

# Washington State Register

**FEBRUARY 2, 1994**

**OLYMPIA, WASHINGTON**

**ISSUE 94-03**



## **IN THIS ISSUE**

Affordable Housing Advisory Board  
Agriculture, Department of  
Barley Commission  
Bellevue Community College  
Bellingham Technical College  
Centralia College  
Community Development, Department of  
Convention and Trade Center  
Deferred Compensation, Committee for  
Dental Disciplinary Board  
Dental Examiners, Board of  
Ecology, Department of  
Edmonds Community College  
Education, State Board of  
Financial Institutions, Department of  
Fire Protection Policy Board  
Fisheries, Department of  
Fryer Commission  
Governor, Office of the  
Hardwoods Commission  
Health, Department of  
Higher Education Coordinating Board  
Human Rights Commission  
Insurance Commissioner, Office of the  
Labor and Industries, Department of  
Lake Washington Technical College  
Licensing, Department of  
Liquor Control Board  
Lottery Commission  
Minority and Women's Business Enterprises,  
Office of  
Natural Heritage Advisory Council  
Natural Resources, Department of  
Parks and Recreation Commission  
Personnel, Department of  
Public Disclosure Commission  
Public Employees Benefits Board  
Puget Sound Water Quality Authority  
Renton Technical College  
Revenue, Department of  
Seattle Community Colleges  
Secretary of State  
Shoreline Community College  
Social and Health Services, Department of  
South Puget Sound Community College  
Spokane County Air Pollution Control  
Authority  
Strawberry Commission  
Tacoma Community College  
Tax Appeals, Board of  
Transportation, Department of  
Transportation Improvement Board  
University of Washington  
Utilities and Transportation Commission  
Volunteer Firefighters, Board for  
Wildlife Commission

(Subject/Agency index at back of issue)  
This issue contains documents officially  
filed not later than January 19, 1994

## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

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

## REPUBLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

---

### STATE MAXIMUM INTEREST RATE (Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of February 1994 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

---

# WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504-0552, pursuant to RCW 34.08.020. Subscription rate is \$188.83 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER  
Code Reviser's Office  
Legislative Building  
Olympia, WA 98504-0552

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

**Raymond W. Haman**  
*Chairman, Statute Law Committee*

**Dennis W. Cooper**  
*Code Reviser*

**Gary Reid**  
*Chief Assistant Code Reviser*

**Kerry S. Radcliff**  
*Editor*

**Joyce Matzen**  
*Subscription Clerk*

## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

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

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

### 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

### 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

### 4. EFFECTIVE DATE OF RULES

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

### 5. EDITORIAL CORRECTIONS

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

**1993 - 1994**

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
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
94-01	Nov 24	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 25
94-02	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 8
94-03	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 2	Feb 22
94-04	Jan 5	Jan 19	Feb 2	Feb 16	Mar 8
94-05	Jan 19	Feb 2	Feb 16	Mar 2	Mar 22
94-06	Feb 2	Feb 16	Mar 2	Mar 16	Apr 5
94-07	Feb 23	Mar 9	Mar 23	Apr 6	Apr 26
94-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
94-09	Mar 23	Apr 6	Apr 20	May 4	May 24
94-10	Apr 6	Apr 20	May 4	May 18	Jun 7
94-11	Apr 20	May 4	May 18	Jun 1	Jun 21
94-12	May 4	May 18	Jun 1	Jun 15	Jul 5
94-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
94-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
94-15	Jun 22	Jul 6	Jul 20	Aug 3	Aug 23
94-16	Jul 6	Jul 20	Aug 3	Aug 17	Sep 6
94-17	Jul 27	Aug 10	Aug 24	Sep 7	Sep 27
94-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
94-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
94-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
94-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
94-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
94-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
94-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1995

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

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

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



# Regulatory Fairness Act

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

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

## AN SBEIS IS REQUIRED

When:

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

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

## AN SBEIS IS NOT REQUIRED

When:

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

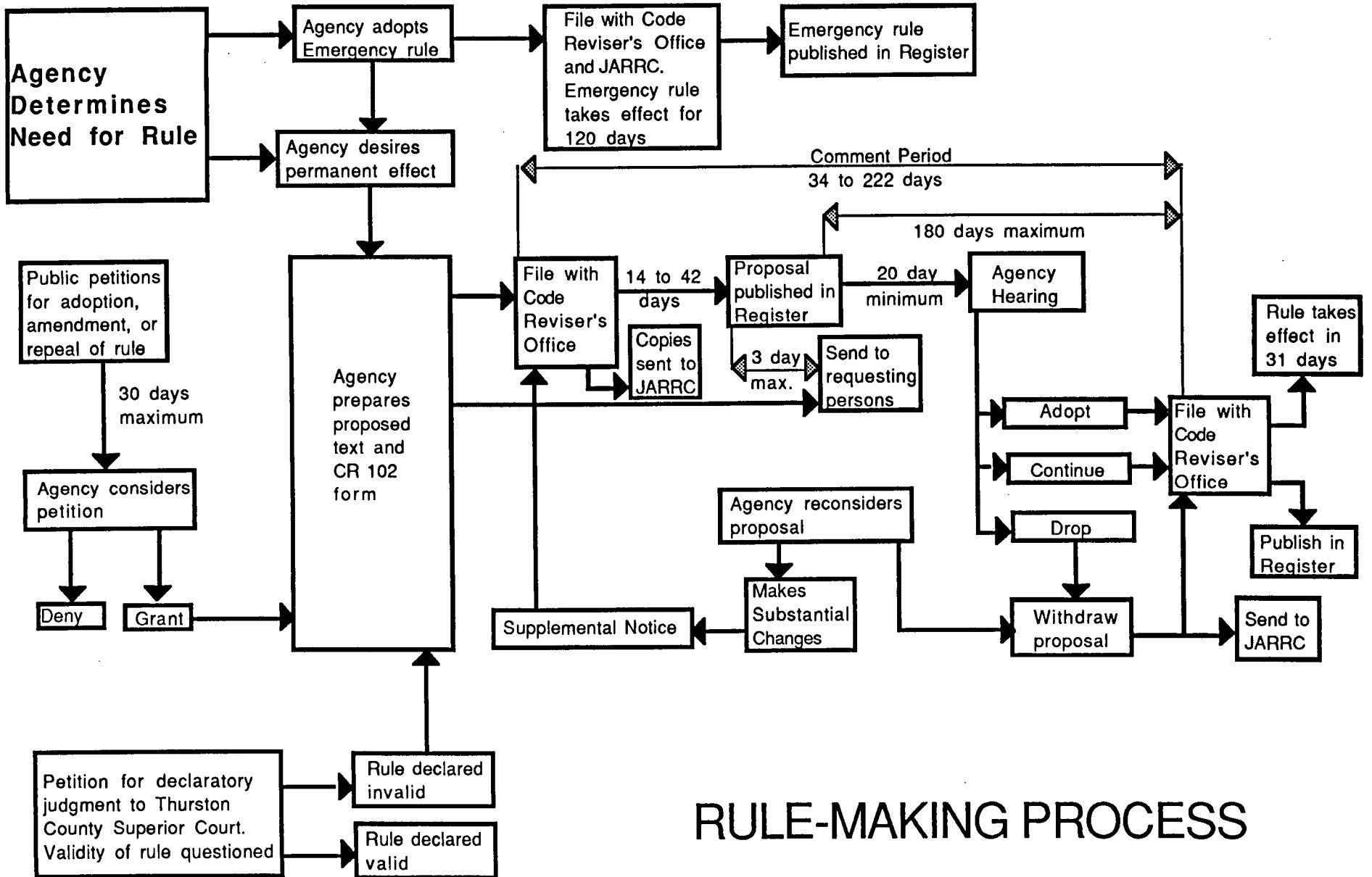
There is no economic impact on business;

The rule REDUCES costs to business;

There is only minor or negligible economic impact;

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

The rule is pure restatement of statute.



# RULE-MAKING PROCESS

## ERRATUM

Due to a clerical error, WAC 173-303-680 was listed in WSR 94-01-089 as being statutorily withdrawn for not being adopted within the one hundred eighty day period allowed by RCW 34.05.335(3). WAC 173-303-680 was permanently filed on December 8, 1993, in WSR 94-01-060 and went into effect on January 8, 1994.

**WSR 94-01-097**  
**PROPOSED RULES**  
**GROWTH PLANNING**  
**HEARINGS BOARDS**

[Filed December 15, 1993, 2:49 p.m.]

Original Notice.

Title of Rule: Title 242 WAC.

Purpose: To amend the rules of practice and procedure, first adopted on an emergency basis on June 16, 1992, and on a permanent basis on October 15, 1992.

Statutory Authority for Adoption: RCW 36.70A.270(6).

Statute Being Implemented: Growth Management Act, primarily codified at chapter 36.70A RCW.

Summary: The proposed amendments to Title 242 WAC clarify existing rules and make them more internally consistent.

Reasons Supporting Proposal: The existing rules were adopted before many cases had been filed. Now that the boards have experience with the rules in actual cases, it is time to refine them.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: M. Peter Philley, 2329 One Union Square, 600 University Street, [Seattle], (206) 389-2625.

Name of Proponent: Washington State Growth Planning Hearings Boards, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules modifications are proposed for two reasons, to clarify them and to make them consistent with interpretations by the boards since the rules were adopted.

Proposal Changes the Following Existing Rules: The definition of "party" has been added to WAC 242-02-040, and "petitioner" and "respondent" amended to clarify the rules. WAC 242-02-052 (2)(e), 242-02-110(2), 242-02-140, 242-02-210(2), 242-02-250, 242-02-310, 242-02-340, 242-02-510, 242-02-522, 242-02-530, and 242-02-830 were amended accordingly; WAC 242-02-072 and 242-04-050 were amended to change the eastern board's address; a copy of the challenged ordinance or enactment shall be filed with a petition for review, WAC 242-02-210(3); WAC 242-02-220(4) has been added to clarify that "failure to adopt" actions can be filed at any time; the rules on how to file documents by fax have been clarified. Follow-up originals and copies must now be filed within three instead of ten days. Documents over 15 pages need board approval in order to be faxed, WAC 242-02-240; consistent with board rulings, discovery has been further limited so that parties may no longer stipulate to it, WAC 242-02-410; WAC 242-02-520 was amended to limit the scope of the index of the record below to focus only on documents related to the legal issues before a board and generally only those considered by

a legislative body; WAC 242-02-522, 242-02-550, and 242-02-558 have been clarified, witnesses can testify only when permitted; WAC 242-02-540 was amended to state the board's general rule, only the record below is reviewed; briefs by moving parties or petitioners are mandatory. Failure to brief an issue constitutes abandonment, WAC 242-02-570; the Administrative Procedure Act has been referenced as applying when a board's final decision is appealed to superior court, WAC 242-02-892; and interested persons may be permitted to comment on a request for a declaratory ruling, WAC 242-02-920.

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

Hearing Location: Central Puget Sound Growth Planning Hearings Board, 2329 One Union Square, 600 University Street, Seattle, WA 98101-1129, on February 23, 1994, at 10:00 a.m.

Submit Written Comments to: Central Puget Sound Growth Planning Hearings Board, by February 23, 1994.

Date of Intended Adoption: February 24, 1994.

December 14, 1993

M. Peter Philley

Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-040 Definitions.** As used in this title, the following terms shall have the following meaning:

(1) "Act" means chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 1st sp. sess., and subsequent amendments.

(2) "Board" means the Eastern Washington, Western Washington or Central Puget Sound Growth Planning Hearings Board.

(3) "Hearing Examiner" means an authorized agent of a board who has a demonstrated knowledge of land use planning and law, appointed to assist the board in the performance of its hearing function.

(4) "Joint Boards" means the three independent boards meeting or acting jointly.

(5) "Party" means any person named in the caption of a case before a board.

~~((5))~~ (6) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit, or public or private organization or entity of any character.

~~((6))~~ (7) "Petitioner" means a person, ~~((natural or otherwise,))~~ or that person's attorney(s) or other authorized representative(s), who appeals any matter ~~((to the board))~~ or who brings a petition for rule making to the board. A petitioner is a party to a case before the board.

~~((7))~~ (8) "Presiding officer" means any member of a board, or a hearing examiner, who is assigned to conduct a conference or hearing as directed by a board. The presiding officer shall have authority as provided by WAC 242-02-522.

~~((8))~~ (9) "Publication" means:

(a) for a city, the date the city publishes the ordinance or summary of the ordinance adopting a comprehensive plan, development regulations, or other enactments taken pursuant to the requirements of the act, or subsequent amendments, as is required to be published;

(b) for a county, the date the county publishes the notice that it has adopted a comprehensive plan, development regulations or other enactments, or subsequent amendments pursuant to RCW 36.70A.290(2);

(c) the filing of a certificate with the secretary of state pursuant to RCW 43.62.035 showing the office of financial management's determination of population.

~~((9))~~ (10) "Respondent" means a person who is named as a responding party in any petition for review before a board, or the respondent's attorney(s) or other authorized representative(s).

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 92-21-034, filed 10/15/92)

**WAC 242-02-052 Petition for rule making.** (1) Right to Petition for Rule Making. Any person may petition the joint boards for the adoption, amendment, or repeal of any rule. Said petition shall be filed with the Central Puget Sound Board's office in Seattle, Washington.

(2) Form of Petition. The form of the petition for adoption, amendment or repeal of any rule shall generally adhere to the following:

(a) A caption in the following form:

BEFORE THE JOINT GROWTH PLANNING  
HEARINGS BOARDS  
STATE OF WASHINGTON

No.

In the matter of  
the Petition of                      PETITION FOR RULE MAKING  
(Name of Petitioner)  
for Rule Making

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner seeks the adoption of a new rule or rules, or amendment or repeal of an existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by board rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interests of the petitioner and the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) The petition shall be dated and signed by the ~~((person))~~ party named in the first paragraph or by the petitioner's attorney or other authorized representative. The original and nine copies shall be filed with the Central Puget Sound Board at its office in Seattle, Washington.

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 92-21-034, filed 10/15/92)

**WAC 242-02-072 Principal offices.** The principal offices of each board are as follows:

- (1) Eastern Washington Growth Planning Hearings Board  
Suite ~~((H))~~ 818 Larson Building  
6 South 2nd Street  
Yakima, Washington 98901  
(509) 454-7803  
(509) 454-7292 FAX
- (2) Western Washington Growth Planning Hearings Board  
111 West 21st Avenue, Suite 1  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(206) 664-8966  
(206) 664-8975 FAX
- (3) Central Puget Sound Growth Planning Hearings Board  
2329 One Union Square  
600 University Street  
Seattle, Washington 98101-1129  
(206) 389-2625  
(206) 389-2588 FAX

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 92-21-034, filed 10/15/92)

**WAC 242-02-110 Appearance and practice before a board—Who may appear.** Practice before a board in hearings shall be open to the following persons who have met the standing requirements of chapter 36.70A RCW:

- (1) A party to a case before the board may participate personally or, if the party is a corporation, organization, informal association, or other artificial person, by a duly authorized representative;
- (2) Whether or not participating ~~((in person))~~ individually, any ~~((party))~~ person may be advised and represented at ~~((the party))~~ one's own expense by an attorney or, if permitted by provision of law, other representative;
- (3) Attorneys at law practicing before the board must be duly qualified and entitled to practice in the courts of the state of Washington; and
- (4) Other persons permitted by law.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-140 Signing of pleadings, motions, and legal memoranda.** Every pleading, motion and legal memorandum of a party shall be dated and signed by the party, or the party's attorney or other authorized representative and include an address and telephone and FAX numbers.

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 92-21-034, filed 10/15/92)

**WAC 242-02-210 Petition for review—Forms—Contents.** A petition for review shall substantially contain:

(1) A caption in the following form:

BEFORE THE . . . . GROWTH PLANNING  
HEARINGS BOARD  
STATE OF WASHINGTON

Petitioner,

Case No.

v.

PETITION FOR REVIEW

Respondent.

(2) Numbered paragraphs stating:

(a) Petitioner's name, mailing address and telephone number and those of the attorney or other authorized representative, if any;

(b) Date of the order, determination, publication, action or failure to act from which the appeal is taken;

(c) A detailed statement of issues presented for resolution by the board;

(d) A statement indicating the basis of the petitioner's standing before the board;

(e) The estimated length of the hearing;

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

(g) A statement that the petitioner has read the petition for review and believes the contents to be true, followed by the petitioner's signature or signature of ~~((his/her))~~ the attorney(s) or ((qualified)) other authorized representative(s), if any.

(3) One copy of the document being appealed, if applicable, shall be attached to the petition for review.

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 93-11-034 [93-11-068], filed 5/17/93)

**WAC 242-02-220 Petition for review—Time for filing.** (1) A petition relating to whether or not an adopted comprehensive plan, development regulation, or subsequent amendments, is in compliance with the goals and requirements of the act shall be filed with a board within sixty days from the date of publication by the legislative body of the county or city as specified in RCW 36.70A.290(2).

(2) A petition relating to an adopted county-wide planning policy shall be filed within sixty days of its adoption as specified in RCW 36.70A.210(6).

(3) For all other matters, a petition must be filed with a board within sixty days of the final written decision, order, determination, publication, or action being entered.

(4) A petition relating to the failure of a state agency, city or county to take an action by a deadline specified in

the act may be brought at any time after the deadline for action has passed.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-240 Date of filing—Facsimile and telegraph.** (1) The date of filing shall be the date of actual receipt by a board at its office. The date stamp placed on the petition shall be presumptive evidence of the date of receipt.

(2) Filing of any documents with a board by electronic telefacsimile transmission is at the risk of the sender and shall not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's facsimile machine shall be presumptive evidence of the date and time of receipt of transmission.

(b) The original document and three copies must be filed personally or by first class, registered or certified mail with the board within ~~((ten))~~ three days from the date of transmission.

(c) Documents over 15 pages in length may not be filed by fax without prior approval of the presiding officer.

(3) A fax copy shall constitute an original solely for the purpose of establishing the date a document was filed.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-250 Notice of appearance, answer and petition for cross review.** (1) The respondent~~((s representative))~~ shall file a notice of appearance with the board and serve a copy on the petitioner and all other parties promptly after having been served with a petition for review. The notice of appearance shall be dated, signed and contain the ~~((representative))~~ respondent's address and telephone and FAX numbers.

(2) The respondent, at its option, may file an answer to the petition for review. The respondent shall file the original and three copies with the board and serve a copy on the petitioner. Answers shall be filed no later than twenty days from the date of service of the petition for review. Answers shall be verified in the same manner as the petition for review.

(3) A respondent may file a petition for cross review. The respondent shall file the original and three copies with the board and serve a copy on all other parties within thirty days after the service of the petition for review or any amendment to the petition. The petition for cross review shall conform in all respects to the requirements for a petition for review.

