	93-14-105	Emissions, standards	PROP	93-13-077
Meetings	MISC	93-03-006	Fees	PROP	93-13-076
	MISC	93-14-104		PROP	93-13-077

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Gasoline vapor recovery	PROP	93-13-077	Allocation or reallocation	PROP	93-08-043
Incineration operation	PROP	93-13-077	determination review request	PROP	93-12-083
Open fires	PROP	93-13-077		PROP	93-14-058
Operating permits	PROP	93-13-076		PROP	93-14-064
Recordkeeping and reporting	PROP	93-13-077		PROP	93-14-064
Registration	PROP	93-13-076	upward reallocation		
Regulatory actions and penalties	PROP	93-13-077	Applicants		
Service of notice	PROP	93-13-077	disqualification	PERM	93-02-040
Solid fuel burning devices	PROP	93-13-077		PROP	93-08-047
Variances	PROP	93-13-077		PERM	93-12-085
Waste-wood burners	PROP	93-13-077	name removal for cause	PERM	93-02-040
			protest process	PERM	93-02-040
OLYMPIC COLLEGE			Career executive program		
Meetings	MISC	93-01-057	repeal by personnel resources board	EMER	93-14-061
	MISC	93-06-027		PROP	93-14-063
	MISC	93-14-122	transition into Washington		
			management service	EMER	93-14-091
OUTDOOR RECREATION, INTERAGENCY				PROP	93-16-019
COMMITTEE FOR			Certification		
Meetings	MISC	93-01-058	actions required	PROP	93-14-062
	MISC	93-06-025	disqualification	PERM	93-02-040
	MISC	93-13-054	method	PROP	93-16-095
			name removal for cause	PERM	93-02-040
PARKS AND RECREATION COMMISSION			notification process	PROP	93-12-102
Boating accident and casualty reports	PROP	93-16-065		PROP	93-16-021
Campsite reservations	PROP	93-01-165	protest process	PERM	93-02-040
	PERM	93-06-001	qualification verification	PROP	93-12-101
Fees	PROP	93-01-165		PROP	93-16-021
	PERM	93-06-001	referral process guidelines	PROP	93-02-038
	PERM	93-08-025		PROP	93-06-077
	EMER	93-10-060		PERM	93-08-048
	EMER	93-14-068	Classification		
	EMER	93-14-069	desirable qualifications	PROP	93-14-065
	PROP	93-14-070	Compensatory time		
Firearms and/or weapons	PROP	93-01-165	usage	PROP	93-08-072
	PERM	93-06-001		PROP	93-12-084
Fort Worden				PROP	93-14-060
fees	PERM	93-01-029	Demotion	PROP	93-14-066
Marine facilities			Disability	PROP	93-02-035
boat launch permit fees	EMER	93-14-069	reasonable accommodation	PROP	93-02-041
	PROP	93-14-070		PROP	93-04-098
marine trail camping areas	PROP	93-01-165		PROP	93-06-078
	PERM	93-06-001		PROP	93-07-054
moorage fees and permits	PROP	93-01-165		PROP	93-10-027
	PERM	93-06-001		PERM	93-14-067
	PERM	93-08-025	separation	PROP	93-02-041
	EMER	93-10-060		PROP	93-04-098
	EMER	93-14-068		PROP	93-06-078
Marine trail camping areas	PROP	93-01-165		PROP	93-07-054
	PERM	93-06-001		PROP	93-10-027
Rules coordinator	MISC	93-08-061	Eligible lists	PERM	93-14-067
Senior citizens, off-season pass	PROP	93-01-165	Essential functions, defined	PROP	93-16-095
	PERM	93-06-001		PROP	93-04-097
	PERM	93-08-025		PROP	93-08-046
	EMER	93-10-060		PROP	93-10-026
	EMER	93-14-068		PROP	93-10-028
Vessel sound level measurement	PROP	93-16-066		PROP	93-14-056
			Examination, eligibility	PROP	93-16-095
PENINSULA COLLEGE			Family and medical leave		
Meetings	MISC	93-03-075	definition	PROP	93-14-059
				PROP	93-14-066
PERSONNEL APPEALS BOARD			Layoff lists	PROP	93-16-095
Meetings	MISC	93-06-085	Leave without pay		
Rules coordinator	MISC	93-01-098	usage	PROP	93-08-072
				PROP	93-12-084
PERSONNEL, BOARD AND DEPARTMENT				PROP	93-14-060
Absences			Overtime	PROP	93-14-066
partial day, exceptions work period	PROP	93-02-037	usage		
	PERM	93-06-081	Partial day absence, exceptions		
Affirmative action program			work period	PROP	93-02-037
department responsibilities	PROP	93-12-100		PERM	93-06-081
	PROP	93-16-021			
testing, qualifications	PROP	93-12-100			
	PROP	93-16-021			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Personnel resources board			Vacation leave usage	PROP	93-08-072
agencies merging certification	EMER	93-15-018		PROP	93-12-084
allocation, request for review	PROP	93-14-064		PROP	93-14-060
career executive program	EMER	93-14-061		PROP	93-14-066
	PROP	93-14-063	Washington management service		
certification, actions required	PROP	93-14-062	career executive program, transition from	EMER	93-14-091
	EMER	93-15-018		PROP	93-16-019
classification, desirable qualifications	PROP	93-14-065			
duties of board	EMER	93-14-092	PIERCE COLLEGE		
	PROP	93-16-020	Meetings	MISC	93-03-014
higher education personnel board, application of personnel resources board rules	EMER	93-14-092	Rules coordinator	MISC	93-06-026
	PROP	93-16-020		MISC	93-01-046
periodic increment dates	EMER	93-14-092	PILOTAGE COMMISSIONERS, BOARD OF		
	PROP	93-16-020	Exempt vessels	PROP	93-04-110
personnel board, application of personnel resources board rules	EMER	93-14-092	Pilot licenses	PERM	93-07-077
	PROP	93-16-020	limitations on new pilots	PROP	93-06-052
reallocation upward	PROP	93-14-064		EMER	93-06-012
referral process	EMER	93-14-092	renewal or reinstatement	PERM	93-09-016
Position allocations and reallocations	PROP	93-16-020		PROP	93-04-109
	PROP	93-04-097	Pilotage tariff rates	PERM	93-07-076
	PROP	93-08-046	Grays Harbor district	PROP	93-03-001
Probationary periods	PROP	93-10-026		PERM	93-03-080
	PROP	93-06-079	Puget Sound district	PROP	93-10-102
	PROP	93-09-058		PERM	93-13-055
	PROP	93-14-055	Rules coordinator	PROP	93-08-027
Qualifications for a job class	PROP	93-12-100		PROP	93-12-009
preponderance concept	PROP	93-16-021	POLLUTION LIABILITY INSURANCE AGENCY	PERM	93-12-133
Reduction in force			Underground storage tank community assistance program		
guidelines and procedures	PROP	93-02-036	grants to tank owners or operators	PROP	93-01-139
	PROP	93-04-099		PERM	93-04-041
	PROP	93-08-045	PUBLIC DISCLOSURE COMMISSION		
reasons, regulations, and procedure transition pool	PROP	93-09-060	Advertising, political		
	EMER	93-09-003	political party identification	PROP	93-12-035
	PROP	93-09-057	sponsor identification	PERM	93-16-064
	PROP	93-14-057		PROP	93-12-034
	PERM	93-16-022	Agent, definition	PERM	93-16-064
Referrals			Aggregate, definition	PROP	93-12-024
name removal for cause	PERM	93-02-040		PROP	93-16-062
Registers			Brief enforcement hearings	PROP	93-09-001
designations	PROP	93-08-042		PROP	93-10-050
	PERM	93-12-088	Candidate, definition	PERM	93-15-004
disqualification	PERM	93-02-040		PROP	93-12-020
name removal for cause	PERM	93-02-040	Commissioners	PERM	93-16-064
protest process	PERM	93-02-040	officers and terms	PROP	93-15-101
Rules coordinator	MISC	93-08-031	Consumable, definition	PROP	93-12-021
Salary schedule			Contribution, definition	PERM	93-16-064
exchange time	PROP	93-02-035		PROP	93-12-022
overtime	PROP	93-02-035	Contributions	PERM	93-16-064
reduction in salary	PROP	93-02-035	earmarked contributions, use	PROP	93-12-028
wage and hour records	PROP	93-02-035		PERM	93-16-064
Y-rate, administration	PROP	93-08-044	encouraging expenditures to avoid contributions, result	PROP	93-12-025
	PERM	93-12-087	forms for reporting	PROP	93-04-127
Seasonal career employment	PROP	93-08-042	identification of source	PERM	93-09-002
	PERM	93-12-088		PROP	93-01-135
Shift premium provisions and compensation	PROP	93-02-039	Exempt activities, definition and reporting	EMER	93-01-136
	PROP	93-06-080		PERM	93-04-072
	PROP	93-09-059			
	PERM	93-12-086			
Sick leave					
usage	PROP	93-08-072			
	PROP	93-12-084			
	PROP	93-14-060			
	PROP	93-14-066			
Suspension	PROP	93-02-035			
Transfer	PROP	93-16-095			
Trial service	PROP	93-16-095			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