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 92-21-034, filed 10/15/92)

**WAC 242-02-270 Intervention.** (1) Any person whose interest may be substantially affected by a proceeding before a board may by motion request status as an intervenor in the case.

(2) In determining whether a person qualifies as an intervenor, the presiding officer shall apply the ~~((civil rules of the superior courts))~~ applicable Superior Court Civil Rules (CR) of this state.

(3) If the person qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the motion;

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(4) The presiding officer shall timely grant or deny each motion and specify conditions, if any.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-280 Amicus.** (1) Any person whose interest may be substantially affected by a proceeding before a board may by motion request status as an amicus in the case.

(2) In determining whether a person qualifies as an amicus, the presiding officer shall apply the applicable ~~((#))~~ Rules of ~~((the))~~ ~~((#))~~ Appellate Procedure (RAP) of the appellate courts of this state.

(3) If the person qualifies for amicus, the presiding officer may impose conditions upon the amicus's participation in the proceedings, either at the time that amicus status is granted or at any subsequent time.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-310 Service of papers.** (1) Parties filing pleadings, documents, exhibits and other papers with a board shall also promptly serve copies upon all ~~((attorneys or representatives of record and upon))~~ other parties ~~((not represented)).~~

(2) Service upon ~~((the))~~ a party's attorney or other authorized representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon the parties or their attorney or representative of record, if any.

**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 92-21-034, filed 10/15/92)

**WAC 242-02-320 Method of service.** Service of papers, specified in WAC 242-02-310(1) ~~((except original service)),~~ shall be made personally or by first class, registered or certified mail, or by telegraph or by facsimile transmission.

**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 92-21-034, filed 10/15/92)

**WAC 242-02-330 Service of papers—When complete.** (1) Papers required to be filed with a board shall be deemed filed upon actual receipt during office hours at the board's office.

(2) All facsimile transmissions are sent at the risk of the sender and only pursuant to the procedures specified in WAC 242-02-240. ~~((Service by facsimile shall be deemed complete only when the following procedure is observed:~~

~~(a) The original document must be filed with a board within ten days from the date of transmission;~~

~~(b) Facsimile confirmation of transmission;))~~

(3) This section shall not extend any applicable time for appeal to a board nor extend the time for providing notice of appeal to any named party.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-340 Proof of service—Certificate.** Where proof of service is required by this chapter, by statute, or upon a board's request, filing ~~((a copy of))~~ the original document ~~((the papers))~~ with the board and serving copies upon all attorneys or other authorized representatives of record and upon parties not represented together with one of the following documents shall constitute proof of service:

(1) An acknowledgement of service;

(2) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon ~~((all))~~ each part ~~((ies))~~ y or the party's attorney or other authorized representative ~~((s))~~ of record in the proceeding by delivering a copy thereof in person to the named individuals;

(3) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the case by:

(a) Mailing a copy, properly addressed with postage prepaid, to each party ~~((in the case))~~ or ~~((his/her))~~ that party's attorney ~~((r))~~ or other authorized ~~((agent or))~~ representative; or

(b) Telegraphing a copy, properly addressed with charges prepaid, to each party in the case or ~~((his/her))~~ that party's attorney, or other authorized ~~((agent or))~~ representative; or

(c) Transmitting a copy by electronic telefacsimile device, and on the same day mailing a copy to each party in

the case or ~~((his/her))~~ that party's attorney, or other authorized ~~((agent or))~~ representative; or

(d) Depositing a copy, properly addressed with charges prepaid, with a commercial parcel delivery company or courier service.

**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 92-21-034, filed 10/15/92)

**WAC 242-02-410 Discovery—Limitation.** (1) Discovery shall not be permitted ~~((unless all parties stipulate to it or))~~ except upon an order of a board or its presiding officer.

(2) Insofar as applicable and not in conflict with this chapter, when discovery has been authorized by a board or presiding officer ~~((or when the parties have stipulated to it)),~~ the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the state of Washington shall be used. Such statutes and rules shall include but shall not be limited to those rules pertaining to discovery of evidence by parties to civil actions.

~~((3) All stipulations by the parties allowing discovery must be in writing, shall contain deadlines for the completion of discovery and shall be filed with the board.))~~

**AMENDATORY SECTION** (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-440 Subpoena—Service.** Service shall be made by delivering a copy of the subpoena to such person and tendering on demand, where the person is entitled to make a demand, the fees for one day's attendance and the mileage allowed by law. All costs, which include the cost of producing records, shall be paid by the party requesting issuance of the subpoena. A subpoena may be served by any suitable person at least eighteen years of age, by exhibiting and reading it to the witness or keeper of the records, or by giving ~~((him or her))~~ that person a copy or by leaving ~~((such))~~ a copy at ~~((his/her))~~ that person's office or place of residence.

**AMENDATORY SECTION** (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-510 Hearing—Setting of time and place.** (1) Within ten days of the filing of a petition for review, a board or presiding officer will schedule a hearing date and notify the parties of the date.

(2) The board or presiding officer will thereafter schedule a place for the hearing.

(3) A written notice of the date and location of the hearing shall be sent to all parties not less than twenty days prior to the hearing date.

(4) The notice shall identify the appeal to be heard, the names of the parties to the appeal and their attorneys or other authorized representatives, if any, and shall specify the time and place of hearing. The notice shall include the information specified in RCW 34.05.434 and if the hearing

is to be conducted by teleconference call the notice shall so state.

(5) The notice shall state that if a limited-English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter will be appointed and that there will be no cost to the party or witness. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired.

(6) The notice may also include an order fixing the prehearing date and/or deadlines as provided in these rules.

(7) Defects in notice may be waived if the waiver is knowing and voluntary.

**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 92-21-034, filed 10/15/92)

**WAC 242-02-520 Record.** (1) ~~((Within thirty days of service of a petition for review, the respondent))~~ When a city or county is the respondent, it shall file an index with the board and serve a copy on each petitioner ~~((s))~~ of an index of all material used in taking the action which is the subject of the petition for review.)) within thirty days of service of a petition for review, unless otherwise directed by the presiding officer.

(2) When the respondent is the office of financial management or other state agency, the respondent shall be instructed by the presiding officer on the preparation of the index.

(3) The index shall list and be limited to the following documents that relate to the legal issues raised in the petition(s) for review:

(a) All documents presented to the legislative body during its proceedings prior to taking the action that is the subject of the petition for review; and

(b) Other documents considered by the legislative body in taking the action that is the subject of the petition for review. "Documents considered" includes any documents examined or reviewed by members of the legislative body. Documents not considered by any members of the legislative body need not be included in the index even if prepared by the respondent's staff; and

(c) Any documents that might never have been presented to or considered by members of the legislative body but that relate to SEPA compliance or compliance with the public participation requirements of RCW 36.70A.140, if either has been raised as a legal issue by the petitioner.

(4) The index shall contain sufficient identifying information to enable unique documents to be distinguished. In addition, the written or tape recorded record of the legislative proceedings where action was taken shall be available to the petitioner for inspection. The respondent shall include a statement certifying that the index is complete.

~~((2))~~ (5) Unless otherwise directed by the board or presiding officer, within fifty days of the filing of the petition for review, each of the parties shall identify those documents listed in the index which the party intends to use as an exhibit. The documents identified in this stage shall

be labeled "preliminary list of exhibits." The preliminary list of exhibits shall be filed with the board and a copy served on all parties. In complying with the requirements of this subsection, parties shall not simply designate every document but shall carefully review the index, and designate only those documents that are reasonably necessary for a full and fair determination of the issues presented.

~~((3))~~ (6) The board or the presiding officer shall establish a deadline for identifying and filing a final list of exhibits with the board and serving a copy on all other parties. A copy of any document listed on the final list of exhibits shall be served on the opposing party or parties by the time specified by the board or presiding officer. One copy of each document shall also be filed with the presiding officer to be used as an "original" exhibit. Prior to the beginning of a hearing, each of the parties shall also provide the board with three copies (four copies if a hearing examiner is the presiding officer) of each document being offered as an exhibit.

~~((4))~~ (7) Copies of designated documents from the index that have been certified or stipulated to be true and accurate may be admitted into evidence before a board in lieu of the original document.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-530 Motions—Requirements.** (1) A motion is an application for an order or ruling. Every motion shall be in writing, unless made during a hearing; shall state with particularity the grounds; and shall set forth the relief or order sought. An original and three copies of the motion shall be filed with a board and a copy served on ~~(the)~~ each opposing party ~~(parties)~~ or that party's attorney or other authorized representative.

(2) All motions shall be properly captioned and signed by the moving party ~~(its)~~ or that party's attorney or other authorized representative.

(3) The motion shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names and telephone numbers of all parties served with the motion.

(4) Dispositive motions on a limited record, similar to a motion for summary judgment in superior court or a motion on the merits in the appellate courts, are permitted. Time frames for making and responding to such a motion shall be established by the presiding officer.

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

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-540 New or supplemental evidence.** Generally, a board will review only the record developed by the city, county, or state in taking the action that is the subject of review by the board. A party by motion may request that a board allow such additional evidence as would be necessary or of substantial assistance to the board in reaching its decision, and shall state its reasons. A board

may at any time prior to, during, or after the hearing order that new or supplemental evidence be provided.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-522 Presiding officer—Powers and duties.** It shall be the duty of the presiding officer to conduct conferences or hearings as directed by a board in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of the act or these rules to:

(1) Inspect the petition for review to determine whether, on its face, compliance with the jurisdictional and standing requirements of the act is shown, and if compliance is not shown, to recommend an action or to refer the issue to the full board for resolution;

~~((8))~~ (2) Take appropriate action with respect to the ~~(representatives for)~~ qualifications of the parties or the parties' attorney(s) or other authorized representative(s) (appearing) to appear before a board;

~~((2))~~ (3) Administer oaths and affirmations if witnesses are permitted to testify;

~~((3))~~ (4) Issue subpoenas as provided in RCW 34.05.446;

~~((4))~~ (5) Rule on all procedural matters, objections and motions unless a board determination is required;

~~((5))~~ (6) Rule on all evidentiary matters including offers of proof ~~(and receive relevant evidence);~~

~~((6))~~ (7) When applicable, ~~(Q)~~ question witnesses called by the parties in an impartial manner as needed to develop any facts (he or she) deem(s)ed necessary to fairly and adequately decide the issue;

~~((7))~~ To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as deemed necessary to fairly and equitably decide the issue;

~~((9))~~ (8) Issue orders joining other parties, on motion of any party ~~(or on his/her own motion)~~, when it appears that such other parties may have an interest in, or may be affected by the case;

~~((10))~~ (9) Consolidate cases for hearing when such consolidation will expedite disposition and avoid duplication of testimony and when consolidation will not unduly prejudice the rights of any party;

~~((11))~~ (10) Hold conferences for the settlement or amplification of the issues;

~~((12))~~ (11) Regulate the course of the case prior to and during the hearing;

~~((13))~~ (12) Encourage the parties to stipulate to the admissibility of documents in advance of a hearing and to rule on issues concerning the content of the record;

~~((14))~~ (13) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

~~((15))~~ (14) Take any other action necessary and authorized by these rules or 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.



AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-550 Prehearing conference.** A prehearing conference is optional at the discretion of the presiding officer. The purpose of a prehearing conference is to:

(1) Determine the feasibility of and encourage settlement of the matter or any portion thereof;

(2) Obtain a stipulation of relevant facts ~~((to show))~~ including a board's jurisdiction and the party's standing in the matter;

(3) Obtain agreement as to the issues of law and fact presented and their simplification, limitation, or resolution;

~~((4)) Determine the possibility of obtaining admissions of fact and authenticity of documents which will avoid unnecessary proof;))~~

~~((5))~~ (4) Determine the authenticity and admissibility of exhibits;

~~((6))~~ (5) Determine the qualifications of expert witnesses, if they are permitted to testify;

~~((7))~~ (6) Receive any motions concerning qualification of individual board members to hear the matter;

~~((8)) Obtain stipulation as to all or a part of the facts or documents involved in the case;))~~

~~((9))~~ (7) Obtain information as to the number of expert and/or lay witnesses expected to be called by the parties and their names, addresses and telephone numbers, if the board has previously authorized supplemental or additional evidence to be presented at the hearing;

~~((10))~~ (8) Set subsequent deadlines, if and when appropriate, for filing final exhibit and witness lists, filing motions, and completing discovery; establish a briefing schedule, limit the length of briefs; and decide other matters related to the conduct of the hearing.

~~((11))~~ (9) Determine the approximate time necessary for the presentation of evidence and/or argument of the respective parties; and

~~((12))~~ (10) Obtain all other information which may aid in the prompt disposition of the matter.

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 92-21-034, filed 10/15/92)

**WAC 242-02-554 Prehearing conference—Documentary evidence.** (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of the Administrative Procedure Act and WAC 242-02-650.

(2) Where applicable, the presiding officer may order:

(a) That all documentary evidence which is to be offered during the hearing be submitted to the board and to other parties sufficiently in advance to permit study and preparation of cross examination and rebuttal evidence;

(b) That documentary evidence not submitted as required in (a) of this subsection not be received in evidence in the absence of a clear showing that the offering party had

good cause for the failure to produce the evidence sooner, unless it is submitted for impeachment or rebuttal purposes;

(c) That ~~((the authenticity of))~~ all documents so presented and examined be deemed ~~((admitted))~~ authentic unless written objection is filed within fourteen days after receipt. A party will be permitted to challenge such authenticity at a later time only upon a clear showing of good cause for failure to have filed such written objection.

(3) The presiding officer may limit the documentary evidence to that identified on a final list of exhibits. A party may submit additional documentary evidence at the time of hearing only upon a showing of good cause.

(4) When only portions of a document are to be relied upon, the offering party shall adequately identify and prepare the pertinent excerpts and shall supply copies of such excerpts to the presiding officer and to the other parties. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

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 92-21-034, filed 10/15/92)

**WAC 242-02-558 Prehearing conference—Agreements.** At the conclusion of a prehearing conference, the presiding officer may require the parties to submit a proposed prehearing order. The presiding officer will issue an order reciting the action taken at the conference and any agreements of the parties or decisions of the presiding officer. The order may include provisions pertaining to:

(1) Jurisdiction and standing;

(2) Issues;

(3) Admissions;

(4) Witnesses, if permitted;

(5) Time ~~((and))~~, location and length of hearings;

(6) Authenticity and/or admissibility of exhibits;

(7) Qualification of witnesses, if permitted;

~~((8)) Issues remaining;))~~

~~((9))~~ (8) Rulings of the board prior to the prehearing conference;

~~((10))~~ (9) Rulings of the presiding officer; and

~~((11))~~ (10) Any other matters that may expedite the hearing. Any objection to such order shall be made in writing within seven days after the date the order is ~~((mailed))~~ dated. A board shall serve its prehearing order on the same day that the order is dated. The order shall control ~~((subsequent))~~ ensuing proceedings unless modified for good cause by a subsequent order.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-570 Briefs.** (1) A petitioner, or a moving party when a motion has been filed, ~~((may, at its own option or when directed by a board or presiding officer,))~~ shall submit a brief on ~~((one or more))~~ each legal issue ~~((s))~~ it expects a board to determine. Failure by such a party to brief an issue shall constitute abandonment of the

unbriefed issue. Briefs shall enumerate and set forth the legal issue(s) as specified in the prehearing order.

(2) The original and three copies of briefs shall be filed with a board at least five business days prior to the hearing unless otherwise provided by a board or presiding officer. When briefs are filed, a copy shall also be served on all other parties. A board or presiding officer may permit or require the filing of additional briefs.

(3) Clarity and brevity are expected(,) to assist a board in meeting its statutorily imposed time limits. A presiding officer may limit the length of a brief and impose format restrictions.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

WAC 242-02-580 Stipulation to the facts. (~~Upon stipulation by all parties that no~~) Parties are encouraged to stipulate to any undisputed facts. (~~are at issue, or upon order of the board, a matter may be submitted to a board or presiding officer for determination without additional testimony being taken. The board or presiding officer, in its discretion, may require additional testimony.~~)

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 92-21-034, filed 10/15/92)

WAC 242-02-620 Hearing—Reporting—Recording—Recording devices. (1) All hearings shall be officially recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment of others shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or common law limits such use.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

WAC 242-02-680 Hearings—Board questions. A hearing examiner or any member of a board may, at any time during the hearing, ask clarifying questions as necessary to understand the evidence or argument.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

WAC 242-02-830 Disposition of petition for review—Final decision and order. (1) When the hearing on the petition for review has been heard by a majority of a board, a written final decision and order containing appropriate findings and conclusions, that is concurred in by at least two members, may be issued.

(2) After issuance of a final decision under this section, any party may file a petition for reconsideration with a board. Such petition must be filed within ten days of ~~((mailing))~~ service of the final decision. The original and three copies of the petition for reconsideration shall be filed

with the board. At the same time, copies shall be served on all parties of record. A board may require other parties to supply an answer which shall be served in a like manner.

(3) The filing of a petition for reconsideration shall suspend the final decision of a board until the petition is denied or a modified decision is entered by the board.

(4) In response to a petition for reconsideration, the board may deny the petition, modify its decision, or reopen the hearing. A petition is deemed denied unless the board takes action within twenty days of filing of the petition or answer where a board has required other parties to provide such an answer pursuant to subsection (2).

(5) A decision in response to the petition for reconsideration shall constitute a final decision and order for purposes of judicial review. Copies of the final decision and order shall be ~~((mailed))~~ served by the board ~~((to))~~ on each party or ~~((to its))~~ the party's attorney or other authorized representative of record.

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 92-21-034, filed 10/15/92)

WAC 242-02-850 Disposition of initial decision—Exceptions. (1) Time for Filing. Within ten days from the date of ~~((mailing))~~ service of the initial decision and order, any party may file with a board an original and three copies of a written statement of exceptions and shall serve a copy on all other parties.

(2) The statement shall set forth the grounds for exception in detail and the party or parties filing the same shall be deemed to have waived all objections for irregularities not specifically set forth. A general exception to findings of fact on the ground that the weight of evidence is to the contrary shall not be considered sufficient compliance with this requirement, unless the exception shall refer to the evidence relied upon. If legal issues are involved, the statement of exception shall set forth the legal theory relied upon, citations of authority and supporting argument. The statement of exceptions should also contain proposed findings of fact or conclusions ~~((of law))~~ as appropriate, covering the factual and legal issues to which exceptions are being taken.

(3) Reply to Exceptions. Any party may, within ten days of service, submit a written reply to exceptions. A board may, on its own motion, require the parties to submit written briefs or to appear and present oral argument regarding the matters on which exceptions were taken.