in-kind contributions and expenditures	PROP	93-12-026	stopping on the roadway	PROP	93-01-086
	PERM	93-16-064		PERM	93-05-023
limitations	PROP	93-12-018	School district budgeting		
	PROP	93-12-029	documents required	PROP	93-11-034
	PERM	93-16-064	Special education programs	PROP	93-15-083
receipt of campaign contributions	PROP	93-12-023	Teacher assistance program	PROP	93-02-017
	PERM	93-16-064		PERM	93-07-037
uncertain origin, contributions of	PROP	93-12-030			
	PERM	93-16-064			
Independent expenditure, definition	PROP	93-16-062	PUBLIC WORKS BOARD (See COMMUNITY DEVELOPMENT, DEPARTMENT OF)		
	EMER	93-16-063			
Initiative or referendum			PUGET SOUND AIR POLLUTION CONTROL AGENCY		
signature gathering expenses	PROP	93-15-002	Asbestos control standards		
	EMER	93-15-003	application requirements and fees	PROP	93-12-094
Loans	PROP	93-12-031		PERM	93-15-045
	PERM	93-16-064	definitions	PROP	93-12-094
Meetings	MISC	93-10-048		PERM	93-15-045
Political advertising			emission control	PROP	93-12-094
political party identification	PROP	93-12-035		PERM	93-15-045
	PERM	93-16-064	Asbestos removal projects	PROP	93-12-094
sponsor identification	PROP	93-12-034	fees	PERM	93-06-002
	PERM	93-16-064	requirements	PERM	93-06-002
Registration statements			Asbestos-containing material		
forms	PROP	93-10-049	handling procedures	PERM	93-06-002
	EMER	93-10-051	removal certification	PERM	93-06-002
	PERM	93-15-004	Clean Air Act		
Rules coordinator	MISC	93-08-002	civil penalties	PROP	93-12-132
Same office last sought, definition	PROP	93-12-032		PERM	93-15-044
	PERM	93-16-064	construction review, fees	PROP	93-12-132
Signature gathering expenses				PERM	93-15-044
reporting	PROP	93-15-002	hazardous air pollutants,		
	EMER	93-15-003	emission standards	PROP	93-14-127
Surplus funds			new source performance standards	PROP	93-14-127
transfers	PROP	93-12-033	operating permits	PROP	93-14-127
	PERM	93-16-064	oxygenated gasoline, surcharge	PROP	93-12-132
use in future	PROP	93-12-027		PERM	93-15-044
	PERM	93-16-064	registration and operating permits,		
			fees	PROP	93-12-132
PUBLIC EMPLOYMENT RELATIONS COMMISSION				PROP	93-14-127
Rules coordinator	MISC	93-09-004	Fees	PERM	93-15-044
			Outdoor fires	PERM	93-04-086
PUBLIC INSTRUCTION, SUPERINTENDENT OF			prohibited types and areas	PROP	93-08-020
Allocations, 1991-93				PERM	93-11-071
redirection of apportionment	PERM	93-04-054	variances from regulation	PERM	93-04-086
Awards for teachers, principals, administrators, and classified staff	PROP	93-15-034			
Basic education allocations			PUGET SOUND WATER QUALITY AUTHORITY		
redirection of apportionment	PERM	93-04-054	Meetings	MISC	93-02-051
Disabilities, individuals with				MISC	93-10-014
citizen complaint procedures	PROP	93-15-084		MISC	93-13-070
compliance with federal law	PROP	93-15-085		MISC	93-15-005
special education programs	PROP	93-15-083	RENTON TECHNICAL COLLEGE		
Early intervention services	PROP	93-07-046	Board of trustees	PROP	93-09-031
	PROP	93-07-047		PERM	93-13-104
	PROP	93-07-048	Debts, services withheld for outstanding	PROP	93-09-035
	PERM	93-12-015		PERM	93-13-108
	PERM	93-12-016	Discrimination policies and procedures	PROP	93-09-043
	PERM	93-12-017		PERM	93-13-116
Educational excellence award	PERM	93-08-005	Facilities, guidelines for use	PROP	93-09-039
Even start project	EMER	93-08-037		PERM	93-13-112
Fair start program			Faculty		
allocation of moneys	PROP	93-07-048	tenure, dismissal, and reduction in force	PROP	93-09-045
	PERM	93-12-016		PERM	93-13-118
polices and procedures	PROP	93-07-046	Financial aid	PROP	93-09-036
	PERM	93-12-017		PERM	93-13-109
Individuals with Disabilities Education Act			Library resource center policies	PROP	93-09-040
citizen complaint procedures	PROP	93-15-084		PERM	93-13-113
compliance	PROP	93-15-085	Meetings	MISC	93-01-120
special education programs	PROP	93-15-083	Organization and operation	PROP	93-09-037
Project even start	PROP	93-11-033		PERM	93-13-110
Public records, availability	PROP	93-03-002	Parking and traffic	PROP	93-09-033
	PERM	93-07-039		PERM	93-13-106
School buses					
depreciation allocation calculation	PROP	93-09-019			
	PERM	93-13-083			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Practice and procedure	PROP 93-09-032	exemptions	EMER 93-16-012
	PERM 93-13-105	forest land values	PERM 93-02-024
Public records, availability	PROP 93-09-041	levy rules	PROP 93-16-103
	PERM 93-13-114	new construction, assessment	PROP 93-05-016
Rules coordinator	MISC 93-01-120		PERM 93-08-049
	MISC 93-03-042	real property, definition	PROP 93-05-016
	PROP 93-09-038		PERM 93-08-049
	PERM 93-13-111	refunds, rate of interest	PROP 93-03-024
State Environmental Policy Act compliance	PROP 93-09-044		EMER 93-03-025
	PERM 93-13-117		PERM 93-06-096
Students		Real estate excise tax	
conduct code rules	PROP 93-09-034	administration and compliance	EMER 93-14-015
	PERM 93-13-107	Rules coordinator	MISC 93-01-049
records, availability	PROP 93-09-042	Sales tax	
	PERM 93-13-115	advertising material	PROP 93-15-065
		coin-operated laundry facilities	PROP 93-16-084
		dunnage, sale of	PROP 93-12-113
			PROP 93-15-066
			PROP 93-16-083
RETIREMENT SYSTEMS, DEPARTMENT OF		farm use, sales for	
Adjudicative proceedings	PROP 93-08-054	feed, seed, fertilizer, and spray	
	PERM 93-11-079	materials	PROP 93-16-086
Early retirement	EMER 93-15-059	horticultural services	PROP 93-16-087
	PROP 93-15-082	hospitals	EMER 93-13-086
Law enforcement officers' and fire fighters' retirement system members elected to public office	PROP 93-08-053	labels, name plates, tags, and premiums	PROP 93-12-112
	PERM 93-11-078		PROP 93-15-065
Public employees' retirement system		meals, sale of	PROP 93-07-069
early retirement	EMER 93-15-059		PROP 93-07-070
	PROP 93-15-082	optometrists, ophthalmologists, and ophthalmologists	PROP 93-12-114
unions as employers	PROP 93-08-052		PROP 93-15-067
	PERM 93-11-077	resale certificates	
Teachers' retirement system		use and penalties for misuse	EMER 93-13-085
early retirement	EMER 93-15-059	schools, school districts, and educational institutions	PROP 93-12-115
	PROP 93-15-082		
part-time teachers, determination of pension benefits	PROP 93-08-051	Tax appeals, board of direct appeals	PROP 93-05-015
			PERM 93-08-050
			PROP 93-02-046
			PROP 93-08-013
			PERM 93-13-126
			EMER 93-13-087
REVENUE, DEPARTMENT OF		Tax registration	
Assessment roll corrections	PROP 93-05-015		
	PERM 93-08-050	Tax reporting information, interim	
Business and occupation tax		Timber excise tax	
agricultural products, sales by producers	PROP 93-16-085	personal property tax credit	PROP 93-09-029
dunnage, sale of	PROP 93-12-113	stumpage values	PERM 93-02-025
	PROP 93-15-066		PROP 93-07-068
farming operations performed for hire	PROP 93-16-087		PROP 93-10-091
hospitals	EMER 93-13-086		PROP 93-11-081
jewelry repair shops	PERM 93-03-005		PROP 93-13-102
meals, sale of	PROP 93-07-069		PERM 93-14-051
	PROP 93-07-070		PERM 93-14-090
optometrists, ophthalmologist, and ophthalmologists	PROP 93-12-114		
	PROP 93-15-067		
County boards of equalization jurisdiction and authority	PROP 93-05-015		
	PERM 93-08-050		
Excise tax		RULES COORDINATORS	
assessments		Agriculture, department of	MISC 93-11-100
statutory limitations	PERM 93-03-004	Attorney general's office	MISC 93-12-130
interstate motor carriers	PROP 93-02-047	Bellevue Community College	MISC 93-05-051
packing materials and containers	PROP 93-12-111	Bellingham Technical College	MISC 93-05-018
	PROP 93-15-064	Blind, Washington state school for the	MISC 93-01-118
public utility tax, deductions	PROP 93-04-045	Building code council	MISC 93-05-025
	PERM 93-07-066	Central Washington University	MISC 93-01-095
real estate excise tax, administration and compliance	EMER 93-14-015	Centralia College	MISC 93-06-084
refunds for overpayment	PERM 93-04-077	Clark College	MISC 93-02-005
sales of heat	PROP 93-01-102	Code reviser's office	MISC 93-01-001
Interim tax reporting information	EMER 93-13-087	Community development, office of	MISC 93-04-104
Property tax		Corrections, department of	MISC 93-08-014
agricultural land valuation	PROP 93-04-020	County road administration board	MISC 93-02-059
	PERM 93-07-067	Deaf, Washington school for the	MISC 93-01-129
	EMER 93-04-021	Ecology, department of	MISC 93-01-087
credit against timber excise tax	PROP 93-09-029	Employment security department	MISC 93-01-167
			MISC 93-05-008
		Fisheries, department of	MISC 93-05-014
		Gambling commission	MISC 93-04-084
		General administration, department of	MISC 93-07-084
		Health care authority	MISC 93-08-019
		Health, department of	MISC 93-01-050
		Horse racing commission	MISC 93-09-051