(4) Exceptions to Rulings. If an exception is taken to a ruling or rulings of a presiding officer sustaining an objection to admissibility of evidence, or denying a continuance for the presentation of further evidence, and a board determines that the ruling or rulings were erroneous, the board may: (a) return the case to the presiding officer with appropriate instructions, or (b) open the matter for further argument and decision by the board itself.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

BEFORE THE . . . . . GROWTH PLANNING  
HEARINGS BOARD  
STATE OF WASHINGTON

No.

In the matter of  
the Petition of  
(name of Petitioner)  
for a Declaratory  
Ruling

PETITION FOR  
DECLARATORY RULING

**WAC 242-02-880 Disposition of petition for re-view—Transcripts.** The following shall be the policy of each board with regard to transcription of the record:

~~((1) If less than two members of a board are present at the hearing and if exceptions to the proposed decision and order of the board or presiding officer have been timely filed as provided by WAC 242-02-850, the board may order a transcript or copy of an electronic recording. Any party may obtain a copy upon payment of the reasonable costs thereof.))~~

~~((2))~~ (1) A board, in its discretion, may at any time cause a transcript to be printed. Any person may obtain a copy upon payment of the reasonable costs thereof.

~~((3))~~ (2) In any case when a board shall not cause the transcript to be printed, it shall be the obligation of the party wishing a transcript, or portions of it, to assume the cost of producing the same.

~~((4))~~ (3) When an appeal is taken from any final decision and order of a board to the Superior Court of Thurston County, the appealing party is responsible for ordering and paying for the transcript of the hearing.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-892 Appeals of a board’s final decision and order.** Any party aggrieved by a final decision of a board may appeal the decision to Thurston County Superior Court within thirty days of issuance of the final order of the board. The Administrative Procedure Act, chapter 34.05 RCW, applies to appeals of a board’s decision.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-02-910 Petitions for declaratory ruling.**

(1) Any person may petition a board for a declaratory ruling about the applicability to specific circumstances of a rule, order, or statute within a board’s jurisdiction. The petition shall set forth facts and reasons on which the petition relies to show:

- (a) That uncertainty necessitating resolution exists;
- (b) That there is actual controversy arising from the uncertainty such that a declaratory ruling will not be merely an advisory opinion;
- (c) That the uncertainty adversely affects the petitioner;
- (d) That the adverse effect of uncertainty outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and
- (e) That the Petition complies with any additional requirements established by the board.

(2) Form of the Petition. The form of the petition for declaratory ruling shall generally adhere to the following:

- (a) A caption in the following form:

b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before superior courts of this state. The concluding paragraphs shall contain the relief requested. The petition shall be subscribed and verified in the manner prescribed for certification of petitions in these rules.

(c) The original and three copies shall be filed with the board.

(3) Consideration of Petition. A board shall consider the petition and within thirty days of its filing shall:

- (a) Issue a nonbinding declaratory ruling;
- (b) Notify the petitioner that no declaratory ruling is to be issued; or

(c) Set a time and place for a hearing or for submission of written evidence on the matter, which shall occur within ninety days of the receipt of the petition, and give at least seven days notification to the petitioner of the time and place for such hearing or submission and of the issues involved.

(4) Disposition of Petition. If the hearing is held or evidence is submitted as provided in subsection 3(c) above, a board shall, within a reasonable time:

- (a) Issue a binding declaratory ruling; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the petitioner that no declaratory ruling is to be issued.

**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 92-21-034, filed 10/15/92)

**WAC 242-02-920 Declaratory ruling—Notice to other persons.** Within fifteen days after receipt of a petition for declaratory order, a board or presiding officer shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable. A board or presiding officer may elect to allow written or oral presentations from other interested persons.

AMENDATORY SECTION (Amending WSR 92-21-034, filed 10/15/92)

**WAC 242-04-050 Communications with each board or the joint boards.** (1) All communications with a board, including but not limited to the submission of materials pertaining to its operations and/or administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of each board's decisions and other matters, shall be addressed to the appropriate board's office as follows:

- (1) Eastern Washington Growth Planning Hearings Board  
Suite ((44)) 818 Larson Building  
6 South 2nd Street  
Yakima, Washington 98901  
(509) 454-7803  
(509) 454-7292 FAX
- (2) Western Washington Growth Planning Hearings Board  
111 West 21st Avenue, Suite 1  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(206) 664-8966  
(206) 664-8975 FAX
- (3) Central Puget Sound Growth Planning Hearings Board  
2329 One Union Square  
600 University Street  
Seattle, Washington 98101-1129  
(206) 389-2625  
(206) 389-2588 FAX

(2) All communications with the joint boards, except a petition for rule making pursuant to WAC 242-02-052, shall be addressed in care of the Western Washington board.

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

**WSR 94-03-005  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Institutions)**

[Filed January 5, 1994, 4:26 p.m.]

Original Notice.

Title of Rule: WAC 275-55-221 Restoration procedure for a former involuntarily committed person's right to firearm possession and 275-59-072 Restoration procedure for a former involuntarily committed person's right to firearm possession.

Purpose: To set forth the procedure for the restoration of the right to possess firearms for former involuntarily committed persons.

Statutory Authority for Adoption: RCW 9.41.040(6).

Statute Being Implemented: RCW 9.41.040(6).

Summary: Restoration procedure for a former involuntarily committed person's right to firearm possession.

Reasons Supporting Proposal: Statutory mandate RCW 9.41.040(6).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David A. Padget, Mental Health Division, 753-2098.

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 February 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, 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 February 15, 1994.

Date of Intended Adoption: February 23, 1994.

January 5, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

NEW SECTION

**WAC 275-55-221 Restoration procedure for a former involuntarily committed person's right to firearm possession.** (1) The department and mental health professionals implementing Chapter 71.05 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and 71.05.240 and who wishes to exercise this right, may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;
- (c) A certified copy of the most recent order of commitment with the findings of fact and conclusions of law.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

#### NEW SECTION

**WAC 275-59-072 Restoration procedure for a former involuntarily committed person's right to firearm possession.** (1) The department and mental health professionals implementing Chapter 10.77 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and who wishes to exercise this right, may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;
- (c) A certified copy of the order of final discharge entered by the committing court.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

**WSR 94-03-006**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed January 6, 1994, 11:40 a.m.]

Continuance of WSR 93-24-113.

Title of Rule: New WAC 296-15-02606 Self-insured employee rights; and amending WAC 296-15-020 Certification to self-insure, 296-15-030 Surety requirement and 296-15-170 Cessation of business—Change of status.

Purpose: The purpose is to extend the comment period to January 25, 1994.

Submit Written Comments to: Georgia C. Moran, Assistant Director of Self-Insurance, P.O. Box 44890, Olympia, 98504-4890, by January 25, 1994.

Date of Intended Adoption: February 9, 1994.

January 6, 1994  
Mark O. Brown  
Director

**WSR 94-03-018**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed January 7, 1994, 12:26 p.m.]

The Department of Licensing has opted to withdraw proposed rule making WSR 93-24-072. The amendments proposed for adoption subject to this WSR will not be adopted or will be subject to future filings.

Nancy Kelly, Administrator  
Title and Registration Services  
Vehicle Services Division

**WSR 94-03-034**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed January 10, 1994, 2:01 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-210 Sales of agricultural products by persons producing the same.

Purpose: This rule explains the business and occupation and retail sales tax applications to sales of agricultural products by farmers.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule is amended to provide current tax reporting information to farmers selling agricultural products. It explains that farmers making wholesale sales of agricultural products they have raised are exempt of the wholesaling tax thereon.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the business and occupation and retail sales tax applications to sales of agricultural products by farmers. It explains that farmers making wholesale sales of agricultural products they have raised are exempt of the B&O tax. This exemption does not apply to retail sales, nor to farmers who produce agricultural products for use in a manufacturing process. A retail sales tax exemption is available for sales of food products.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reason(s): The changes to this rule are made to conform to mandates of the legislature and the department is given no discretionary latitude; and the department is not aware of any new or additional administrative responsibilities placed on a business as a result of this rule.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 23, 1994, at 9:30 a.m.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, FAX (206) 664-0972, Olympia, WA 98504-7467, by February 23, 1994.

Date of Intended Adoption: March 2, 1994.

January 10, 1994  
 Russell W. Brubaker  
 Assistant Director

**AMENDATORY SECTION** (Amending WSR 86-21-085, filed 10/17/86)

**WAC 458-20-210 Sales of agricultural products by ~~((persons producing the same))~~ farmers.** ~~((1) The term "agricultural products" as used herein means any agricultural or horticultural produce or crop, including any animal, bird, fish, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom: *Provided*, That "fish" as used herein means fish which are cultivated and raised entirely within confined rearing areas on land owned by the person so raising the same or on land in which the person has a present right of possession.~~

~~(2) Persons engaging in the business of making retail sales of agricultural products produced by them are required to apply for and obtain a certificate of registration. The certificate shall remain valid as long as the person remains in business.)~~

(1) Introduction. This section explains the B&O and retail sales tax applications to sales of agricultural products by farmers. Farmers should refer to WAC 458-20-101 to determine whether they must obtain a tax registration endorsement or a temporary registration certificate with the department of revenue. Farmers and persons making sales to farmers may also want to refer to the following sections of chapter 458-20 WAC:

(a) WAC 458-20-122 (Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use);

(b) WAC 458-20-209 (Farming for hire and horticultural services performed for farmers); or

(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements).

(2) Definitions. For the purposes of this section, the following definitions apply:

(a) "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. The term does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughter or packing house. "Farmer" does not include any person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(b) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to a product of horticulture, grain cultivation, vermiculture, or

viticulture. "Agricultural product" includes plantation Christmas trees, animals, birds, insects, or the substances obtained from such animals. RCW 82.04.213. On and after July 1, 1993, "agricultural products" includes products of "aquaculture" and animals that are "cultured aquatic products", as those terms are defined by RCW 15.85.020. Also effective July 1, 1993 "turf" was added to the definition of "agricultural product", and "animals intended to be pets" were specifically excluded. (See chapter 25, Laws of Washington 1993, 1st Special Session.)

(3) Business and occupation tax. Farmers selling agricultural products which they have not produced upon their own land or upon land which they have a present right of possession are subject to the provisions of the business and occupation tax, whether these products are sold at wholesale or retail. The business and occupation (B&O) tax applies to all sales of nonagricultural products. The B&O tax also applies to sales by persons operating a stockyard, slaughter or packing house who sell animal products raised by them.

(a) Wholesale sales. ~~((Persons))~~ Farmers making wholesale sales of agricultural products produced by them upon land owned by ~~((or leased to))~~ them, or upon which they have a present right of possession, are not subject to the ~~((business and occupation))~~ B&O tax. ~~((This exemption does not extend to sales of manufactured or extracted products (see WAC 458-20-135 and 458-20-136).))~~ (See RCW 82.04.330.) However, this exemption does not apply to farmers who produce agricultural products for use in a manufacturing process, or who sell products at wholesale which they do not grow.

~~((4))~~ (b) Retail sales. Retail sales of agricultural products by ~~((persons))~~ farmers producing the same are subject to ~~((tax under))~~ the retailing ~~((classification of the business and occupation))~~ B&O tax. Thus, tax is due by any ~~((such person who holds himself out to the public as a seller by))~~ farmer engaging in the following activities:

~~((a))~~ (i) Conducting a roadside stand or a stand displaying agricultural products for sale at retail;

~~((b))~~ (ii) Posting signs on ~~((his))~~ the premises, or through other forms of advertising soliciting sales at retail;

~~((c))~~ (iii) Operating a regular delivery route from which agricultural products are sold at retail from door to door; or

~~((d))~~ (iv) Maintaining an established place of business for the purpose of making retail sales of agricultural products.

~~((5) Persons selling agricultural products not produced by them, should obtain information from the department of revenue with respect to their tax liability.)~~

(c) Specific B&O tax exemptions. There are specific B&O tax exemptions provided by statute for certain sales of agricultural products which do not otherwise qualify for exemption under RCW 82.04.330. The B&O tax does not apply to the following:

(i) Amounts received for the sale of hatching eggs or poultry by farmers producing the same, when these products are for use in the production for sale of poultry or poultry products. RCW 82.04.410.

(ii) Amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, even though the hops have been processed into extract,

pellets, or powder in this state. RCW 82.04.337. However, the processor or warehouse of such products is not exempt on amounts charged for processing or warehousing such products.

~~((6))~~ **(4) Retail sales tax.** ~~((Persons selling agricultural products produced by them are required to collect the retail sales tax upon all retail sales made by them, except sales of food products exempt under WAC 458-20-244. The sales tax exemption for food products also applies to sales of livestock sold for personal consumption as food.))~~ Farmers required to obtain a tax registration endorsement must collect and remit retail sales tax upon any retail sale for which a specific retail sales tax exemption is not provided. Retail sales tax exemptions are available for the following sales of agricultural products:

(a) Sales of food products for human consumption. This exemption also applies to sales of livestock sold for personal consumption as food. RCW 82.08.0293.

(b) Sales of pollen. RCW 82.08.0277.

(c) Sales of semen for use in the artificial insemination of livestock. RCW 82.08.0272.

(d) Sales of poultry for use in the production for sale of poultry or poultry products. RCW 82.08.0267.

(e) Sales of beef and/or dairy cattle for use by a farmer in producing an agricultural product. RCW 82.08.0259.

(f) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breeding association. RCW 82.08.0259. Sellers claiming such an exemption should refer to WAC 458-20-122 for a description of the exemption certificate which must be retained by the seller.

~~((7) The retail sales tax applies to all sales of tangible personal property to persons for use as consumers in producing agricultural products, except for certain expressly tax exempt items (see WAC 458-20-122 and 458-20-157).~~

~~(8) Use tax. The use tax applies upon the value of all tangible personal property used as consumers by producers of agricultural products where the retail sales tax has not been paid, except for those items which are expressly exempt of retail sales tax.))~~

**(5) Deferred sales or use tax.** If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

**(6) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) BG Orchards produces apples at its own orchards. Most apples are sold at wholesale, but BG does operate a seasonal roadside fruit stand at which it sells apples at retail. The gross proceeds derived from the wholesale sale of apples is exempt from the business and occupation tax. However, the retailing B&O tax applies to the retail sales of apples, notwithstanding these sales qualify for the food product sales tax exemption.

(b) AC, Inc. owns and operates a hatchery which produces poultry from eggs. The resulting poultry is then sold to egg producers. AC, Inc. is making retail sales of poultry. However, the gross proceeds received from these sales are exempt from both the retailing B&O and retail

sales taxes under the provisions of RCW 82.04.410 and RCW 82.08.0267, respectively.

**WSR 94-03-035**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed January 10, 1994, 2:03 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-122 Sales of feed, seed, fertilizer and spray materials.

Purpose: This rule explains how sales of tangible personal property for farm use is taxed.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule is amended to provide current tax reporting information to persons making sales to farmers. It incorporates language previously contained in WAC 458-20-125 and 1993 law changes.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the application of the business and occupation and retail sales taxes to sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use. It explains that farmers raising products for wholesale or retail sale may purchase feed, seed, fertilizer, and spray materials at wholesale. It explains the retail sales tax exemptions available for certain sales to farmers. The rule provides a sample resale certificate which must be retained by the seller to perfect a retail sales tax exemption claim for sales of purebred livestock.

Proposal Changes the Following Existing Rules: The items previously contained in WAC 458-20-125 have been placed in WAC 458-20-122.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reason(s): The rule is being amended to conform to legislative mandate. The department is allowed no discretionary action; and the department is not aware of any administrative action required of any business as a result of this rule.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 23, 1994, at 9:30 a.m.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by February 23, 1994.

Date of Intended Adoption: March 2, 1994.

January 10, 1994  
Russell W. Brubaker  
Assistant Director



AMENDATORY SECTION (Amending WSR 86-21-085, filed 4/17/86 [10/17/86])

WAC 458-20-122 Sales of feed, seed, fertilizer, ~~(and)~~ spray materials, and other tangible personal property for farm use. (1) Introduction. This section explains the application of Washington's B&O and retail sales taxes to sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use. Farmers and persons making sales to farmers may also want to refer to the following sections of chapter 458-20 WAC:

(a) WAC 458-20-209 (Farming for hire and horticultural services performed for farmers);

(b) WAC 458-20-210 (Sales of agricultural products by farmers); and

(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements).

~~((1))~~ (2) Definitions. ~~((As used in this ruling))~~ For the purposes of this section, the following definitions apply:

(a) ~~((The word "feed"))~~ "Feed" means ~~((a))~~ any substance used as food ~~((for))~~ to sustain or improve animals, birds, fish, or insects, and includes whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, cod liver oil, double purpose limestone grit, oyster shell, and other similar substances ~~((used to sustain or improve livestock or poultry. The word does not include substances which do not contribute directly to a resulting agricultural product, such as peat moss or litter, nor does it include hormones or products which are used as medicines rather than as food)).~~ "Feed" includes food additives which are given for their beneficial growth or weight effects. However, "feed" does not include hormones or similar products which do not make a direct nutritional or energy contribution to the body, nor does it include products which are used as medicines.

(b) ~~((The word "seed"))~~ "Seed" means propagative portions of plants, commonly used for seeding or planting whether true seeds, bulbs, plants, seedlike fruits, seedlings, or tubers.

(c) ~~((The word "fertilizer" means a substance which increases the productivity of the soil by adding plant foods or nutrients which improve and stimulate plant growth.))~~ "Fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use in promoting plant growth. "Fertilizer" includes limes, gypsum, and manipulated animal and vegetable manures.

(d) ~~((The term "spray materials" means materials in liquid, powder or gaseous form used by agricultural producers as described in RCW 82.04.330 for the purpose of controlling or destroying insects, parasites, vermin, animals, fungi, weeds, pests or plants of a similar nature, deleterious to the growth or conservation of horticultural plants, animals, or products derived therefrom. It includes pesticides as defined in RCW 15.58.030(1). It does not include mechanical devices for the elimination of pests nor does it include materials used for spraying forest trees by commercial timber producers.))~~ "Spray materials" means any substance or mixture of substances in liquid, powder, granular, dry flowable, or gaseous form, which is intended to prevent, destroy, control, repel, or mitigate any insect, rodent,

nematode, mollusk, fungus, weed, and any other form of plant or animal life which is normally considered to be a pest. The term includes treated materials, such as grains, which are intended to destroy, control, or repel such pests. "Spray materials" also includes substances which act as plant regulators, defoliants, desiccants, or spray adjuvants.

(e) ~~((The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughter house, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.))~~ "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. The term does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughter or packing house. "Farmer" does not include any person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(f) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to a product of horticulture, grain cultivation, vermiculture, or viticulture. "Agricultural product" includes plantation Christmas trees, animals, birds, insects, or the substances obtained from such animals. RCW 82.04.213. On and after July 1, 1993, "agricultural product" includes products of "aquaculture" and animals that are "cultured aquatic products", as those terms are defined by RCW 15.85.020. Also effective July 1, 1993 "turf" was added to the definition of "agricultural product", and "animals intended to be pets" were specifically excluded. (See chapter 25, Laws of Washington 1993, 1st Special Session.)

~~((2) Business and occupation tax. Persons engaged in the business of selling feed, seed, fertilizer or spray materials are taxable under either the retailing or wholesaling classification on gross proceeds of sales.))~~ (3) Business and occupation tax. Persons making sales of tangible personal property or services to farmers are generally subject to the business and occupation tax thereon. The B&O tax applies as follows:

(a) Wholesaling. Persons who make sales at wholesale are subject to the wholesaling B&O tax upon the gross proceeds from such sales. Sellers must obtain resale certificates from their customers to support the resale nature of any transaction. (Refer to WAC 458-20-102.) The following are examples of sales at wholesale:

(i) Sales of tangible personal property to farmers when such property is purchased for resale or is a container or will become part of a container to be resold with products



produced for sale. Thus, sales of grain sacks which are resold with grain produced, sack twine used in binding such sacks, wire or twine for binding bales of hay and alfalfa which are sold, fruit and vegetable wrappers, and similar items are wholesale sales. (See also WAC 458-20-115, Sales of packing materials and containers.)

(ii) Sales to farmers of feed, seed, fertilizer, ~~((and))~~ spray materials, and agents for enhanced pollination, including insects such as bees, ~~((to farmers as defined herein are taxable under the wholesaling other classification: Provided, That))~~ for the purpose of producing an agricultural product for wholesale or retail sale. However, wholesale sales of certain unprocessed grain and legumes to farmers for use as feed may be taxable at a lower rate under the wholesaling wheat, oats, corn, barley, dry peas, dry beans, lentils, triticale B&O tax classification ~~((see WAC 458-20-161), even though the sale of such unprocessed grains or legumes is to a farmer for use as feed. Sales of feed, seed, fertilizer, and spray materials, to consumers other than farmers are taxable under the retailing classification. Sales of feed for use in the cultivating or raising for sale of fish are taxable under the retailing classification)). (Refer to WAC 458-20-161.)~~

(iii) Sales of feed, seed, fertilizer, spray materials, and agents for enhanced pollination, including insects such as bees, to persons who will resell the same without intervening use.

(iv) Sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

(v) Sales to farmers of fertilizer or spray materials by persons spraying crops for hire, provided the charge for the fertilizer or spray materials is made separate and apart from the charge for the application of the spray. (See also WAC 458-20-209.)

~~((3)) Persons engaged in the business of spraying crops for hire are taxable under the service and other business activities classification on the gross income therefrom.~~

(4) Retail sales tax. The retail sales tax applies to sales of feed, seed, fertilizer, and spray materials to consumers other than "farmers" as defined herein, except as explained below.

(5) The tax applies upon sales of spray materials to persons who spray agricultural crops and other real property for hire, unless purchased for resale to others for a charge separate and apart from charges for the actual spreading of the spray materials.

~~(6) The sales tax also applies to sales)) (b) Retailing. Sales of tangible personal property to farmers are generally retail sales and subject to the retailing tax. The following are examples of retail sales:~~

(i) Sales of tangible personal property when the property is not a packing material or container which is resold with products produced for sale. For example, sales to farmers of binder twine or wire are retail sales when the hay, alfalfa, or similar item will not be resold, but will be used to feed the farmer's cattle.

(ii) Sales to farmers of tangible personal property which will be resold by the farmer, but which is put to intervening use prior to resale. For example, sales of litter, and the ingredients thereof, are sales for consumption and subject to the retailing tax even though the litter after use is resold or used as fertilizer.

(iii) Sales to farmers of machinery, machinery parts and repair, tools, and cleaning materials.

(iv) Sales of feed, seed, fertilizer, and spray materials to consumers for purposes other than producing agricultural products for sale. The following sales of feed, seed, fertilizer, and spray materials are retail sales:

(A) Sales of feed to riding clubs, race track operators, boarders, or similar persons who do not resell the feed at a specific charge.

(B) Sales of feed for feeding pets~~(s)~~ and work animals, or for raising poultry, eggs, or other products for personal consumption. ~~((Also, the tax applies to sales))~~

(C) Sales of seed, fertilizer, and spray materials ~~((to persons))~~ for use on lawns, gardens, or any other personal use ~~((other than resale or the commercial production of agricultural products)).~~

(D) Sales of fertilizers and spray materials to persons who spray agricultural crops and other real property for hire, unless these items will be resold for a charge separate and apart from charges for the actual spreading of the fertilizer or spray materials, in which case the sale is a wholesale sale. (See also WAC 458-20-209.)

~~((7)) Exemptions. The sales tax does not apply to sales of feed, seed, fertilizer, and spray materials to farmers, as defined herein (RCW 82.04.050).~~

~~(8) The tax does not apply to sales of feed to persons for use in cultivating or raising fish for sale, entirely within confined rearing areas on the persons own land or on land in which the person has a present right of possession (RCW 82.08.0294).~~

~~(9) The tax does not apply to sales of feed for feeding livestock at public livestock markets (RCW 82.08.0296).~~

~~(10) The burden of proving that a sale of any of said articles was not a sale at retail is upon the seller, and all sales will be deemed retail sales unless the seller shall take from the purchaser, whether a registered dealer or a farmer, a resale certificate in accordance with WAC 458-20-102.~~

~~(11) Use tax. The use tax does not apply upon the use of feed, seed, fertilizer, and spray materials in this state under such circumstances that the sale of such things is exempt of sales tax as explained earlier herein. In all other cases the use tax applies upon the first use by a consumer of such things if retail sales tax has not been paid upon their acquisition.))~~

(4) Retail sales tax. The retail sales tax generally applies to those sales identified above as being subject to the retailing B&O tax. However, a retail sales tax exemption is available for the following:

(a) Sales of feed for feeding livestock at public livestock markets. RCW 82.08.0296.

(b) Sales of pollen. RCW 82.08.0277.

(c) Sales of semen for use in the artificial insemination of livestock. RCW 82.08.0272.

(d) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breeding association. RCW 82.08.0259. Sellers claiming this exemption should refer to subsection (6) of this section for a description of the required documentation which must be retained by the seller.

(e) Sales of beef and/or dairy cattle for use by a farmer in producing an agricultural product. RCW 82.08.0259.

PROPOSED

(f) Sales of poultry for use in the production for sale of poultry or poultry products. RCW 82.08.0267.

(g) Auction sales made by or through auctioneers of tangible personal property (including household goods) which has been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm. RCW 82.08.0257.

(h) Lease of irrigation equipment, provided:

(i) The irrigation equipment was purchased by the lessor for the purpose of irrigating land the lessor controlled;

(ii) The lessor has paid retail sales or use tax upon the irrigation equipment;

(iii) The irrigation equipment is attached to the land in whole or in part; and

(iv) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land, and is used solely on such land. RCW 82.08.0288.

(5) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department. If a deferred sales or use tax liability is incurred by a farmer who is not required to obtain a tax registration endorsement with the department of revenue (See WAC 458-20-101), the farmer must remit the appropriate tax with a completed "notice of use tax due" form. The department of revenue will provide this form upon request.

(6) Purebred livestock exemption certificate. RCW 82.08.0259 provides a retail sales tax exemption for sales of purebred livestock for breeding purposes. To perfect a claim for this exemption, the seller must retain as a part of its records a copy of an exemption certificate, which is to be completed at the time of sale. This certificate must be substantially in the following form, and completed in its entirety:

Seller: \_\_\_\_\_  
Buyer: \_\_\_\_\_  
Address of buyer: \_\_\_\_\_  
Date of sale: \_\_\_\_\_  
Registered name of animal: \_\_\_\_\_  
Purebred type: \_\_\_\_\_

I certify that the purebred animal named on this certificate is being purchased by me for breeding purposes.

Buyer (printed): \_\_\_\_\_  
Signature: \_\_\_\_\_

(7) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) B Orchards is a commercial tree fruit grower which purchases substances which qualify as fertilizers. These substances are sprayed directly onto the tree leaves. B Orchards may purchase these fertilizers at wholesale, provided it gives the seller a resale certificate. There is no requirement that fertilizers be applied directly to the soil.

(b) AC Timber uses various pesticides to control weeds and pests in its stands of timber. These pesticides qualify as spray materials. AC must pay retail sales tax upon the

purchase of these spray materials. AC Timber does not satisfy the statutory definition of "farmer."

(c) Bob Smith grows vegetables for retail sale at a local market. Bob purchases fertilizers and spray materials which he applies to the vegetable plants. Bob also purchases feed for poultry which he raises to produce eggs for his personal consumption. As the vegetables are an agricultural product produced for sale, retail sales tax does not apply to his purchase of the fertilizers and spray materials. Retail sales tax does apply to Bob's purchase of poultry feed, as the poultry is raised to produce eggs for Bob's personal consumption.

(d) DG Vineyards grows grapes which it uses to manufacture wine for sale. DG purchases pesticides and fertilizers which it applies to its vineyards. DG Vineyards must remit retail sales tax upon the purchase of the pesticides and fertilizers. The statutory definition of "farmer" excludes persons raising agricultural products which they use as ingredients in a manufacturing process.

(e) John Doe operates a farm where he raises cattle for sale. John Doe raises his own hay which he bales and later uses as feed for his cattle. He is required to pay retail sales or use tax on the wire or twine he uses in baling the hay since he is the consumer of the wire or twine. If he were to sell the baled hay, he could give a resale certificate for these purchases.

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.

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 94-03-036**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed January 10, 1994, 2:05 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-209 Farming operations performed for hire.

Purpose: This rule explains how persons providing horticultural services to farmers are taxed.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule is amended to provide current tax reporting information to persons providing horticultural services to farmers. It explains that persons providing horticultural services to farmers are consumers of anything they use in providing these services.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains that persons providing horticultural services to farmers are generally subject to the service and other business activities B&O tax upon the gross proceeds. These persons must pay retail sales or use tax on all purchases of tangible personal property used in providing such services. However, if the person providing these services sells tangible personal property for a separate and distinct charge, the charge for the tangible personal property will be either a wholesale or retail sale depending on the nature of the sale.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reason(s): The changes to this rule are made to conform to mandates of the legislature and the department is given no discretionary latitude; and the department is not aware of any new or additional administrative responsibilities placed on a business as a result of this rule.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 23, 1994, at 9:30 a.m.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by February 23, 1994.

Date of Intended Adoption: March 2, 1994.

January 10, 1994  
Russell W. Brubaker  
Assistant Director

AMENDATORY SECTION (Amending WSR 83-08-026, filed 3/30/83)

**WAC 458-20-209 Farming (~~operations performed~~) for hire and horticultural services performed for farmers.** (~~Persons engaging in the business of threshing grain, baling hay, cutting or binding hay or grain, tilling the land or performing for hire other services connected with farming activities are taxable under the service and other business activities classification of the business and occupation tax upon the gross income received from the performance of such services.~~)

~~The extent to which the above functions are performed for others is determinative of whether or not a person is engaged in a taxable business in respect thereto. In other words, a person is not construed as being engaged in a taxable business when his activities are casual and incidental, such as a farmer owning baling equipment or threshing equipment which is used primarily for baling hay or threshing grain produced by himself but who may occasionally accommodate neighboring farmers by baling small quantities of hay or threshing small quantities of grain produced by them. On the other hand, persons owning baling equipment or threshing outfits whose primary business is baling hay or threshing grain for others are engaged in business and taxable with respect thereto, irrespective of the amount or~~

~~extent of such business and are required to pay the retail sales tax upon the purchase of materials and equipment used in the performance of such services.~~

~~In cases where doubt exists in determining whether or not a person is engaging in the business of performing the aforementioned services, all pertinent facts should be submitted to the department of revenue for a specific ruling.-)~~ **(1) Introduction.** This section provides tax reporting information for persons performing horticultural services for farmers. Persons providing horticultural services to persons other than farmers should refer to WAC 458-20-226. Farmers and persons making sales to farmers may also want to refer to the following sections of chapter 458-20 WAC:

(a) WAC 458-20-122 (Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use);

(b) WAC 458-20-210 (Sales of agricultural products by farmers); and

(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements).

**(2) Definitions.** For the purposes of this section, the following definitions apply:

(a) "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. The term does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughter or packing house. "Farmer" does not include any person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(b) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to a product of horticulture, grain cultivation, vermiculture, or viticulture. "Agricultural product" includes plantation Christmas trees, animals, birds, insects, or the substances obtained from such animals. RCW 82.04.213. On and after July 1, 1993, "agricultural product" includes products of "aquaculture" and animals that are "cultured aquatic products", as those terms are defined by RCW 15.85.020. Also effective July 1, 1993 "turf" was added to the definition of "agricultural product", and "animals intended to be pets" were specifically excluded. (See chapter 25, Laws of Washington 1993, 1st Special Session.)

(c) "Horticultural services" include services related to the cultivation of vegetables, fruits, grains, field crops, ornamental floriculture, and nursery products. The term "horticultural services" includes, but is not limited to, the following:

(i) Soil preparation services such as plowing or weed control before planting;

(ii) Crop cultivation services such as planting, thinning, pruning, or spraying; and

(iii) Crop harvesting services such as threshing grain, mowing and baling hay, or picking fruit.

**(3) Business and occupation tax.** Persons performing horticultural services for farmers are generally subject to the

service and other business activities B&O tax upon the gross proceeds. However, if the person providing horticultural services also sells tangible personal property for a separate and distinct charge, the charge made for the tangible personal property will be subject to either the wholesaling or retailing B&O tax, depending on the nature of the sale. Persons making sales of tangible personal property to farmers should refer to WAC 458-20-122 to determine whether the wholesaling or retailing tax applies, and under what circumstances retail sales tax must be collected.

(a) A farmer who occasionally assists another farmer in planting or harvesting a crop is generally not considered to be engaged in the business of performing horticultural services. These activities are generally considered to be casual and incidental to the farming activity. For example, a farmer owning baling equipment which is used primarily for baling hay produced by the farmer, but who may occasionally accommodate neighboring farmers by baling small quantities of hay produced by them, is not considered to be in business with respect thereto.

(b) The extent to which horticultural services are performed for others is determinative of whether or not they are considered taxable business activities. Persons who advertise or hold themselves out to the public as being available to perform farming for hire will be considered as being engaged in business. For example, a person who regularly engages in baling hay or threshing grain for others is engaged in business and taxable upon the gross proceeds derived therefrom, irrespective of the amount of such business or that this person also does some farming of his or her own land.

(c) In cases where doubt exists in determining whether or not a person is engaged in the business of performing horticultural services, all pertinent information should be submitted to the department of revenue for a specific ruling.

(4) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(a) Purchases of machinery, machinery parts and repair, tools, and cleaning materials by persons performing horticultural services are subject to retail sales tax.

(b) Persons taxable under the service and other business activities B&O tax classification are defined as consumers of anything they use in performing their services. (Refer to RCW 82.04.190.) As such, these persons are required to pay retail sales or use tax upon the purchase of all items used in performing the service, such as fertilizers, spray materials, and baling wire, which are not sold separate and apart from the service they perform.

(5) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) John Doe is a wheat farmer owning threshing equipment which is generally used only for threshing his own wheat. Occasionally a neighbor's threshing equipment may break down and John will use his own equipment to assist the neighbor in completing the neighbor's wheat harvest. While John receives payment for providing the threshing assistance, this activity is considered to be a casual

and isolated sale. John does not hold himself out as being in the business of performing farming (threshing) for hire. John Doe is not considered to be engaging in taxable business activities. The amounts John Doe receives for assisting in the harvest of his neighbors' wheat is not subject to tax.

(b) X Spraying applies fertilizer to orchards owned by Farmer A. The sales invoice provided to Farmer A by X Spraying reflects a "lump sum" amount with no segregation of charges for the fertilizer and the application. When reporting its tax liability, X Spraying would report the total charge under the service B&O tax classification. X Spraying must also remit retail sales or use tax upon the purchase of the fertilizer. The entire amount charged by X Spraying is for horticultural services, and X Spraying is considered the consumer of the fertilizer.

(c) Z Flying aerial sprays pesticides on crops owned by Farmer B. The sales invoice Z Flying provides to Farmer B segregates the charge for the pesticides and the charge for the application. When reporting its tax liability, Z Flying would report the charge for the application under the service B&O tax classification. The charge for the sale of the spray materials is subject to the wholesaling B&O tax, provided Z Flying obtains a resale certificate from Farmer B. (See WAC 458-20-122.) Z Flying's purchase of the pesticides is a purchase for resale and not subject to the retail sales tax.

**WSR 94-03-037**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed January 10, 1994, 2:08 p.m.]

Original Notice.  
 Title of Rule: Repealing WAC 458-20-125 Miscellaneous sales for farm use.  
 Purpose: The above section of the Washington Administrative Code will be repealed.  
 Statutory Authority for Adoption: RCW 82.32.300.  
 Statute Being Implemented: Title 82 RCW.  
 Summary: The subject matter of this rule will be combined and included as part of WAC 458-20-122.  
 Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.  
 Name of Proponent: Department of Revenue, governmental.  
 Rule is not necessitated by federal law, federal or state court decision.  
 Explanation of Rule, its Purpose, and Anticipated Effects: The subject matter of this rule was already discussed to some extent in other rules of the department. The subject matter no longer warrants a separate rule. WAC 458-20-122 has been expanded to fully include everything previously in this rule.  
 Proposal Changes the Following Existing Rules: WAC 458-20-122 which deals with sales to farmers of feed, seed, and fertilizer has been expanded to include sales of miscellaneous items.  
 No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reason(s): The rule will have no administrative impact on any taxpayer or group of taxpayers.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 23, 1994, at 9:30 a.m.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by February 23, 1994.

Date of Intended Adoption: March 2, 1994.

January 10, 1994  
Russell W. Brubaker  
Assistant Director

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on February 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, 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 February 15, 1994.

Date of Intended Adoption: February 23, 1994.

January 11, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

WAC 458-20-125      Miscellaneous sales for farm use

**WSR 94-03-041  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed January 11, 1994, 10:24 a.m.]

Original Notice.

Title of Rule: WAC 388-49-535 Special circumstances—Income budgeting.

Purpose: Codifies as policy the procedures contained in the food stamp program manual at FSPM 10.12 F. and G. This amendment will conform to 7 CFR 273.21 (f)(2)(v) and 7 CFR 273.10 (c)(2)(iii).

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Describes regularly received monthly income as received during the month such income is intended to cover, and describes income regularly received more often than monthly as received at the times of intended receipt.

Reasons Supporting Proposal: Codifies procedures contained in the food stamp program manual at FSPM 10.12 F. and G. This conforms to 7 CFR 273.21 (f)(2)(v) and 7 CFR 273.10 (c)(2)(iii).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, 438-8325.