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Indeterminate sentence review board	MISC	93-03-077	SKAGIT VALLEY COLLEGE		
Insurance commissioner, office of	MISC	93-01-022	Meetings	MISC	93-02-006
Investment board	MISC	93-09-015		MISC	93-07-024
Judicial conduct, commission on	MISC	93-01-041		MISC	93-15-006
Licensing, department of	MISC	93-01-092			
Liquor control board	MISC	93-02-032	SOCIAL AND HEALTH SERVICES,		
Lottery commission	MISC	93-07-015	DEPARTMENT OF		
Marine safety, office of	MISC	93-03-022	Adoption support program		
Natural resources, department of	MISC	93-01-114	definitions	EMER	93-03-081
Personnel appeals board	MISC	93-01-098		PROP	93-03-082
Parks and recreation commission	MISC	93-08-061		PERM	93-07-030
Personnel, department of	MISC	93-08-031	Aging and adult services		
Pierce College	MISC	93-01-046	assessment and service plan develop-		
Pilotage commissioners, board of	MISC	93-03-021	ment	PROP	93-01-030
Public disclosure commission	MISC	93-08-002		PROP	93-04-023
Public employment relations commission	MISC	93-09-004		PERM	93-06-042
Public works board	MISC	93-04-104	chore personal care services	PROP	93-01-031
Renton Technical College	MISC	93-01-120		PERM	93-04-036
	MISC	93-03-042	contractors		
Revenue, department of	PROP	93-09-038	initial prospective		
Shoreline Community College	MISC	93-01-049	reimbursement rate	PROP	93-14-075
Tax appeals, board of	MISC	93-02-026		EMER	93-14-077
Transportation commission	MISC	93-01-054	Medicaid personal care services	PROP	93-07-071
Transportation, department	MISC	93-02-027		PERM	93-10-023
Transportation improvement board	MISC	93-02-043	nursing home accounting and reimbursement		
University of Washington	MISC	93-05-011	system	PROP	93-08-065
Utilities and transportation commission	MISC	93-04-042		PROP	93-12-048
Washington State University	MISC	93-01-038		PERM	93-12-051
Wildlife, department of	MISC	93-04-010		PROP	93-14-078
Workforce training and education	MISC	93-05-001	private duty nursing services	EMER	93-14-079
coordinating board	PROP	93-02-045		PROP	93-14-045
			reimbursement rates	EMER	93-14-048
SEATTLE COMMUNITY COLLEGES				PROP	93-14-075
Meetings	MISC	93-01-028	unallowable costs	EMER	93-14-077
	MISC	93-01-096		PROP	93-14-075
	MISC	93-01-097	Aid to families with dependent children	EMER	93-14-077
	MISC	93-05-026	alien sponsorship, income and		
	MISC	93-06-035	resources	PROP	93-04-026
	MISC	93-07-057		PERM	93-07-032
	MISC	93-10-031	assistance unit	PROP	93-16-056
	MISC	93-13-042	benefits	PROP	93-03-059
				PERM	93-12-058
SECRETARY OF STATE			earned income exemption	PROP	93-03-057
Archives and records management, division of				PERM	93-12-057
electronic imaging systems, standards			eligibility	PROP	93-03-056
for accuracy and durability,	PROP	93-14-001		PERM	93-12-056
public records management	PERM	93-04-001	employable		
public records, standards for			unemployment of parent	PROP	93-03-055
accuracy and durability	PROP	93-14-002		PERM	93-12-055
state agency records officers, duties	PERM	93-04-001	income disregard	PROP	93-04-027
state archivist, duties	PERM	93-04-001		PERM	93-07-031
state records committee, duties	PERM	93-04-001		PROP	93-14-013
Corporations division				EMER	93-14-014
charitable trusts, transfer of			income exemption	PROP	93-04-035
functions from attorney general's				PERM	93-07-034
office to corporations division	EMER	93-14-081	income use and potentials	PROP	93-07-072
commercial fundraiser registration	EMER	93-14-081		PERM	93-10-022
fees	PROP	93-13-147	medical assistance extensions	PERM	93-01-034
	EMER	93-14-080	medical care programs		
	EMER	93-14-107	eligibility	PROP	93-16-054
	PROP	93-16-114		EMER	93-16-055
renewal dates	PROP	93-16-114	responsibility	PROP	93-16-054
Elections				EMER	93-16-055
review process	PROP	93-15-058	personal property exemption	PROP	93-05-004
Fees	PROP	93-13-147		PERM	93-07-126
	EMER	93-14-109			
Initiatives and referenda			Alcohol and substance abuse, division of		
signature verification	EMER	93-14-088	alcohol/drug programs	PROP	93-15-080
			chemical dependency services		
SHORELINE COMMUNITY COLLEGE			administration	EMER	93-11-050
Meetings	MISC	93-06-028		EMER	93-11-051
Parking and traffic	PERM	93-02-063		PROP	93-11-052
Rules coordinator	MISC	93-02-026		PROP	93-11-053
				PERM	93-15-013
				PERM	93-15-014