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

Rule is necessary because of federal law, 7 CFR 273.21 and 7 CFR 273.10.

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.

**AMENDATORY SECTION** (Amending Order 3611, filed 8/11/93, effective 9/11/93)

**WAC 388-49-535 Special circumstances—Income budgeting.** The department shall:

(1) Budget additional public assistance payments either prospectively or retrospectively, using only the amount authorized for the month the income is received((-));

(2) Budget countable student financial aid retrospectively((-);

(3) Annualize and then prorate the following income to determine eligibility and benefit levels in the beginning months if:

(a) Self-employment income is received other than monthly; or

(b) Contract income is received in less than one year.

(c) After the first beginning months, the department shall use actual income received in the corresponding budget month((-);

(4) When a participating household member establishes a new household:

(a) Remove that member from the prior household; and

(b) Use the method of income budgeting that was in effect in the prior household((-);

(5) Consider either prospectively or retrospectively over the period the expense is intended to cover, expenses that have been averaged if the household:

(a) Has expenses that fluctuate or are billed less often than monthly; and

(b) Chooses to have the expenses averaged((-);

(6) When adding or deleting a household member, add or delete that person's income, following change of circumstance rules in WAC 388-49-610((-);

(7) Consider income exclusions and deductions retrospectively in households having income budgeted both prospectively and retrospectively;

(8) Consider stable income that is regularly received as a single monthly payment as being received during the month such income is intended to cover; and

(9) Consider income that is regularly received more often than monthly as being received at the times of intended receipt.

**WSR 94-03-042**  
**PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**  
[Filed January 11, 1994, 2:45 p.m.]

**Original Notice.**

Title of Rule: WAC 468-38-020 Temporary additional tonnage permits; and 468-38-030 Issuance of temporary additional tonnage permits.

Purpose: To define (WAC 468-38-020) and govern the issuance (WAC 468-38-030) of temporary additional tonnage permits.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: RCW 46.44.095.

Summary: Defines when temporary additional tonnage can be used (WAC 468-38-020) and describes the issuing criteria to be met by the vehicles (WAC 468-38-030).

Reasons Supporting Proposal: Complements changes to RCW 46.44.090 by 1993 legislature.

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Washington State Department of Transportation, Olympia, 664-9497; and Enforcement: Captain Richard Randolph, Washington State Patrol, Olympia, 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: Rules are amended to reflect temporary additional tonnage only. Other additional tonnage options were eliminated by the 1993 legislature. The amended rules will complement the 1993 legislative changes.

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 March 11, 1994, at 9:00 a.m.

Submit Written Comments to: Barry Diseth, Administrator, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX 664-9440, by March 4, 1994.

Date of Intended Adoption: March 11, 1994.

January 11, 1994

S. A. Moon

Deputy Secretary

**AMENDATORY SECTION** (Amending Order 50, Resolution No. 253, filed 10/24/85)

**WAC 468-38-020 Temporary additional tonnage permits.** A permit to carry weight in addition to that authorized by the licensed gross weight may be issued under some conditions:

(1) A single-unit truck or a truck combination must be licensed to 40,000 pounds or to 80,000 pounds respectively in order to qualify for ~~((an))~~ a temporary additional tonnage permit.

(2) The wheelbase of any group of axles must meet the requirements of the legal weight table in RCW 46.44.041.

No single axle shall exceed 20,000 pounds; no pair of tandem axles shall exceed 34,000 pounds.

~~(3) The weight limits ((of 600 pounds per inch width of tire)) established in RCW 46.44.042 relating to tires may not be exceeded.~~

(4) The restrictions on highway loads required by emergency conditions pursuant to WAC 468-38-080 shall apply even though an operator has ~~((an))~~ a temporary additional tonnage permit.

**AMENDATORY SECTION** (Amending Order 68, filed 11/22/89, effective 12/23/89)

**WAC 468-38-030 Issuance of temporary additional tonnage permits.** (1) ~~((Permits for annual, quarterly, monthly, or temporary additional tonnage may be issued in the department's permit offices or by agents of the department located throughout the state.~~

~~(2))~~ Temporary additional tonnage permits will be issued only to the following types of vehicles: Three or more axle full trucks; three or more axle truck-tractors; three or more axle dromedary truck-tractors, and two axle tractors to pull double trailers.

~~((3))~~ (2) Permits will not be issued to semi-trailers.

~~((4))~~ (3) The fees for temporary additional tonnage permits shall not be prorated ~~((under the following conditions and by the following method:~~

~~(a) The total cost of additional tonnage requested by the applicant for all units within the fleet shall be computed as if those fees were not subject to prorate.~~

~~(b) Those firms or individuals who license their vehicles under chapters 46.85 and 46.87 RCW shall submit a copy of their Schedule A and B that has been approved by their respective jurisdiction when applying for annual additional tonnage.~~

~~(c) The percentage of mileage operated in Washington, which is the percentage as reported for vehicle license proration, shall be multiplied by the amount in (a) of this subsection to determine the amount to be paid to the department of transportation. Provided, however, That the minimum fee assessed for any permit shall be determined by RCW 46.44.095.~~

~~(d) Additions to fleets may be issued additional tonnage permits and payment shall be determined by using the same method as described above. Provided, however, That no additional tonnage permits will be issued until the vehicle or vehicles involved have been duly registered with their respective jurisdiction in accordance with chapters 46.85 and 46.87 RCW.~~

~~(5) Quarterly or monthly additional tonnage permits may be purchased only when the applicant has purchased licensed tonnage on a quarterly or monthly basis).~~

~~((6))~~ (4) Temporary additional tonnage permits may be purchased when the applicant has licensed tonnage in effect for the period for which he is applying. A trip permit may be used in lieu of licensed tonnage when the requirements of RCW 46.16.160 have been met.

~~((7) Additional tonnage purchased on a quarterly basis may be prorated if the prorate percentage for Washington state is at least sixty percent. Temporary additional tonnage may not be prorated.~~

~~(8) If a permit to increase weight by means of a boost-a-load or similar device is requested, the applicant must produce written evidence from respective county and/or city authorities indicating approval to travel over county roads or city streets-)~~

**WSR 94-03-043**  
**PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed January 11, 1994, 3:45 p.m.]

Original Notice.

Title of Rule: WAC 468-38-075 Overlength exemptions.

Purpose: To change administrative policy regarding exemptions for specific overlength vehicles into rule.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: RCW 46.22.090.

Summary: Exempts specific overlength vehicles from signage, curfew, commuter hour, holiday, night movement and certain winter road restrictions due to their near legal size operational characteristics.

Reasons Supporting Proposal: Promotes greater economies for motor carrier industry while providing clear enforcement criteria.

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Motor Carrier Services, 664-9497; and Enforcement: Captain 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 above.

Proposed Changes the Following Existing Rules: Expands definition of exempted vehicles to include single unit fixed load vehicles not exceeding an overall length of forty-five feet. Allows identified exempted vehicles to also be exempt from certain winter road restrictions when chained in compliance with WAC 204-24-050 Use of tire chains and other traction devices.

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 March 11, 1994, at 9:00 a.m.

Submit Written Comments to: Barry Diseth, Administrator, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX 664-9440, by March 4, 1994.

Date of Intended Adoption: March 11, 1994.

January 11, 1994

S. A. Moon

Deputy Secretary

AMENDATORY SECTION (Amending Order 139, filed 10/8/93, effective 11/8/93)

~~WAC 468-38-075 Overlength exemptions. ((Single trailers and/or loads not exceeding fifty-six feet in length, double trailers and/or loads not exceeding sixty-eight feet in~~

~~length, nonreducible loads (including trailer) not exceeding sixty-one feet in length, and vehicles with front overhangs not exceeding four feet beyond the three foot legal limit set in RCW 46.44.034 (see also bumper criteria in RCW 46.37.517), may move by special motor vehicle permit without regard to oversize load signs (WAC 468-38-190), weekend curfew or holiday restrictions (WAC 468-38-230), commuter traffic restrictions (WAC 468-38-235), or night-time movement restrictions (WAC 468-38-260).~~

~~A power unit having tandem drive axles pulling a single trailer and/or load not exceeding fifty-six feet or a nonreducible load not exceeding sixty-one feet is)) Vehicles may move by special motor vehicle permit without regard to oversize load signs (WAC 468-38-190), weekend curfew or holiday restrictions (WAC 468-38-230), commuter traffic restrictions (WAC 468-38-235), or night-time movement restrictions (WAC 468-38-260), when they meet the following overlength conditions:~~

~~Tractor/trailer combinations with:~~

~~-A single trailer not exceeding fifty-six feet (including load)~~

~~-Double trailers not exceeding sixty-eight feet (including load)~~

~~-Nonreducible loads (including trailer) not exceeding sixty-one feet~~

~~-Vehicles with front overhang not exceeding four feet beyond the three foot legal limit set in RCW 46.44.034 (see also bumper criteria set in RCW 46.37.517)~~

~~-Single unit fixed load vehicles not exceeding an overall length of forty-five feet including a four foot front overhang beyond the legal three foot limit and a rear overhang not to exceed fifteen feet measured from the center of the last axle.~~

~~The aforementioned vehicles, when in compliance with WAC 204-24-050 Use of tire chains or other traction devices, are also exempt from that portion of the winter road restrictions (WAC 468-38-390) prohibiting movement in areas where any of the following signs are displayed: "Traction tires advised," "approved traction tires recommended," "approved traction tires required," or "tire chains required." The signs, however, must be obeyed.~~

**WSR 94-03-044**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Dental Examiners)  
 [Filed January 12, 1994, 8:25 a.m.]

Original Notice.

Title of Rule: New section WAC 246-818-015 Adjudicative proceedings—Procedural rules for the Board of Dental Examiners.

Purpose: To add new section for adjudicative proceedings.

Statutory Authority for Adoption: RCW 18.32.035.

Statute Being Implemented: Chapter 18.32 RCW.

Summary: The board wants to adopt the procedural rules for boards as they were prepared by the office of professional standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Shoblom, 1112 S.E. Quince Street, Olympia, 98504, 586-6898.



Name of Proponent: Board of Dental 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.

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 March 4, 1994, at 9:15 a.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47902, Olympia, WA 98504, by February 25, 1994.

Date of Intended Adoption: March 4, 1994.

January 11, 1994  
Susan Shoblom  
Executive Director  
Dental Health Care

**NEW SECTION**

**WAC 246-818-015 Adjudicative proceedings - Procedural rules for the board of dental 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.

**WSR 94-03-045  
PROPOSED RULES  
DEPARTMENT OF HEALTH  
(Dental Disciplinary Board)  
[Filed January 12, 1994, 8:26 a.m.]**

Original Notice.

Title of Rule: New section WAC 246-816-015 Adjudicative proceedings—Procedural rules for the dental disciplinary board.

Purpose: To add new section for adjudicative proceedings.

Statutory Authority for Adoption: RCW 18.32.640.

Statute Being Implemented: Chapter 18.32 RCW.

Summary: The board wants to adopt the procedural rules for boards as they were prepared by the office of professional standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Shoblom, 1112 S.E. Quince Street, Olympia, 98504, 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: To adopt the model adjudicative proceedings rules.

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 May 13, 1994, at 9:00 a.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47902, Olympia, WA 98504, by February 25, 1994.

Date of Intended Adoption: May 13, 1994.

January 11, 1994  
Susan Shoblom  
Executive Director  
Dental Health Care

**NEW SECTION**

**WAC 246-816-015 Adjudicative proceedings - Procedural rules for the dental disciplinary board.** 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 94-03-046  
PREPROPOSAL COMMENTS  
DEPARTMENT OF REVENUE  
[Filed January 12, 1994, 9:26 a.m.]**

Subject of Possible Rule Making: Amending WAC 458-20-238 Sales to nonresidents of watercraft requiring coast guard registration or documentation.

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 47467, Olympia, WA 98504-7467, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 16, 1994, 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 implement chapter 119, Laws of Washington. Effective July 25, 1993, a retail sales tax exemption is available for sales of vessels to residents of foreign countries. The rule clarifies that the seller must examine two pieces of identification, one of which must have photograph of the holder, to verify the purchaser qualifies for exemption. The sample exemption certificate contained in the rule has been modified to apply to sales of watercraft of foreign countries, as well as sales to residents of other states. The rule clarifies to what extent a nonresident may use watercraft within the state of Washington before incurring a use tax liability. A copy of the rule draft is available upon request. Contact Roseanna Hodson, (206) 586-4281.

January 12, 1994  
Les Jaster  
Rules Coordinator



**WSR 94-03-047**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed January 12, 1994, 9:28 a.m.]

January 12, 1994  
 Russell W. Brubaker  
 Assistant Director

**Original Notice.**

**Title of Rule:** Amending WAC 458-20-167 Educational institutions, school districts, student organizations, private schools.

**Purpose:** To provide tax reporting information to educational institutions, school districts, student organizations, and private schools.

**Statutory Authority for Adoption:** RCW 82.32.300.

**Statute Being Implemented:** Title 82 RCW.

**Summary:** "Educational institutions" may report tuition fees from their measure of tax. This rule clarifies which institutions satisfy the definition of the term "educational institutions" and provides tax reporting information for other types of income.

**Reasons Supporting Proposal:** To incorporate 1993 law changes and to clarify tax reporting requirements.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.

**Name of Proponent:** Department of Revenue, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule provides B&O, retail sales, and use tax reporting information to educational institutions, school districts, student organizations, and private schools. It gives tax reporting information to persons operating nursery schools, preschools, and day cares.

**Proposal Changes the Following Existing Rules:** This is an amendment to WAC 458-20-167. The rule has been substantially revised to clarify tax reporting requirements. This proposal implements 1993 law changes which provide that educational programs that an educational institution cosponsors with a nonprofit organization (subject to certain restrictions), and certain branch campuses, of foreign degree-granting institutions, qualify as "educational institutions" for the purpose of tuition fee deduction.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reason(s): The department policy is not changed by this amendment, we are unaware of any economic burden on small businesses; and we are unaware of any small business that would have to alter their way of doing business as a result of this amendment. There is no additional recordkeeping required of small businesses.

**Hearing Location:** Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 24, 1994, at 9:30 a.m.

**Submit Written Comments to:** Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by February 24, 1994.

**Date of Intended Adoption:** March 3, 1994.

**AMENDATORY SECTION** (Amending Order WSR 83-07-032, filed 3/15/83)

**WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools.** ~~((As used herein: An "educational institution" means only those institutions defined as such in WAC 458-20-114; the term "private school" means all schools which are excluded from said definition.~~

**BUSINESS AND OCCUPATION TAX**

~~Persons operating private schools are taxable under the service and other business activities classification upon gross income derived from tuition fees, rental of rooms and equipment and other service income.~~

~~Such persons are also taxable under the retailing classification upon gross retail sales of articles of tangible personal property sold by them, when the charge therefor is specified and is not included within the charge made for tuition.~~

~~Educational institutions, school districts and student organizations are not subject to the business and occupation tax with respect to activities directly connected with the educational program, such as operation of a common dining room, sale of lab supplies, etc. Charges made for the operating of privately operated kindergartens are exempt from business tax.~~

**RETAIL SALES TAX**

~~The retail sales tax applies upon all sales of tangible personal property made by educational institutions, private schools, and student organizations, when the charge therefor is specific and not included within the charge made for tuition. However, the sales tax does not apply to sales of tangible personal property made by agencies or institutions of the state of Washington, such as the University of Washington and the community colleges.~~

**CERTIFICATES OF REGISTRATION**

~~Persons engaged in the business of operating private schools are required to obtain a certificate of registration in accordance with the provisions of WAC 458-20-101.~~

~~Educational institutions other than agencies or institutions of the state of Washington making taxable retail sales of tangible personal property are also required to apply for and obtain from the department of revenue a certificate of registration-))~~ **(1) Introduction.** This section explains the application of Washington's B&O, retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery school, preschool, and day care. Educational institutions which are institutions of the state of Washington should also refer to WAC 458-20-189 (Sales to and by the state of Washington, etc.).

**(2) Definitions.** For the purposes of this section, the following definitions apply:

**(a)** The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also

includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of the institution.

(b) "Educational institutions" means the following:

(i) Institutions which are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW.

(ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any or all of the grades one through twelve, which have been approved by the Washington state board of education. (See also Chapter 180-90 WAC.)

(iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States secretary of education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.

(iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.

(v) On and after July 1, 1993, the term includes educational programs that an educational institution cosponsors with a nonprofit organization, as defined by the internal revenue code Sec. 501 (c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program. (See Chapter 18, Laws of Washington 1993, 1st Special Session.)

(vi) On and after July 25, 1993, "educational institutions" includes certain branch campuses of foreign degree-granting institutions, provided the following requirements, among others, are satisfied:

(A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;

(B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

(C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and

(D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c). (See Chapter 181, Laws of Washington 1993.)

(vii) "Educational institutions" does not include any entity defined as a "private vocational school" under Title 28C.10 RCW and/or any entity defined as a "degree granting private vocational school" under Title 28C.10 and 28B.85 RCW (other than those described in (iv) of this subsection).

(c) "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved. It will be given the tax treatment of an "educational institution" for purposes of this section only if

it has obtained approval from the Washington state board of education.

(4) Business and occupation tax. Departments and institutions of the state of Washington are not subject to the B&O tax. (See WAC 458-20-189.) School districts are also not subject to the B&O tax, except as to income derived from a public utility or enterprise activity. RCW 82.04.419. Private schools, student organizations, school districts engaging in utility or enterprise activities, and educational institutions which are not departments or institutions of the state of Washington are subject to the B&O tax as follows:

(a) Service and other business activities. The service B&O tax applies to the following activities or sources of income:

(i) Tuition fees received by private schools. However, educational institutions, as defined above, may deduct amounts derived from tuition fees. (Refer to RCW 82.04.4282.)

(ii) Rental of conference facilities to various organizations or groups.

(iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. (See WAC 458-20-118.) However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition.

(iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.

(v) Amounts received from owners of coin-operated vending machines or amusement devices for allowing the placement of those machines on the premises of the school. (Refer also to WAC 458-20-187.)

(b) Retailing. The retailing B&O tax applies to the following activities or sources of income:

(i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge.

(ii) Charges for making copies of public records or documents, such as transcripts.

(iii) Sales of meals to guests of students.

(iv) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. (See also WAC 458-20-119.)

(5) Retail sales tax. The retail sales tax applies to all sales of the type identified under retailing. Educational institutions, school districts, student organizations, and private schools, including departments or institutions of the state of Washington, are required to collect the retail sales tax on sales of tangible personal property and retail services to consumers, notwithstanding such sales may be exempt from the retailing B&O tax. Amounts derived from charges between departments or institutions of the state of Washington, or between departments of the same entity, constitute interdepartmental charges and are not subject to the retailing or retail sales tax. (See WAC 458-20-201.) Sales of certain food products are exempt from the retail sales tax. (See

WAC 458-20-244.) Persons selling merchandise through vending machines should refer to WAC 458-20-187.