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

medical care services	PROP 93-14-027	Family independence program	
Child care	EMER 93-14-031	conversion of enrollees to aid to families with dependent children recipients	PROP 93-03-055
background inquiries	PROP 93-07-035		PROP 93-03-056
	PROP 93-10-018		PROP 93-03-057
	PROP 93-12-096		PROP 93-03-058
	PERM 93-15-040		PROP 93-03-059
child day care centers			PERM 93-12-055
licensing requirements	PROP 93-13-056		PERM 93-12-056
	PROP 93-16-048		PERM 93-12-057
health and safety standards	PROP 93-07-018		PERM 93-12-058
	EMER 93-07-019		PERM 93-12-060
	PERM 93-10-021	medical assistance extensions	PERM 93-01-034
overnight youth shelters		meetings	MISC 93-01-023
licensing requirements	PROP 93-05-031	personal property exemption	PROP 93-05-004
	PROP 93-08-009		PERM 93-07-126
	PROP 93-10-020	unemployment of parent	PROP 93-03-055
	PROP 93-12-095		PERM 93-12-055
	PROP 93-13-025	Family planning services	PROP 93-13-069
	PROP 93-15-039	Food stamp program	
	PROP 93-15-123	benefits, continuation pending fair hearing	PERM 93-04-034
	PERM 93-15-124	coupons, issuance and use	PERM 93-04-069
school-age child care centers			EMER 93-11-029
licensing requirements	PERM 93-02-020		PROP 93-11-030
transitional child care	PROP 93-07-073		PERM 93-13-132
	PERM 93-12-059	denial of benefits	PROP 93-07-075
Child protective services			PROP 93-10-019
authority limitations	PROP 93-10-093		PERM 93-14-087
	PERM 93-13-021	disabled persons, eligibility	PROP 93-08-038
eligibility for services	PROP 93-10-093		PROP 93-08-039
	PERM 93-13-021		PROP 93-08-040
reports, acceptance	PROP 93-10-093		PERM 93-11-041
	PERM 93-13-021		PERM 93-11-042
Children			PERM 93-11-043
general assistance for children		hearing, benefits continuation	
not eligible for AFDC	PROP 93-14-006	pending fair hearing	PERM 93-04-034
	EMER 93-14-007	law enforcement	
Children, youth, and family services, division of		coupon issuance for investigative purposes	EMER 93-11-029
complaint procedure	PROP 93-09-018		PROP 93-11-030
	PERM 93-12-053		PERM 93-13-132
overnight youth shelters, licensing requirements	PROP 93-05-031	student educational assistance	
	PROP 93-08-009	income exclusion	PROP 93-14-044
	PROP 93-10-020		EMER 93-14-049
	PROP 93-12-095	utility allowances	PROP 93-15-060
	PROP 93-13-025	Funeral and interment services	
	PROP 93-15-039	assistance program	EMER 93-11-083
	PROP 93-15-123		PROP 93-11-084
	PERM 93-15-124		PERM 93-13-134
Community options program entry system (COPES)		available services	PROP 93-02-018
eligibility	PROP 93-07-123		EMER 93-02-021
	PERM 93-11-044	maximum cost standards	PERM 93-05-021
	PROP 93-11-085		PROP 93-02-018
	PERM 93-13-135		EMER 93-02-021
payment procedures	PROP 93-11-085	General assistance	PERM 93-05-021
	PERM 93-13-135	alien sponsorship, income and resources	
restrictions	PROP 93-11-085	children, general assistance for children not eligible for AFDC	PROP 93-04-026
	PERM 93-13-135		
services	PROP 93-11-085	eligibility	PROP 93-14-006
	PERM 93-13-135		EMER 93-14-007
Developmentally disabled			PROP 93-08-064
private duty nursing services	PROP 93-14-045	general assistance-unemployable program	PROP 93-12-049
	EMER 93-14-048	eligibility	
residential programs			PROP 93-01-056
reimbursement rates	PROP 93-14-074		PROP 93-04-025
	EMER 93-14-076		PERM 93-06-073
staffing requirements	PROP 93-01-003		PROP 93-08-074
	PERM 93-04-029		PROP 93-12-050
Diversity initiative, department intent	PROP 93-01-125		PROP 93-13-022
	PERM 93-04-037		PROP 93-14-085
Domestic violence			PERM 93-16-058
perpetrator program standards	PROP 93-06-082		
	PERM 93-10-024		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

income disregard	PROP 93-04-027	chemical dependency treatment	PROP 93-13-037
	PROP 93-14-013		PROP 93-14-027
	EMER 93-14-014		EMER 93-14-031
personal property exemption	PROP 93-05-004		PERM 93-16-038
	PERM 93-07-126	community alternatives program (CAP)	
pregnant women, eligibility	PROP 93-08-064	eligibility	PROP 93-07-123
	PROP 93-08-049		PERM 93-11-044
	PROP 93-13-023	community options program entry system	
	PROP 93-14-086	(COPES)	
standards of assistance	PERM 93-16-059	eligibility	PROP 93-07-123
	PROP 93-09-017		PERM 93-11-044
	PERM 93-12-052	copayments for clients	EMER 93-13-121
Hospice services			PROP 93-13-123
medically needy	PROP 93-13-024		PERM 93-16-036
	EMER 93-13-129		EMER 93-16-047
	PERM 93-16-040	coordinated community AIDS service	
Income assistance		alternatives (CASA)	
allocation of assistance unit income	PROP 93-15-070	eligibility	PROP 93-07-123
income budgeting	PROP 93-14-025		PERM 93-11-044
	EMER 93-14-030	dentures	PROP 93-08-006
prospective budgeting, changes	PROP 93-11-024		PERM 93-11-048
	PERM 93-13-133	durable medical equipment	PROP 93-01-024
	PROP 93-14-025		PROP 93-02-034
	EMER 93-14-030	eligibility	PROP 93-05-019
resources, exemptions			PROP 93-16-054
vehicles	PROP 93-13-053		EMER 93-16-055
	PERM 93-16-044	eligible providers defined	PROP 93-16-106
standards of assistance	PROP 93-01-143		PROP 93-08-021
	PERM 93-04-030	exempt resources	EMER 93-08-024
	PROP 93-15-047		PERM 93-11-046
telephone assistance program			PROP 93-03-026
billing procedures	PROP 93-13-018		EMER 93-03-028
	PERM 93-16-043		PERM 93-06-038
United States repatriate program	PROP 93-08-075		EMER 93-06-053
Job opportunities and basic skills training			PROP 93-06-054
program (JOBS)		extensions	PERM 93-08-112
employability plans	PROP 93-03-058		PERM 93-01-034
	PERM 93-12-060	family planning services	PROP 93-11-067
supportive services	PROP 93-07-073		PERM 93-13-131
	PERM 93-12-059	fraternal, religious, or benevolent	PROP 93-13-069
transitional child care	PROP 93-07-073	nursing facilities	PERM 93-16-035
	PERM 93-12-059	client eligibility	
Kidney centers		hospice services	PROP 93-16-106
administration	PROP 93-13-001		PROP 93-13-024
	EMER 93-13-130	hospital inpatient services	EMER 93-13-129
	PERM 93-16-039	payment rate	PERM 93-16-040
Medical assistance		income, eligibility	
age of clients	PROP 93-15-046		PERM 93-01-035
AIDS insurance program	PROP 93-14-024	institutionalized client, allocation of	PROP 93-03-026
	EMER 93-14-028	income and resources	EMER 93-03-028
aliens, newly legalized	PROP 93-06-009		PROP 93-16-105
	EMER 93-06-010	institutionalized client,	
	PERM 93-08-111	availability of resources	EMER 93-04-031
aliens, undocumented			PROP 93-04-032
pregnant women, services for	PROP 93-13-079	jail inmates medical care	PERM 93-07-029
	EMER 93-13-082		PROP 93-14-026
	PERM 93-16-042	kidney centers, administration	EMER 93-14-029
allocation of excess income, spenddown	PROP 93-16-107		PROP 93-13-001
audiometric services	PROP 93-03-034	limits on scope of services	EMER 93-13-130
	PERM 93-06-039		PERM 93-16-039
availability of income	PERM 93-01-037		PROP 93-07-074
	PROP 93-03-026		PROP 93-10-017
	PROP 93-03-027		PROP 93-11-009
	EMER 93-03-028		PERM 93-11-086
	EMER 93-03-029		PROP 93-13-080
	PERM 93-06-038		EMER 93-13-081
	PERM 93-06-041		PERM 93-16-037
	PROP 93-16-105		
categorically needy, eligibility	PROP 93-01-002		
	PERM 93-04-033		
	PROP 93-13-122		
	PERM 93-16-041		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

managed care	PROP 93-14-046	spenddown of allocation of excess income	PROP 93-16-107
	EMER 93-14-047		
mandatory prepaid health care plans	PROP 93-14-046	Mental health division facilities, schedule of charges	PROP 93-16-002
	EMER 93-14-047		EMER 93-16-004
Medicaid eligibility	PROP 93-03-060	Nursing homes accounting and reimbursement system	PROP 93-08-065
	EMER 93-03-061		PROP 93-12-048
	PERM 93-06-037		PERM 93-12-051
	PROP 93-08-022		
	EMER 93-08-023	preadmission screening and annual resident review	EMER 93-16-003
medical care programs payment conditions	PERM 93-01-036		PROP 93-16-005
medically needy eligibility	EMER 93-04-087	Repatriate program	PROP 93-08-075
	PROP 93-04-090		PERM 93-12-054
	PERM 93-07-028	Sexual predator program	
hospice services	PROP 93-13-024	indefinite commitment, authorization rights of person committed	PROP 93-14-073
	EMER 93-13-129		PROP 93-14-073
	PERM 93-16-040	Shelters	
limited casualty program, base period	EMER 93-04-088	overnight youth shelters, licensing requirements	PROP 93-05-031
	PROP 93-04-089		PROP 93-08-009
	PERM 93-07-125		PROP 93-10-020
scope of care	PERM 93-01-044		PROP 93-12-095
	PROP 93-13-024		PROP 93-13-025
	EMER 93-13-129		PROP 93-15-039
Medicare cost sharing, eligibility	PROP 93-01-032		PROP 93-15-123
	EMER 93-02-019	Special commitment center	PERM 93-15-124
	PERM 93-04-024	sexual predator program	
	PROP 93-08-022	indefinite commitment, authorization	PROP 93-14-073
	EMER 93-08-023	rights of person committed	PROP 93-14-073
	PERM 93-02-001	Standards of assistance	
midwife services and payment nursing facility operated by fraternal, religious, or benevolent organization client eligibility	PROP 93-06-040	basic requirements	EMER 93-02-002
	PROP 93-08-113	Support enforcement, office of child support obligations	PROP 93-01-085
outward bound residential alternatives (OBRA) eligibility	PROP 93-07-123		PERM 93-05-020
	PERM 93-11-044	conference board	PROP 93-13-067
patient requiring regulation in use of services	PROP 93-07-124		PROP 93-01-085
	PERM 93-11-047	confidentiality	PERM 93-05-020
pregnant women, eligibility continuation	PROP 93-14-023	enforcement	PROP 93-01-085
pregnant women, services for	PROP 93-13-079		PERM 93-05-020
	EMER 93-13-082	medical support obligations	PROP 93-13-067
	PROP 93-14-027	responsibilities of office	PROP 93-01-085
	EMER 93-14-031		PERM 93-05-020
private duty nursing services	PROP 93-14-045	support orders, department review	PROP 93-16-057
	EMER 93-14-048	Telephone assistance program	
prosthetic/orthotic devices	PROP 93-01-024	billing procedures	PROP 93-13-018
	PROP 93-02-034		PERM 93-16-043
	PROP 93-05-019	Time-loss compensation	
provider enrollment, eligibility	PROP 93-08-021	attorney's fees, allowable	PROP 93-01-012
	EMER 93-08-024		PERM 93-04-028
	PROP 93-14-027	calculation of lien	PROP 93-01-012
	EMER 93-14-031		PERM 93-04-028
recovery from estates	PROP 93-13-120	SOUTH PUGET SOUND COMMUNITY COLLEGE	
	PERM 93-16-045	Meetings	MISC 93-05-033
	EMER 93-16-046		MISC 93-11-031
relative financial responsibility	PROP 93-07-122		MISC 93-11-037
	PERM 93-11-045		MISC 93-15-072
	PROP 93-16-054	SOUTHWEST AIR POLLUTION CONTROL AUTHORITY	
	EMER 93-16-055	Air contaminant sources	
school medical services for special education students	PERM 93-01-044	implementation of regulations	PROP 93-10-089
services not covered	PROP 93-07-074		PERM 93-16-011
	PROP 93-13-037	Appeals	PROP 93-10-085
	PERM 93-16-038	Asbestos control standards	PROP 93-10-086
social security number	PROP 93-15-046		PERM 93-16-008
special low-income medicare beneficiaries	PROP 93-01-032	Board members	PROP 93-10-085
	PERM 93-04-024	Bubble rules	PROP 93-10-083
	EMER 93-02-019	Compliance	
		public involvement	PROP 93-10-084