(6) **Deferred sales or use tax.** Educational institutions, school districts, student organizations, and private schools are required to report the deferred sales or use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid. These organizations are the consumers of food or beverage products which are ingredients of meals that are furnished to students and faculty. However, certain food products are exempt from the retail sales and/or use tax. (Refer to WAC 458-20-244.) If items are purchased for dual purposes (i.e. for both consumption and resale), these organizations may claim a tax paid at source deduction for the cost of the articles resold upon which retail sales tax was paid. (See WAC 458-20-102.)

(7) **Nursery schools, preschools, day care providers, and privately operated kindergartens.** Income received by nursery schools, preschools, day care providers, and privately operated kindergartens for the care or education of children who are under eight years of age and not enrolled in or above the first grade is exempt from the B&O tax. (Refer to RCW 82.04.4282.) Such persons are, however, subject to the service B&O tax upon the gross proceeds derived from providing child care to children who are eight years of age or older or enrolled in or above the first grade. Nursery schools, preschools, and day care providers receiving both taxable and exempt income must properly segregate such income in their books of account.

Effective June 11, 1992, the B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than twenty-four hours, provided the church is exempt from property tax under RCW 84.36.020. (See Chapter 81, Laws of Washington 1992.)

(8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) MN University is an educational institution created by the state of Washington. MN University operates a book store at which it sells text books, school supplies, and apparel to students and nonstudents. As an institution of the state of Washington, MN University is exempt from the B&O tax with respect to all sales, irrespective that sales are made to nonstudents. However, MN is required to collect and remit retail sales tax on its gross proceeds of sales made through its book store.

(b) DMG College is a degree-granting institution accredited by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt of B&O and retail sales tax because this entity comes within the definition of an educational institution. DMG must report the retailing B&O tax and collect and remit retail sales tax upon the gross

proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service B&O tax. The college is not considered as holding itself out for the sale of lodging to the general public.

(c) JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use for use by nonstudents. Guests of the administration use these units for stays of two or three days, and are charged a specific amount per night. The college provides linen, towels, etc. to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing B&O tax and collect and remit retail sales tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

(d) Jane Doe operates a private preschool and kindergarten, providing care and elementary education for children. She also provides after hours child care. Jane Doe may claim a deduction for the income received for the care and education of children under eight years old and not enrolled in or above the first grade, provided this income is properly segregated in her books of account. The income attributable to the care of children at or above the first grade level, i.e. eight years old or enrolled in or above the first grade, is subject to the service B&O tax. However, no service B&O tax will be due if the measure of taxable income is less than the amount for which the B&O tax is required to be paid. (See WAC 458-20-104.)

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 94-03-048**  
**PROPOSED RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed January 12, 1994, 2:21 p.m.]

Continuance of WSR 93-23-073 and 94-02-065.

Title of Rule: Short-term health insurance reform.

Purpose: To implement short-term health insurance reforms.  
4 94-1.

Other Identifying Information: Insurance Commissioner  
Matter No. R 94-1.

Date of Intended Adoption: January 18, 1994.

January 12, 1994  
Bethany Weidner  
Deputy Commissioner

**WSR 94-03-050**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed January 12, 1994, 4:04 p.m.]

Original Notice.

Title of Rule: WAC 388-49-590 Monthly reporting.

Purpose: Amended to exclude households from monthly reporting when the households' only earned income is exempt.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Authorizes the department to exclude from monthly reporting requirements, households whose only earned income is exempt as income.

Reasons Supporting Proposal: Federal and state college work is excluded as income when computing food stamp benefits. Households whose sole source of earned income or recent work history resulted from such income are exempt from monthly reporting requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, 438-8326.

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

Rule is 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 February 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, 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 February 15, 1994.

Date of Intended Adoption: February 23, 1994.

January 12, 1994

Dewey Brock, Chief  
 Office of Vendor Services  
 Administrative Services Division

AMENDATORY SECTION (Amending Order 3471, filed 10/28/92, effective 11/28/92)

**WAC 388-49-590 Monthly reporting.** (1) The department shall require the following households to return a completed monthly report by the fifth day of the process month describing the household circumstances during the budget month:

(a) A household with nonexempt earned income or with a recent work history except a:

(i) Migrant or seasonal farm worker household; or

(ii) Household in which all members are homeless (~~individuals~~) persons; or

(iii) Household with a recent work history in which all adult members are elderly or disabled.

(b) An AFDC household subject to monthly reporting.

(2) A household with a recent work history shall report for two months:

(a) Beginning the month following the month of opening at initial application; or

(b) After the last month of earnings during the certification period.

(3) The department shall require a household reporting monthly to verify the factors specified under WAC 388-49-110(5).

(4) The department shall notify a household if:

(a) Its monthly report is late;

(b) Its monthly report is incomplete; or

(c) Additional information is needed.

(5) If the household furnishes a completed report to the department by the end of the process month, the department shall:

(a) Accept the monthly report; and

(b) Continue benefits if the household remains eligible.

(6) The department shall:

(a) Terminate a household failing to return a completed report by the end of the process month; and

(b) Notify the household that it may return a completed monthly report by the last day of the payment month to receive reinstated benefits.

(7) The department shall not require a household that reports monthly to report changes before reporting on the monthly report.

**WSR 94-03-051**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed January 12, 1994, 4:05 p.m.]

Original Notice.

Title of Rule: Chapter 388-225 WAC, Consolidated emergency assistance program (CEAP).

Purpose: This rewrite codifies CEAP policies into chapter 388-225 WAC and repeals WAC 388-24-250 through 388-24-265 (seven sections repealed).

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Amendments include a shift to an outline format; the use of short words/sentences; deletion of procedural material; deletion of redundant policies; reorganization of the chapters into a sequence that corresponds with worker process; and the use of terms consistently within and between chapters.

Reasons Supporting Proposal: The department is currently rewriting, reorganizing, and recodifying the WAC policies relating to financial and medical programs. This is being done to facilitate on-line (computer) access by eligibility staff in the field offices, and to make these policies easier to understand.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry Covey, Division of Income Assistance, 438-8263.

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 February 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, 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 February 15, 1994.

Date of Intended Adoption: February 23, 1994.

January 12, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

### Chapter 388-225 WAC CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM - CEAP

#### NEW SECTION

**WAC 388-225-0010 Purpose of program.** The Consolidated Emergency Assistance Program (CEAP) is a federally-matched grant assistance program providing time-limited assistance to meet emergent needs.

#### NEW SECTION

**WAC 388-225-0020 General provisions.** The department shall authorize CEAP for the following persons who meet the eligibility conditions established in this chapter:

- (1) A family with dependent children; or
- (2) A pregnant woman with no other children; or
- (3) A dependent child who is or may be bound for foster care placement. Assistance provided for the child is specified under WAC 388-225-0300.

#### NEW SECTION

**WAC 388-225-0050 Assistance units.** (1) The department shall include the following persons living together in the CEAP assistance unit:

- (a) A pregnant woman in any stage of pregnancy who has no other child; or
- (b) A child seventeen years of age or younger and all full, half, or adopted brothers and sisters seventeen years of age or younger of such a child; and
- (c) The child's parent, adoptive parent, or stepparent with whom the child lives; and

(d) A minor parent's parent who is a caretaker relative of:

- (i) The minor parent; or
- (ii) The minor parent's full or half brother or sister.
- (e) Only the minor parent's child if the minor parent is not eligible due to the income and resources of the minor parent's parent.

(2) At the option of the family, the department may include the following persons in the assistance unit:

(a) One needy relative caretaker of specified degree, as defined for the aid to dependent children program, whose eligibility depends solely on caring for the child, if the child's parent does not reside in the family home; or

(b) A stepbrother or stepsister of the child included in the assistance unit, except as required in subsection (1) of this section.

(3) The department shall not include a person receiving Supplemental Security Income (SSI) in the CEAP assistance unit.

(4) The department shall exclude from the assistance unit a person ineligible due to factors not related to need. Exclusions include, but are not limited to:

- (a) AFDC household member fails to cooperate with the office of support enforcement without good cause; or
- (b) An alien not meeting the citizenship and alien status requirements as specified under WAC 388-225-0070.

#### NEW SECTION

**WAC 388-225-0060 Eligibility conditions—Emergent needs.** To be eligible for CEAP, an applicant shall have one or more of the following emergent needs:

- (1) Food;
- (2) Shelter;
- (3) Clothing;
- (4) Minor medical;
- (5) Utilities;
- (6) Household maintenance, which includes basic household supplies such as beds, blankets, pots, pans;
- (7) Necessary clothing or transportation costs to accept or maintain a job; or
- (8) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

#### NEW SECTION

**WAC 388-225-0070 Eligibility conditions—Residency and alien status.** (1) To be eligible for CEAP:

- (a) An applicant shall be a resident of Washington state. A resident means a person:
  - (i) Voluntarily living in the state with the intention of making and maintaining a home in the state; and
  - (ii) Not residing in the state for a temporary purpose.
- (b) If not a resident of Washington state, an applicant shall be:
  - (i) Detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or
  - (ii) A migrant. A migrant is a person who moves from one region to another to perform some work or duty.
- (2) An alien granted lawful temporary resident status under sections 210A and 245A of the Immigration and

Nationality Act shall be ineligible. Disqualification due to this provision applies for a period of five years from the date the temporary resident status was granted.

**NEW SECTION**

**WAC 388-225-0080 Eligibility conditions—Living with a relative of specified degree.** To be eligible for CEAP, a dependent child seventeen years of age or younger shall:

- (1) Be living with a parent or other relative of a specified degree as defined for the aid to families with dependent children program; or
- (2) If not living with such relative, have done so within the six months before the month in which assistance is requested.

**NEW SECTION**

**WAC 388-225-0090 Eligibility conditions—Job refusal.** To be eligible for CEAP, an applicant shall not have refused a bona fide job offer of employment or training for employment, without good cause, within thirty days before application or after application:

- (1) A household refusing a bona fide offer of employment or training for employment without good cause within thirty days before application or after application shall:
  - (a) Be ineligible for thirty days or until the persons accepts employment, whichever is less, if the need for emergency assistance was due to the refusal; and
  - (b) Begin the household's period of ineligibility on the date of refusal of employment or training for employment.
- (2) The following conditions shall constitute good cause for refusal of employment:
  - (a) Physical, mental, or emotional inability of the person to satisfactorily perform the work required;
  - (b) Inability of a person to get to and from the job without undue cost or hardship to the person, e.g., travel time in excess of one hour, one way;
  - (c) The nature of the work is hazardous to the person;
  - (d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;
  - (e) The job is available because of a labor dispute; or
  - (f) Child care is not available to the household.

**NEW SECTION**

**WAC 388-225-0100 Eligibility conditions—Other possible resources.** To be eligible for CEAP, an applicant shall:

- (1) Take all steps necessary to make the applicant eligible for:
  - (a) AFDC, SSI, or refugee assistance;
  - (b) Medical assistance for CEAP applicants requesting emergent medical care; and
  - (c) Food stamps for those CEAP applicants requesting emergent food assistance.
- (2) Have applied for unemployment compensation if potentially eligible.
- (3) Not be under sanction for failure to comply with the eligibility requirements for AFDC, SSI, general assistance,

or refugee assistance, if compliance could have prevented the need for emergency assistance.

**NEW SECTION**

**WAC 388-225-0120 Eligibility conditions—Income and resource eligibility.** To be eligible for CEAP, an applicant shall:

- (1) Have net monthly income less than ninety percent of the payment standard for an AFDC household with shelter costs; or,
- (2) Demonstrate that the applicant could not have planned to avoid the emergency, if income is above the ninety percent cutoff. The household shall demonstrate an inability to plan if funds ordinarily available were expended for:
  - (a) Medical bills;
  - (b) Emergent child care to avoid abuse;
  - (c) Dental care to alleviate pain; or
  - (d) Costs incurred in obtaining employment.
- (3) Be in financial need. The department shall consider a household to be in financial need if the household qualifies for a grant according to WAC 388-225-0180.

**NEW SECTION**

**WAC 388-225-0150 Exempt income and resources.** The department shall exempt:

- (1) A home. The department shall apply aid to families with dependent children resource rules in determining whether real property is used as a home;
- (2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;
- (3) Used and useful household furnishings;
- (4) Used and useful personal effects;
- (5) Tools and equipment used and useful in the person's occupation;
- (6) Livestock, the products of which are consumed by the applicant and the applicant's dependents;
- (7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646;
- (8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;
- (9) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III to P.L. 93-113, the Domestic Volunteer Service Act of 1973;
- (10) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;
- (11) The income and resources of a Supplemental Security Income recipient;
- (12) Energy assistance payments;
- (13) Grants, loans, or work study to a student under Title IV of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution;
- (14) Indian tribal judgment funds distributed per capita under P.L. 93-134, P.L. 94-114, P.L. 97-408, P.L. 97-458, P.L. 98-64;

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

(16) Payments from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age;

(17) Payments made from the Agent Orange Settlement Fund established to settle agent orange liability claims under P.L. 101-201.

#### NEW SECTION

**WAC 388-225-0160 Income deductions.** The department shall allow the following deductions from the household's income:

- (1) Ninety dollars from earned income for work expenses;
- (2) The actual amount paid for child care from earned income up to the maximums allowed for the aid to families with dependent children program; and
- (3) The current month's verified expenditures for:
  - (a) Medical bills;
  - (b) Emergent child care to avoid abuse;
  - (c) Dental care to alleviate pain; or
  - (d) Costs incurred in obtaining employment.

#### NEW SECTION

**WAC 388-225-0170 Determining income and resources.** (1) The department shall estimate the expected income, resources, and circumstances for the calendar month in which eligibility is established for all:

- (a) Assistance unit members as described under WAC 388-225-0050(1); and
- (b) If included at the option of the family, assistance unit members as described under WAC 388-225-0050(2); and
- (c) Spouses and minor siblings of persons included in the assistance unit, if living with the family.

(2) The department shall base the income estimate on reasonable expectation and knowledge of anticipated total nonexempt income for the family members described under subsection (1) of this section, including all public assistance payments plus authorized additional requirements.

(3) The department shall consider all nonexempt income, resources, cash, marketable securities, personal property, and real property of all family members described under subsection (1) of this section.

(4) The department shall place a value on all nonexempt resources available to the applicant at the time of grant authorization in accordance with aid to families with dependent children program policy regarding nonexempt resources.

#### NEW SECTION

**WAC 388-225-0180 Financial need and CEAP grant amount.** (1) The department shall deduct the following from the amount required to meet the emergent need subject to CEAP payment standard maximums and limitations:

(a) Nonexempt income (including public assistance grants and authorized additional requirements) less income deductions; and

(b) Cash on hand if not already counted as income; and

(c) The value of other nonexempt resources at the time of grant authorization.

(2) If the total value of the items listed under subsection (1) of this section is equal to or in excess of the amount required to meet the emergent need, subject to CEAP payment standard maximums and limitations, the applicant shall be ineligible.

(3) If the total value of the items listed under subsection (1) of this section is less than the amount required to meet the emergent need, subject to CEAP payment standard maximums and limitations, the department shall grant assistance in the amount of the difference.

(4) The department shall not deny CEAP to an eligible child based on the income and resources of a relative caretaker who is not:

- (a) The child's parent; and
- (b) Legally obligated to support the child; and
- (c) Required to be included in the assistance unit as specified under WAC 388-225-0050.

#### NEW SECTION

**WAC 388-225-0190 Payment limitations.** (1) The department shall authorize CEAP for not more than thirty consecutive days in any period of twelve consecutive calendar months.

(2) The department shall pay CEAP by warrant directly to the household or by vendor payment.

#### NEW SECTION

**WAC 388-225-0300 Crisis intervention social services for families and children.** (1) The department may authorize social services under CEAP for a child in emergent need who, subject to department determination and approval:

(a) Has been, or is in danger of becoming, abandoned, abused or neglected; or

(b) Is a risk of an out of home placement.

(2) The services provided under this provision are contracted services that do not grant direct cash assistance to the family or child and consist of:

- (a) Short-term substitute care,
- (b) Family preservation services,
- (c) Family reconciliation services,
- (d) Home-based services,
- (e) Crisis Nurseries,
- (f) Psychiatric/psychological evaluations,
- (g) Sexual deviancy and abuse evaluations,
- (h) Therapeutic child care.

(3) Except for the emergent need criteria, eligibility conditions for the services offered under this section are the same as those listed in this chapter.

January 11, 1994  
 Connie M. Glasgow  
 Program Manager

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-24-250 Consolidated emergency assistance program—Conditions of eligibility.
- WAC 388-24-252 Consolidated emergency assistance program—Persons included in payment of grant.
- WAC 388-24-253 Exempt income and resources for CEAP.
- WAC 388-24-254 Determining income for CEAP.
- WAC 388-24-255 Consolidated emergency assistance program (CEAP)—Financial need and benefit amounts.
- WAC 388-24-260 Consolidated emergency assistance program—Payments.
- WAC 388-24-265 Consolidated emergency assistance program (CEAP)—Assistance units.

**WSR 94-03-053  
 PROPOSED RULES  
 DEPARTMENT OF HEALTH**  
 [Filed January 13, 1994, 8:32 a.m.]

Original Notice.

Title of Rule: WAC 246-807-115 Adjudicative proceedings—Procedural rules for the chiropractic disciplinary board.

Purpose: To add new section for adjudicative proceedings.

Statutory Authority for Adoption: RCW 18.26.110.

Statute Being Implemented: Chapter 18.26 RCW.

Summary: WAC 246-807-115 Adjudicative proceedings—Procedural rules for the chiropractic disciplinary board, the board wants to adopt the procedural rules for boards as they were prepared by the office of professional standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Glasgow, 1300 Quince Street, Olympia, 586-1931.

Name of Proponent: Chiropractic Disciplinary Board, 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 proceeding rules.

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 Marriott Hotel, 3201 South 176th Street, Seattle, WA 98108, on March 17, 1994, at 9:00 a.m.

Submit Written Comments to: Connie Glasgow, P.O. Box 47867, Olympia, WA 98504-7868 [98504-7867], by March 14, 1994.

Date of Intended Adoption: March 17, 1994.

**NEW SECTION**

**WAC 246-807-115 Adjudicative proceedings—Procedural rules for the chiropractic disciplinary board.** 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 94-03-055  
 PROPOSED RULES  
 DEPARTMENT OF  
 SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed January 13, 1994, 9:10 a.m.]

Original Notice.

Title of Rule: WAC 388-28-439 Effect of resources on need—Property used in self-employment.

Purpose: Amends WAC 388-28-439 to clarify intent of the self-employment resource exemptions. The department will only exempt those self-employment resources which can reasonably be expected to restore independence or create viable self-employment enterprises.