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

schedules	PROP	93-10-084	Pleas		
variances	PROP	93-10-084	written statement (CrR 4.2(g))	PERM	93-07-026
Definitions	PROP	93-10-079	Professional conduct	MISC	93-13-096
Deterioration prevention	PROP	93-10-083	Records, authentication	MISC	93-13-096
Emission reduction credits	PROP	93-10-083	Release after finding or		
Emission standards	PROP	93-10-078	plea of guilty (CrRLJ 3.2(f))	MISC	93-13-092
	PROP	93-10-080	Service of summons and complaint	MISC	93-13-096
	PERM	93-16-007	Stay enforcement (RALJ 4.3(b))	MISC	93-13-095
enforcement and penalties	PROP	93-10-085	Transcript of proceedings	MISC	93-13-096
Meetings	MISC	93-02-062	Utilities and transportation offenses,		
New sources			forfeitable (CrRLJ 3.2(s))	MISC	93-13-092
performance standards	PROP	93-10-078	Wildlife offenses,		
	PROP	93-10-082	forfeitable (CrRLJ 3.2(p))	MISC	93-13-092
	PERM	93-16-007			
review	PROP	93-10-082	TACOMA COMMUNITY COLLEGE		
Open fires	PROP	93-10-085	Discrimination	PERM	93-03-078
Operating permit program	PROP	93-10-074		PROP	93-14-021
	PROP	93-10-075	Grievance procedure	PERM	93-03-078
	PROP	93-10-076		PROP	93-13-049
Oxygenated fuels regulation	PROP	93-10-087	Meetings	PROP	93-14-021
	PERM	93-16-010		MISC	93-01-072
Petroleum contaminated soil				MISC	93-05-050
volatile organic emissions	PROP	93-10-088		MISC	93-10-010
	PROP	93-10-077	Sexual harassment	PROP	93-14-021
Records, monitoring, and reporting	PROP	93-10-081			
Registration of sources	PROP	93-10-081	TAX APPEALS, BOARD OF		
exemptions	PROP	93-10-081	Meetings	MISC	93-01-055
Regulations, implementation	PROP	93-10-089	Rules coordinator	MISC	93-01-054
	PERM	93-16-011			
Startup and shutdown	PROP	93-10-081	TRADE AND ECONOMIC DEVELOPMENT,		
			DEPARTMENT OF		
SPOKANE, COMMUNITY COLLEGES OF			Business and job retention program		
Meetings	MISC	93-01-047	meetings	MISC	93-14-018
			Community economic revitalization board		
SPOKANE COUNTY AIR POLLUTION CONTROL			meetings	MISC	93-02-003
AUTHORITY				MISC	93-09-021
Asbestos removal				MISC	93-11-054
fees	PROP	93-15-077	Hardwoods commission		
Fees	PROP	93-15-077	assessments		
Grass field burning	PROP	93-07-088	payment and collection	PROP	93-07-038
	PERM	93-11-036		PROP	93-09-049
				PROP	93-09-053
Operating permits				PERM	93-13-013
fees	PROP	93-15-077	meetings	MISC	93-08-015
Oxygenated gasoline				MISC	93-11-058
fees for blenders	PROP	93-14-032	report form	PROP	93-07-038
Permits				PROP	93-09-049
fees	PROP	93-15-077		PROP	93-09-053
				PERM	93-13-013
STATE EMPLOYEES BENEFITS BOARD			TRAFFIC SAFETY COMMISSION		
Meetings	MISC	93-07-064	Meetings	MISC	93-02-029
				MISC	93-05-012
SUPREME COURT			TRANSPORTATION COMMISSION		
Appeals, court of			Meetings	MISC	93-01-123
commissioners, qualifications	MISC	93-13-096		MISC	93-04-055
Attorney fees and costs	MISC	93-13-096		MISC	93-06-024
Awards, filing	MISC	93-13-096		MISC	93-07-095
Briefs, requirements	MISC	93-13-096		MISC	93-09-056
Character and fitness committee				MISC	93-12-037
recommendations	PERM	93-07-027		MISC	93-13-041
Costs and attorney fees	MISC	93-13-096		MISC	93-14-129
Counsel, withdrawal (RAP 18.3)	MISC	93-13-096		MISC	93-15-095
Depositions	MISC	93-13-096		MISC	93-15-096
Examination and cross examination	MISC	93-13-096	Rules coordinator	MISC	93-02-027
Exhibits	MISC	93-13-096			
Facsimile transmission, authorization					
and exceptions	MISC	93-13-094			
Jury selection (CrR 6.3)	MISC	93-13-093			
Juveniles			TRANSPORTATION, DEPARTMENT OF		
detention and release (JuCR 7.3)	MISC	93-13-093	Building or house moves on highways	PROP	93-01-011
factfinding hearing (JuCR 3.4(c))	MISC	93-13-093		PERM	93-04-071
shelter care hearing (JuCR 2.3(a), (b))	MISC	93-13-093	Ferries		
Mandate issuance (RAP 12.5(c), RAP 12.6)	MISC	93-13-095	preferential loading	PROP	93-08-012
Motion and proceedings	MISC	93-13-096		PROP	93-09-048
Motor vehicle infractions,				EMER	93-13-027
penalty schedule (IRLJ 6.2(d))	MISC	93-13-092		PROP	93-13-059