Statutory Authority for Adoption: RCW 74.04.005 (1)[(10)](f)(i).

Statute Being Implemented: RCW 74.04.005 (10)(f)(i).

Summary: Limits self-employment resource exemptions to resources which will genuinely restore or create viable self-employment enterprises.

Reasons Supporting Proposal: Clarifies intent of self-employment resource exemptions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy Jsames, Division of Income Assistance, 438-8313.

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 February 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, 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 February 15, 1994.

Date of Intended Adoption: February 23, 1994.



January 13, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

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

**WAC 388-28-439 Effect of resources on need—Property used in self-employment.** (1) "Goodwill" means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.

(2) The ((CSO)) department may declare real and personal property which will be used in a self-employment enterprise ((such as land, buildings, tools, farm machinery, livestock, business equipment, and inventory)) as an exempt resource:

(a) On the basis of an agreed plan((—The CSO shall apply the following conditions:

(a) The exempted property must either)); and

(b) When the department determines that the real or personal property:

(i) ((Produce income reducing the applicant's or recipient's need for public assistance))Is necessary to restore the client's independence; or

(ii) Will aid in rehabilitating the ((applicant or recipient) client or ((their)) the client's dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

((b) If stock, raw materials, or inventory of a business is exempted, the department shall examine any increase in value to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.

(2)) (3) The department shall consider any increase in value to exempted stock, raw materials, or inventory of a business as:

(a) Exempt, when the increase is necessary to the health of the enterprise; or

(b) Income, when such increase might reasonably be used towards the client's self-support.

(4) In the absence of an agreed plan, the department shall consider the business assets of a self-employment enterprise ((shall be)) as nonexempt resources available to the owner in the amount of the sale value minus encumbrances, unless the resources are generally exempt under ((the provisions of)) WAC 388-28-420 and 388-28-435.

((a) Accounts receivable are exempt resources under an agreed plan as long as diligent effort is being made to collect. If efforts to collect are unsuccessful, then the department shall require the accounts be turned over to a collection agency. Failure to do so will cause the accounts to become a nonexempt resource. When payment is received, it is treated as income pursuant to WAC 388-28-520.

(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource))

(5) Under an agreed plan, the department shall consider accounts receivable as:

(a) An exempt resource when:

(i) The client makes a diligent effort to collect; or

(ii) If efforts to collect are unsuccessful, the client turns the accounts over to a collection agency.

(b) A nonexempt resource when the client does not meet the requirements in subsection (a) of this section; and

(c) Income, under WAC 388-28-520, when payment is received.

(6) The department shall consider goodwill as an unavailable resource until the business is sold.

**WSR 94-03-056**  
**PROPOSED RULES**  
**BOARD OF TAX APPEALS**  
[Filed January 13, 1994, 11:26 a.m.]

Original Notice.

Title of Rule: WAC 456-09-010 Formal, informal hearing—Distinction, 456-09-325 Date of filing—Facsimile, and 456-09-365 Conversion of hearing.

Purpose: To amend existing rules on election of formal or informal hearing to clarify procedures. To amend existing rules on date of filing an appeal to conform to statutory changes.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 84.08.130.

Summary: The proposed rules clarify existing procedures for requesting a formal or informal hearing. Existing rules are also amended to comply with statutory changes regarding the date of filing an appeal.

Reasons Supporting Proposal: Existing rules need clarification or amendment to conform with statutory changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard A. Virant, 910 5th Avenue S.E., Olympia, (206) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 456-09-010 is amended to clarify existing procedures for electing a formal or informal hearing. The amended rule provides that failure to elect a formal or informal hearing at the time of filing will result in the hearing being conducted as informal; WAC 456-09-365 is amended to clarify existing procedures for requesting a conversion to a formal hearing. The amended rule provides that only the respondent may request conversion to a formal hearing after the filing of an appeal. The appellant already has an opportunity to request a formal hearing at the time of filing; and WAC 456-09-325 is amended to conform with statutory changes which provide that an appeal is deemed to be timely filed if it is postmarked within the required time period.

Proposal Changes the Following Existing Rules: The amendment to WAC 456-09-010 provides that failure to elect a formal or informal hearing at the time of filing shall result in the hearing being conducted as informal. The amendment to WAC 456-09-365 provides that only the respondent may request conversion to a formal hearing after

the filing of an appeal. WAC 456-09-325(3) is amended to conform with statutory changes (RCW 84.08.130) which provide that an appeal from the county board of equalization is deemed to be timely filed if it is postmarked within the required time period. WAC 456-09-325(1) is amended to be consistent with WAC 456-09-325(3).

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

The proposed rules are exempt from the statute because the rules are procedural in nature and have no significant impact on business or industry.

Hearing Location: Hearing Room, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504, on March 10, 1994, at 10 a.m.

Submit Written Comments to: Richard A. Virant, Executive Director, 910 5th Avenue S.E., Olympia, WA 98504-0915, by March 7, 1994.

Date of Intended Adoption: March 10, 1994.

January 12, 1994

R. A. Virant  
Executive Director

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-010 Formal, informal hearing—Distinction.** All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03.180).

In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140. Failure to elect a formal or informal hearing (~~within the time provided by statute~~) at the time of filing shall result in the proceeding being conducted as informal.

**AMENDATORY SECTION** (Amending Order 91-01, filed 3/15/91, effective 4/15/91)

**WAC 456-09-325 Date of filing—Facsimile.** (1) Except as provided in subsection (3) of this section, the date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be prima facie evidence of the date of filing.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council if the appeal is to be hand delivered. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be prima facie evidence of the date of filing.

**AMENDATORY SECTION** (Amending Order 91-01, filed 3/15/91, effective 4/15/91)

**WAC 456-09-365 Conversion of hearing.** (1) The ~~((assessor or taxpayer))~~ respondent, as a party to an appeal pursuant to RCW 84.08.130(2) (appeal~~((s))~~ from ~~((the))~~ board of equalization) may, within twenty days from the date of ~~((receipt))~~ mailing of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within thirty days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

**WSR 94-03-057**  
**PROPOSED RULES**  
**BOARD OF TAX APPEALS**  
[Filed January 13, 1994, 11:27 a.m.]

Original Notice.

Title of Rule: WAC 456-10-010 Formal, informal hearing—Distinction, 456-10-325 Date of filing—Facsimile, and 456-10-360 Conversion of hearing.

Purpose: To amend existing rules on election of formal or informal hearing to clarify procedures. To amend existing rules on date of filing an appeal to conform to statutory changes.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 84.08.130.

Summary: The proposed rules clarify existing procedures for requesting a formal or informal hearing. Existing rules are also amended to comply with statutory changes regarding the date of filing an appeal.

Reasons Supporting Proposal: Existing rules need clarification or amendment to conform with statutory changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard A. Virant, 910 5th Avenue S.E., Olympia, (206) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 456-10-010 is amended to clarify existing procedures for electing a formal or informal hearing. The amended rule provides that failure to elect a formal or informal hearing at the time of filing will result in the hearing being conducted as informal; WAC 456-10-360 is amended to clarify existing procedures for requesting a conversion to a formal hearing. The amended rule provides that only the respondent may request conversion to a formal hearing after the filing of an appeal. The appellant already has an opportunity to request a formal hearing at the time of filing; and WAC 456-10-325 is amended to conform with statutory changes which provide that an appeal is deemed to be timely filed if it is postmarked within the required time period.

Proposal Changes the Following Existing Rules: The amendment to WAC 456-10-010 provides that failure to elect a formal or informal hearing at the time of filing shall result in the hearing being conducted as informal. The amendment to WAC 456-10-360 provides that only the respondent may request conversion to a formal hearing after the filing of an appeal. WAC 456-10-325(3) is amended to conform with statutory changes (RCW 84.08.130) which provide that an appeal from the county board of equalization is deemed to be timely filed if it is postmarked within the required time period. WAC 456-10-325(1) is amended to be consistent with WAC 456-10-325(3).

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

No small business impact statement is required for this proposal by chapter 19.85 RCW. The proposed rules are exempt from the statute because the rules are procedural in nature and have no significant impact on business or industry.

Hearing Location: Hearing Room, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504, on March 10, 1994, at 10 a.m.

Submit Written Comments to: Richard A. Virant, Executive Director, 910 5th Avenue S.E., Olympia, WA 98504-0915, by March 7, 1994.

Date of Intended Adoption: March 10, 1994.

January 12, 1994

R. A. Virant  
Executive Director

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-010 Formal, informal hearing—Distinction.** All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board of tax appeals decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03.180).

In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140. Failure to elect a formal or informal hearing (~~within the time provided by statute~~) at the time of filing shall result in the proceeding being conducted as informal.

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

**WAC 456-10-325 Date of filing—Facsimile.** (1) Except as provided in subsection (3) of this section, the date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The date stamp placed thereon shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be prima facie evidence of the date of filing.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council if the appeal is to be hand delivered. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail,

January 10, 1993 [1994]  
Mary Riveland  
Director

the postmark will control and shall be prima facie evidence of the date of filing.

AMENDATORY SECTION (Amending Order 91-02, filed 3/15/91, effective 4/15/91)

**WAC 456-10-360 Conversion of hearing.** (1) The ~~((assessor or taxpayer))~~ respondent, as a party to an appeal pursuant to RCW 84.08.130(2) (appeal from ~~((the))~~ board~~((s))~~ of equalization) may, within twenty days from the date of ~~((receipt))~~ mailing of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within thirty days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

**WSR 94-03-071**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 94-02—Filed January 14, 1994, 3:48 p.m.]

Original Notice.

Title of Rule: Chapter 173-34 WAC, Exemptions from detailed statement requirements of State Environmental Policy Act; chapter 173-320 WAC, Beverage containers; and chapter 173-335 WAC, Vehicle tire recycling and removal grant reduction.

Purpose: To repeal rules.

Summary: These regulations are no longer used by the Department of Ecology.

Name of Agency Personnel Responsible for Drafting: Paige Boule', Department of Ecology, P.O. Box 47600, Olympia, 98504-7600, 407-6161.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeals chapters 173-34, 173-320, and 173-335 WAC.

Proposal Changes the Following Existing Rules: Rules will no longer be in effect.

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

Hearing Location: Department of Ecology, 300 Desmond Drive, Lacey, WA, on February 23, 1994, at 10:00 a.m.

Submit Written Comments to: Paige Boule', Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by March 1, 1994.

Date of Intended Adoption: March 14, 1994.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-34-010 Purpose.
- WAC 173-34-020 Definitions.
- WAC 173-34-030 Exemptions.
- WAC 173-34-040 Exemptions—Nonexempt actions.
- WAC 173-34-050 Exemptions—Limitation of exemptions.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-320-010 Authority.
- WAC 173-320-020 Declaration of purpose.
- WAC 173-320-030 Applicability.
- WAC 173-320-040 Definitions.
- WAC 173-320-050 Prohibition.
- WAC 173-320-060 Return requirement.
- WAC 173-320-070 Complaints.
- WAC 173-320-080 Enforcement.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-335-010 Purpose and authority.
- WAC 173-335-020 Definitions.
- WAC 173-335-030 Relation to other legislation and administrative rules.
- WAC 173-335-040 General.
- WAC 173-335-050 Administration.

**WSR 94-03-081**  
**WITHDRAWAL OF PROPOSED RULES**  
**SECRETARY OF STATE**  
(By the Code Reviser's Office)  
[Filed January 18, 1994, 1:15 p.m.]

WAC 434-663-001, 434-663-005, 434-663-020, 434-663-030, 434-663-050, 434-663-060 and 434-663-070, proposed by the Secretary of State in WSR 93-14-001, appearing in issue 93-14 of the State Register, which was distributed on July 21, 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 94-03-082**  
**WITHDRAWAL OF PROPOSED RULES**  
**TACOMA COMMUNITY COLLEGE**  
 (By the Code Reviser's Office)  
 [Filed January 18, 1994, 1:17 p.m.]

WAC 132V-300-020, proposed by the Tacoma Community College in WSR 93-14-021, appearing in issue 93-14 of the State Register, which was distributed on July 21, 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 94-03-085**  
**WITHDRAWAL OF PROPOSED RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**  
 [Filed January 18, 1994, 1:44 p.m.]

Pursuant to RCW 34.05.335, the Insurance Commissioner hereby withdraws her original notice for proposed rules entitled "Short-term health insurance reform," filed with the code reviser's office as WSR 93-23-073 on November 16, 1993, WSR 94-02-065 on January 4, 1994, and WSR 94-03-048 on January 12, 1994.

Deborah Senn  
 Insurance Commissioner

**WSR 94-03-086**  
**PREPROPOSAL COMMENTS**  
**DEPARTMENT OF REVENUE**  
 [Filed January 18, 1994, 2:02 p.m.]

**Subject of Possible Rule Making:** The Department of Revenue establishes stumpage values as WAC rules under RCW 84.33.091. The department is considering changing how it collects and analyzes data used to establish stumpage values.

Persons may comment on this subject by written or oral presentation. Written presentations may be submitted prior to the meeting. The meeting will be committee format with free and open discussion of all proposals. Mailing address: Department of Revenue, Special Programs Division, P.O. Box 47472, Olympia, WA 98504-7472. Where: Olympia, Target Place Plaza, 2735 Harrison Avenue N.W., Department of Revenue Conference Room, at 10:00 a.m. on February 16, 1994.

**Other Information or Comments by Agency at this Time, if any:** When it began in 1972 the forest excise tax was based on stumpage values arrived at by a form of comparable sales appraisal that relied heavily on the individual species bid prices. In 1991 this process was modified to allocate the individual species values using a statistical model.

The Department of Revenue is seeking public input on approaches to refine and augment this process.

Items to be discussed include but are not limited to: Use of the residual value (conversion return) method of

appraisal; logging costs and adjustments; data sources for residual value and logging adjustment analysis; and public agency cruise data. How good is it?

There are currently no WAC rules governing the collection, utilization, and analysis of data by the Department of Revenue for the purpose of producing stumpage values.

January 10, 1993 [1994]

Gary K. O'Neil  
 Assistant Director  
 Special Programs Division

**WSR 94-03-087**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Filed January 18, 1994, 2:30 p.m.]

Original Notice.

**Title of Rule:** New WAC 390-16-324 Personal use of contributions—Standard; and amending WAC 390-17-300 Contribution designation for primary and general election and 390-17-315 Political committees—Qualifications to contribute.

**Purpose:** Adopt new rule re Initiative 134 and amend other two.

**Statutory Authority for Adoption:** RCW 42.17.390.

**Summary:** WAC 390-16-324, elaborate on the prohibition of contributions for personal use; WAC 390-17-300 describes how to keep separate contributions received for the primary election and those received for the general election; and WAC 390-17-315, explains the qualifications needed before a committee can contribute to a candidate.

**Reasons Supporting Proposal:** To implement Initiative 134.

**Name of Agency Personnel Responsible for Drafting:** Roselyn Marcus, Attorney General, Olympia, 586-1913; **Implementation and Enforcement:** David R. 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 390-16-324, expenditures not directly related to a candidate's campaign are prohibited; WAC 390-17-300, contributions which are designated by the contributor for a particular election must apply to that contributor's limit for that election. Undesignated contributions made prior to the primary shall be contributed to the primary election unless the limits would be exceeded; and WAC 390-17-315, a political committee must be qualified to contribute to a Washington state candidate by having received contributions of \$10 or more from at least ten individuals registered to vote in Washington.

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, on February 22, 1994, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by February 14, 1994.

Date of Intended Adoption: February 22, 1994.  
 January 18, 1994  
 David R. Clark  
 Acting Executive Director

NEW SECTION

**WAC 390-16-324 Personal use of contributions—Standard.** Any expenditure from a candidate's campaign funds which is not directly related to the candidate's election campaign is presumed to be a prohibited personal use of campaign funds under RCW 42.17.125.

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

**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~~) shall 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) Primary election contributions shall be placed in a campaign account separate from general election contributions. General election contributions shall not be spent for the primary election if to do so would cause the contributor of the general election contribution to exceed that contributor's contribution limit for the primary election.

(5) If a candidate loses in the primary election, all funds held in the primary election 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. If a candidate loses in the primary election, all funds held in the general election campaign account shall be returned to the contributors of those funds.

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

**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.~~) The political committee shall produce a list of the ten individuals, identified by their name and address, upon request by the commission or other person, upon reasonable notice, seeking this information.

**WSR 94-03-089  
 PROPOSED RULES  
 PARKS AND RECREATION  
 COMMISSION**  
 [Filed January 18, 1994, 3:27 p.m.]

Original Notice.  
 Title of Rule: WAC 352-74-040 Film permit application, fee.

Purpose: To establish fees for film permit applications for filming other than personal or news purposes.

Statutory Authority for Adoption: RCW 43.51.060.

Statute Being Implemented: RCW 43.51.060.

Summary: Sets fees for submittal of film permit applications ten or more days in advance of filming date and less than ten days in advance of filming date.

Reasons Supporting Proposal: The legislature requires a contribution of revenue generated by park user fees to the state general fund. Existing fees do not meet the revenue contribution requirement and must be adjusted.

Name of Agency Personnel Responsible for Drafting: Rex Derr, 7150 Cleanwater Lane, Olympia, 98504, 753-2066; Implementation and Enforcement: Kathy Smith, 7150 Cleanwater Lane, Olympia, 98504, 753-5761.

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: Increases film permit application fee if submitted less than ten days in advance of filming. Anticipated effects are to, in some cases, raise more revenue, and to provide an incentive for a more timely application.

Proposal Changes the Following Existing Rules: Will raise existing fee for those not responding in a timely manner.

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

Hearing Location: SeaTac International Airport, SeaTac, Washington 98158, on February 23, 1994, at 5:00 p.m.

Submit Written Comments to: Rex Derr, P.O. Box 42560, Olympia, WA 98504-2650, by February 9, 1994.

Date of Intended Adoption: February 23, 1994.  
 January 14, 1994  
 Sharon Howdeshell  
 Office Manager

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

**WAC 352-74-040 Film permit application, fee.** Persons or organizations that desire to film within a state

park for other than personal or news purposes shall submit a film permit application provided by the director to the:

Washington State Parks and  
Recreation Commission  
7150 Cleanwater Lane KY-11  
Olympia, WA 98504

Each application shall be accompanied by an application fee of one hundred dollars if submitted ten or more days in advance of filming date or three hundred dollars if submitted less than ten days in advance of filming which shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

**WSR 94-03-092**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 94-04—Filed January 19, 1994, 10:23 a.m.]

Original Notice.

Title of Rule: WAC 173-19-120 Chelan County shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for Chelan County. The amendments regulate residential, community, commercial and industrial piers and docks and amends Section 21, Shoreline Works and Structures.