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

tolls	PROP	93-14-113	Limousine charter party carriers certificates	PROP	93-11-096
Highway access management				PERM	93-15-037
access control classification system and standards	PERM	93-03-033	Log trucks, tie down requirements	PERM	93-05-038
Highway construction			Meetings	MISC	93-01-039
prequalification of contractors	PERM	93-03-020	Motor vehicles		
Motor vehicles			identification markings	PROP	93-11-097
lift or retractable axles	PROP	93-16-069		PERM	93-15-038
Pavement edge lines	PROP	93-01-076	Natural gas		
	PROP	93-07-055	facilities, compliance with federal standards	PROP	93-13-035
	PROP	93-10-068	Pole trailers, tie down requirements	PERM	93-05-038
Rules coordinator	MISC	93-02-043	Rule book		
Stop line locations	PROP	93-01-076	compliance with rules	PROP	93-11-098
	PROP	93-07-055		PERM	93-15-036
	PROP	93-10-068		MISC	93-01-038
			Rules coordinator		
TRANSPORTATION IMPROVEMENT BOARD			Solid waste collection and disposal companies consumer practices	PROP	93-13-139
Meetings	MISC	93-03-016	Tariffs		
	MISC	93-07-013	fees	PROP	93-11-098
	MISC	93-08-063		PERM	93-15-036
	MISC	93-11-035	Telecommunications		
	MISC	93-14-123	accounting standards, adoption of FCC standards	PROP	93-02-068
Rules coordinator	MISC	93-05-011		PERM	93-07-089
			mandatory cost changes	PERM	93-09-050
UNIVERSITY OF WASHINGTON			quality of service	PROP	93-01-027
Meetings	MISC	93-01-083		PROP	93-01-152
	MISC	93-02-007		PERM	93-06-055
	MISC	93-03-010		PERM	93-14-119
	MISC	93-03-011			
	MISC	93-03-012			
	MISC	93-03-013			
	MISC	93-03-036	reverse data searches of E-911 information	PROP	93-05-013
	MISC	93-03-037		PERM	93-11-026
	MISC	93-03-038	Water companies		
	MISC	93-03-043	customer revenue jurisdictional threshold	PROP	93-06-056
	MISC	93-03-044		PERM	93-12-062
	MISC	93-03-045		PROP	93-06-056
	MISC	93-03-050	public records, availability	PERM	93-12-062
	MISC	93-03-051			
	MISC	93-03-054			
	MISC	93-03-068			
	MISC	93-03-069			
	MISC	93-03-070			
	MISC	93-03-071			
	MISC	93-03-072			
	MISC	93-03-073			
	MISC	93-04-011			
	MISC	93-04-012			
	MISC	93-04-013			
	MISC	93-04-056			
	MISC	93-04-057			
	MISC	93-04-058			
	MISC	93-04-067			
	MISC	93-04-068			
	MISC	93-05-034			
	MISC	93-07-065			
	MISC	93-09-006			
	MISC	93-09-009			
	MISC	93-09-012			
	MISC	93-13-084			
Parking and traffic	PROP	93-08-110			
	PERM	93-14-130			
Rules coordinator	MISC	93-04-042			
			VOCATIONAL EDUCATION, COUNCIL ON		
			Meetings	MISC	93-11-059
			VOLUNTEER FIREFIGHTERS, BOARD FOR		
			Disability and medical coverage		
			fees	EMER	93-16-015
				PROP	93-16-016
			Emergency workers		
			disability and medical coverage, fees	EMER	93-16-015
				PROP	93-16-016
			Meetings	MISC	93-08-035
				MISC	93-13-003
				MISC	93-13-016
			WALLA WALLA COMMUNITY COLLEGE		
			Meetings	MISC	93-01-059
			Rules of conduct	PROP	93-15-079
			Suspension procedures	PROP	93-15-079
			WASHINGTON STATE LIBRARY		
			Library commission		
			meetings	MISC	93-01-053
				MISC	93-05-027
				MISC	93-05-030
				MISC	93-11-055
				MISC	93-12-036
			WASHINGTON STATE PATROL		
			Board		
			responsibilities and functions	PROP	93-10-001
				PERM	93-15-074
			Log trucks, load fastening devices	PROP	93-05-028
				PERM	93-11-017
			Pole trailers, load fastening devices	PROP	93-05-028
				PERM	93-11-017

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Sirens, standards	PROP	93-05-029	possession, transfer, or release of certain wildlife species	PERM	93-04-039
Sunscreen tint film decals	PERM	93-11-018		PERM	93-04-038
Vehicle identification numbers	PROP	93-16-067	retention of game	PERM	93-04-075
	PROP	93-10-002	Game management units		
	PERM	93-15-075	boundary descriptions	PROP	93-06-074
Weighing requirement, exemption	PROP	93-13-119		PERM	93-13-048
				PERM	93-04-074
WASHINGTON STATE UNIVERSITY			Hunting restrictions		
Meetings	MISC	93-11-080	Hunting seasons		
Rules coordinator	MISC	93-04-010	closure areas, 1993-94	PROP	93-06-062
				PERM	93-11-011
			deer and bear, 1993-94	PROP	93-06-064
				PERM	93-11-016
WESTERN WASHINGTON UNIVERSITY			deer and elk, 1993-94	PROP	93-06-063
Firearms and dangerous weapons	PERM	93-01-080		PERM	93-11-012
Meetings	MISC	93-14-019	elk, 1993-94	PROP	93-06-059
Smoking on campus	PERM	93-01-080		PROP	93-06-063
				PERM	93-11-012
				PERM	93-11-015
			firearm restrictions, 1993-94	PROP	93-06-062
				PERM	93-11-011
			migratory waterfowl, 1992-93	EMER	93-01-100
				PROP	93-13-136
			migratory waterfowl, 1993-94	PROP	93-13-136
			small game, 1993-94	PROP	93-06-058
				PERM	93-11-014
			special species, 1993-94	PROP	93-06-060
				PERM	93-11-013
				MISC	93-05-001
			Rules coordinator		
			Wildlife		
			dead nonresident wildlife		
			importation and retention		
			prohibited	PERM	93-04-040
			deleterious exotic wildlife		
			designation	PERM	93-04-039
			possession, transfer, or release		
			prohibited	PERM	93-04-039
			protective measures for wildlife		
			in captivity	PERM	93-04-039
			possession, transfer, or release of		
			certain wildlife species	PERM	93-04-038
				PERM	93-04-039
			endangered species, classification	PROP	93-14-112
				PERM	93-15-057
			lynx, removal from list of game		
			and furbearing animals	PROP	93-14-110
				PROP	93-15-055
			protected wildlife, classification	PROP	93-14-111
				PROP	93-15-056
			Wildlife rescue coalition		
			meetings	MISC	93-01-093
			WINE COMMISSION		
			(See AGRICULTURE, DEPARTMENT OF)		
			WORKFORCE TRAINING AND EDUCATION		
			COORDINATING BOARD		
			Meetings	MISC	93-01-101
				PROP	93-02-045
				MISC	93-02-060
				MISC	93-04-066
				MISC	93-04-093
				PERM	93-06-005
				MISC	93-07-058
				MISC	93-10-052
				MISC	93-13-033
				MISC	93-15-028
			Organization	PROP	93-02-045
				PERM	93-06-005
			Practice and procedure	PROP	93-02-045
				PERM	93-06-005
			Public records, availability	PROP	93-02-045
				PERM	93-06-005
			Rules coordinator	PROP	93-02-045
				PERM	93-06-005

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Vocational schools, private
nondegree programs

PROP 93-02-044
PERM 93-06-006

YAKIMA COUNTY CLEAN AIR AUTHORITY

asbestos removal
construction notice
fees
open burning
organization and operation
permits

PROP 93-15-076
PROP 93-15-076
PROP 93-15-076
PROP 93-15-076
PROP 93-15-076
PROP 93-15-076

YAKIMA VALLEY COMMUNITY COLLEGE

Facilities, guidelines for use
Meetings

PROP 93-12-099
MISC 93-03-018

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