Reasons Supporting Proposal: Shoreline master programs and revisions are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Linda Witcher, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 407-6523; Implementation and Enforcement: Jay A. Shepard, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 459-6777.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment regulates the location of residential, community, commercial and industrial piers and docks. A change to the Shoreline Works and Structures section is also proposed.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 19.85 RCW, Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic

impact on more than 20% of all industries or more than 10% of any one industry. This amendment proposed by Chelan County does not meet the criteria which require preparation of a small business impact statement.

Hearing Location: Planning Conference Room 204, Courthouse Annex, 411 Washington Street, Wenatchee, WA, on March 1, 1994, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47692, Olympia, WA 98504-7692, by March 10, 1994.

Date of Intended Adoption: April 27, 1994.

January 18, 1994  
Mary Riveland  
Director

AMENDATORY SECTION (Amending Order DE 83-27, filed 10/19/83)

**WAC 173-19-120 Chelan County.** Chelan County master program approved April 22, 1975. Revision approved June 26, 1980. Revision approved July 15, 1981. Revision approved October 1, 1981. Revision approved October 13, 1983. Revision approved April 27, 1994.

**WSR 94-03-093**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 94-05—Filed January 19, 1994, 10:27 a.m.]

Original Notice.

Title of Rule: WAC 173-19-100 Asotin County shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for Asotin County.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Peter Skowlund, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 407-6522; Implementation and Enforcement: Jay Shepard, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 459-6777.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This is a substantial revision of the Asotin County master program which was adopted in 1974. It requires updating due to changing times and increased development pressure along the shoreline. This program applies to the

shorelands of the Snake and Grande Ronde rivers, Joseph Creek, Asotin Creek and tributaries.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 19.85 RCW, Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than 20% of all industries or more than 10% of any one industry. This amendment proposed by Asotin County does not meet the criteria which require preparation of a small business impact statement.

Hearing Location: Commissioners' Chambers, Asotin County Courthouse, 135 Second Street, Asotin, WA, on March 9, 1994, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47692, Olympia, WA 98504-7692, by March 16, 1994.

Date of Intended Adoption: April 27, 1994.

January 18, 1994  
Mary Riveland  
Director

**AMENDATORY SECTION** (Amending Order DE 79-34, filed 1/30/80)

**WAC 173-19-100 Asotin County.** Asotin County master program approved October 22, 1974. Revision approved April 27, 1994.

**WSR 94-03-094**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 94-01—Filed January 19, 1994, 10:31 a.m.]

Original Notice.

Title of Rule: WAC 173-19-4205 City of Tumwater shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Tumwater. It is a special area management plan for the New Market Historic District.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Linda Whitcher, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 407-6523; Implementation and Enforcement: Jay Shepard, Washington Department of Ecology, Box 47690, Olympia, 98504-7690, (206) 459-6777.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The plan will have effect in the area north of Capitol Boulevard and south of Interstate 5. The plan proposes new development and redevelopment of historic sites and structures, recreational facilities and other capitol facilities needed to serve the proposed development. It provides a master plan and illustrative plan as well as a general outline of the actions required to implement the recommendations for development within the shoreline area.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 19.85 RCW, Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than 20% of all industries or more than 10% of any one industry. This amendment proposed by the city of Tumwater does not meet the criteria which require preparation of a small business impact statement.

Hearing Location: Tumwater City Council Chambers, 555 Israel Road S.W., Tumwater, WA 98501, on February 24, 1994, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47692, Olympia, WA 98504-7692, by March 3, 1994.

Date of Intended Adoption: April 12, 1994.

January 11, 1994  
Mary Riveland  
Director

**AMENDATORY SECTION** (Amending Orders 93-21 and 93-21A, filed 10/29/93 and 11/3/93, effective 11/29/93 and 12/4/93)

**WAC 173-19-4205 Tumwater, city of.** City of Tumwater master program approved May 21, 1976. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved October 2, 1990. Revision approved April 17, 1991. Revision approved April 21, 1991. Revision approved November 2, 1993. Revision approved April 12, 1994.

**WSR 94-03-097**

**PROPOSED RULES**

**PARKS AND RECREATION COMMISSION**

[Filed January 19, 1994, 10:52 a.m.]

Original Notice.

Title of Rule: WAC 352-32-010 Definitions, 352-32-045 Reservations for group day use, 352-32-250 Standard fees charged, 352-32-252 Off-season senior citizen pass—



Fee, 352-32-255 Self-registration, and 352-32-320 Severability.

**Purpose:** To establish fees for the use of certain facilities in state parks.

**Statutory Authority for Adoption:** RCW 43.51.060.

**Statute Being Implemented:** RCW 43.51.060.

**Summary:** Establishes fees for the use of camping facilities and certain day use facilities.

**Reasons Supporting Proposal:** The legislature requires a contribution of revenue generated by park user fees to the state general fund. These changes are to help meet the revenue contribution requirement.

**Name of Agency Personnel Responsible for Drafting:** Rex Derr, 7150 Cleanwater Lane, Olympia, WA 98504, 753-2066; **Implementation and Enforcement:** Kathy Smith, 7150 Cleanwater Lane, Olympia, 98504, 753-5761.

**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:** Increases certain fees for facilities used in state parks. Fees must be raised to meet the requirement set by the legislature to generate more revenue for the general fund. More revenue will be raised and the proposed fee structure will reduce the differential with similar facilities offered in the private sector.

**Note:** The fee changes proposed here include all of the options that will be considered for adoption by the commission. Only a portion of the fees listed may be adopted as a selected option; and any increases in existing fees will be adopted consistent with Initiative 601 and the 6.4% limitation. The agency will seek legislative approval, if required.

**Proposal Changes the Following Existing Rules:** Raises existing fees and establishes new fees.

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

**Hearing Location:** Seattle Tacoma International Airport, SeaTac, Washington 98158, on February 23, 1994, at 5:00 p.m.

**Submit Written Comments to:** Rex Derr, P.O. Box 42650, Olympia, WA 98504-2650, by February 9, 1994.

**Date of Intended Adoption:** February 23, 1994.

January 19, 1994

Sharon Howdeshell  
Office Manager

**AMENDATORY SECTION** (Amending WSR 93-08--25 [94-01-087], filed 3/30/93 [12/13/93], effective 5/1/93 [1/13/94])

**WAC 352-32-010 Definitions.** Whenever used in this chapter the following terms shall be defined as herein indicated:

"Boat launch" shall mean any facility located in a state park area designated for the purpose of placing or retrieving any vehicle-born or trailer-born watercraft into or out of the water.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Camping unit" shall mean a group of people (one or more persons) that is organized, equipped and capable of sustaining its own camping activity.

"Commission" shall mean the Washington state parks and recreation commission.

"Day area parking space" shall mean any designated parking space within any state park area designated for daytime vehicle parking.

"Director" shall mean the director of the Washington state parks and recreation commission.

"Emergency area" is an area in the park separate from the designated overnight camping area, which may be used for camping between the hours of 9 p.m. and 8 a.m. when no alternative camping facilities are available within reasonable driving distances.

"Environmental learning centers (ELC)" shall mean those designated specialized facilities (formerly called resident group camps) designed to promote outdoor camping experiences and environmental education by groups in a residential setting. A group can be formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are located at Camp Wooten, Columbia County; Brooks Memorial State Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County.

"Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

"Marine trail camping areas" are specially designated group camp areas identified with signs, that are near marine water ways, and that have varying facilities and extent of development.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

"Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

"Paraglider" shall mean an unpowered ultralight vehicle capable of flight, consisting of a fabric, rectangular or elliptical canopy or wing connected to the pilot by suspension lines and straps, made entirely of nonrigid materials except for the pilot's harness and fasteners. The term "paraglider" shall not include hanggliders or parachutes.

"Popular destination park" shall mean any state park designated by the director as ~~((a popular destination park because, during the year preceding designation, the park had an average overnight occupancy rate of sixty percent or more during the period of May 21 through September 14))~~ one of the 50 parks with the highest attendance during the preceding calendar year.

"Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

"Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons

for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

"Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

"Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

"Residence" shall mean the long-term habitation of facilities of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

Camping at a given park for more than twenty days within a thirty-day time period May 1 through September 30; or thirty days within a sixty-day time period October 1 through April 30. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights May 1 through September 30 and fifteen consecutive nights October 1 through April 30 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

"Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

"Standard campsite" shall mean a designated camping site which is served by nearby domestic water, ~~((sink waste, garbage disposal))~~ and flush comfort station. Each campsite may include ~~((s))~~ a camp stove and picnic table.

"State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore

conservation area as defined in RCW 43.51.655 and as regulated under chapter 352-36 WAC.

"Trailer dump station" shall mean any state park sewage disposal facility designated for the disposal of sewage waste from any recreation vehicle, other than as may be provided in a utility campsite.

"Upland" shall mean all lands lying above mean high water.

"Utility campsite" shall mean a standard campsite with the addition of electricity and may have ~~((one or all of the following utility hookups: D))~~ domestic water or sewer.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

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

**AMENDATORY SECTION** (Amending WSR 91-09-001, filed 4/4/91, effective 5/15/91)

**WAC 352-32-045 Reservations for group day use.**

(1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A minimum daily permit fee of ~~((twenty dollars for groups of 20 to 50 persons, fifty dollars for groups of 51 to 100 persons, one hundred dollars for groups of 101 to 500 persons, and two hundred fifty dollars for groups of more than 500 persons shall be charged to reservations granted under this WAC))~~ \$30.00 for 20 persons and \$1.00 for each additional person beyond 20 shall be charged. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at

a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20 (~~but not exceeding 50~~) to 50 persons, this deposit shall be (~~(\$35)~~) \$50. For groups (~~in excess of 50, but not exceeding 100~~) of 51 to 100 persons, this deposit shall be (~~(\$75)~~) \$100. For groups (~~in excess of 100, but not exceeding 500~~) of 101 to 500 persons, this deposit shall be (~~(\$150)~~) \$250. For groups in excess of 500, this deposit shall be (~~(\$300)~~) \$500. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

**AMENDATORY SECTION** (Amending WSR 93-19-113, filed 9/20/93, effective 10/21/93)

**WAC 352-32-250 Standard fees charged.** The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: (~~(\$10.00)~~) \$13.00 per night;

(2) Overnight camping - utility campsite: (~~(\$14.00)~~) \$18.00 per night. Payment for utility campsite will be collected whether utility hookups are actually used or not, except when otherwise specified by a ranger. The electrical hookup surcharge reference in WAC 352-32-252(3) shall be (~~(\$2.00)~~) \$4.00 per night;

(3) Overnight camping - primitive campsite: \$5.00 per night for nonmotorized vehicle and \$7.00 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite;

(6) Group camping area - certain parks: \$1.00 per person per day and/or night; nonrefundable reservation/registration fee - (~~(\$10.00)~~) \$20.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center - overnight camping: (~~(\$4.45)~~) \$5.50 per camper per night;

(a) Camp Wooten (~~and Cornet Bay~~) environmental learning center(~~s~~) during the season the swimming pool(~~s are~~) is operational: (~~(\$5.45)~~) \$6.85 per camper per night;

(b) Environmental learning center - day use only: (~~(\$1.00)~~) \$2.00 multiplied by the minimum capacity established for each environmental learning center or (~~(\$1.00)~~) \$2.00 for each member of the group - whichever is higher;

(c) A late check-in fee of \$50.00 shall be charged if arrival is more than one hour after the scheduled check-in time, unless the group contacts the park ranger prior to scheduled check-in time in order to reschedule the check-in;

(8) Hot showers: (~~(\$25)~~) Not to exceed \$1.00 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle overnight parking fee: (~~(\$4.00)~~) \$8.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: *Provided*, An extra vehicle overnight parking fee shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(14) Unattended vehicle overnight parking permit: \$8.00 per night per vehicle. Unoccupied vehicles parked overnight in designated areas must (~~obtain a permit by registering and paying the \$4.00 per night~~) register and pay the nightly permit fee. The permit must be prominently displayed in the vehicle;

(15) (~~Campsite reservations - see WAC 352-32-035(6);~~

~~(16)) Boat launch permit fee - \$4.00 per day (for one or more launches) per watercraft (per day at those boat launches where bathrooms, parking areas, and docking facilities are provided and maintained on a regular basis; and \$3.00 per day at other boat launches as designated by the commission: *Provided*, said fees shall not be imposed on vehicles of persons camping within the state park area containing such boat launches; and, provided, said fee shall not be imposed on vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park; and, provided, said fee shall not be imposed on vehicles of persons using any environmental learning center; and, provided, said fee shall not apply to vehicles of persons holding limited income senior citizen, disability, or veteran disability passes; and, provided, said fee shall not apply where prohibited by lease or deed restrictions, or by applicable federal or state law; and, provided, said fee shall not be~~

~~imposed on~~) for use of all boat launches designated by the commission with maintained bathrooms, parking areas, and docking facilities. \$3.00 per day per watercraft for use of all other boat launches designated by the commission. Boat launch permit shall not be required for:

(a) Vehicles registered for camping in the park containing the boat launch area;

(b) Vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park;

(c) Vehicles of persons holding limited-income senior citizen, disability or veteran disability passes;

(d) Vehicles (~~properly~~) displaying a valid annual boat launch permit;

~~((17))~~ (16) Annual boat launch permit fee - ~~(\$20.00)~~ \$40.00 per boat launching vehicle ~~((for issuance of an annual boat launch permit for the period of July 1, 1993, through December 31, 1993; and \$40.00 per boat launching vehicle for issuance of an annual boat launch permit effective January 1, 1994. Such permits may be obtained by submitting an application therefor to Washington state parks and recreation commission headquarters, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, Washington, 98504-2650))~~ per calendar year. Valid January 1 - December 31 at any launch designated by the commission. Permit(~~(s)~~) must be displayed ~~((in conformance with instructions set forth thereon))~~ as instructed on permit backing;

~~((18))~~ (17) Trailer dump station fee - \$3.00 per use: ~~((Provided, such fee shall not be imposed on recreational vehicles using the dump station while camping within the state park area))~~ Fee shall not be required for registered camping vehicles in the park containing the dump station;

~~((19))~~ (18) Popular destination park fee - ~~(\$1.00)~~ \$2.00 surcharge for use of standard or utility campsite located in a popular destination park during the period of ~~((May 21 through September 14))~~ April 1 through September 30;

~~((20))~~ (19) Marine trail camping area fee - certain parks: \$1.00 per person per day and/or night;

(20) Park use permit - \$2.00 per vehicle per day for use of all designated state parks Thursday through Monday year-round. Park use permit requirements shall not be imposed on the following:

(a) Any administrative vehicle;

(b) Vehicles used for boat launching which are subject to a boat launch fee as set forth in subsection (15) of this section;

(c) Vehicles of persons camping within the park use area;

(d) Vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park;

(e) Vehicles of persons using any environmental learning centers;

(f) In snow parks between October 1 and May 1, vehicles of persons with current snow park permits;

(g) Vehicles of persons holding limited-income senior citizen, disability or veteran disability passes;

(h) Vehicles displaying valid annual park use permit;

(21) Annual park use permit - \$15.00 per vehicle per calendar year valid January 1 through December 31 at any designated state park area Thursday through Monday;

(22) A surcharge of \$5.00 per collection shall be assessed for any staff collected fee at a self-registration facility.

AMENDATORY SECTION (Amending WSR 93-08-025, filed 3/30/93, effective 5/1/93)

**WAC 352-32-252 Off-season senior citizen pass— Fee.** (1) Persons who are senior citizens, are at least sixty-two years of age, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an off-season senior citizen pass which entitles the holder and the holder's camping unit to ~~((thirty nights of camping))~~ camp at any camping areas made available by the commission, as well as use of agency mooring facilities, at no cost beyond the charges provided for in subsection (3) of this section, effective October 1 through March 31. Each such pass shall be valid only during one off-season period ~~((and may be renewed after being used for thirty nights of camping))~~.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after August 1 for the following off-season period.

(3) The fee for each off-season senior citizen pass ~~((and renewal))~~ shall be \$30.00, except limited income senior pass holders who may purchase the off-season pass at 50% discount. A surcharge equal to the fee for an electrical hookup established in WAC 352-32-250 shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

(5) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass holder shall return the pass to the commission.

AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

**WAC 352-32-255 Self-registration.** In those parks so posted by the commission, park visitors shall register for the use of campsites, boat launch, trailer dump, and park use and shall pay the appropriate fee, as provided for herein, on a self-registration basis, in accordance with all posted instructions. Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

**WAC 352-32-320 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected.

**WSR 94-03-098  
PROPOSED RULES  
DEPARTMENT OF FISHERIES**

[Filed January 19, 1994, 10:55 a.m.]

Original Notice.

Title of Rule: Emerging commercial fisheries.

Purpose: Establish Puget Sound shrimp fishery as an emerging commercial fishery.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.28.740 and 75.30.220.

Summary: Designates Puget Sound shrimp fisheries as emerging commercial fisheries for which experimental fishery permit required; establishes eligibility criteria and continuing license criteria.

Reasons Supporting Proposal: Catch per unit effort in Puget Sound shrimp fisheries has dramatically increased, affecting ability of fishers to remain economically stable.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal uses the emerging commercial fisheries statutes to limit the participation in the Puget Sound shrimp fisheries. Based upon recommendations from the advisory review board, the director proposes to limit the participation to persons who fished in the 1991-1993 seasons and who made substantial landings. This will reduce the number of pot fishers from 70 to 20 and the number of trawl fishers from 15 to 10. The proposal contains a method for new entrants if the number drops below the anticipated levels and there is sufficient resource. This proposal will reduce the fishing effort to approximately what it was in the 1980's pot fishery and will limit increase in the beam trawl fishery.

Proposal does not change existing rules.

Amends WAC 220-52-051 to reflect emerging commercial fishery status of fishery.

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

This proposal affects approximately fifty shellfish pot fishers and five shellfish trawl fishers. This number is less than ten percent of the small businesses in any one three digit industrial classification or twenty percent of all small businesses.

The advisory review board did, however, consider the level of participation by affected persons. The twenty fishers who appear to qualify for the experimental shrimp pot fishery permits harvested 75 percent of the available shrimp in 1993, and are capable of harvesting the total allowable catch. The ten beam trawlers who appear to qualify harvested 98 percent of the total allowable catch.

The alternative to limiting participation would be reduced seasons, lowered pot limits and increased area closures. The 1993 season was closed one month early because total catch was well above historical levels and catch per unit effort was low (north sound CPUE was 0.7 pounds per pot in 1989 and 0.4 pounds per pot in 1993). In order to provide for the economic well-being of those who have historically and continuously participated in the fishery the catch effort must be reduced.

Hearing Location: The department will hold public hearings on Friday, February 25, 1994, at the following locations at the times shown: At 10:00 a.m., Harbor Center Conference Room, Port of Bellingham, Bellingham, Washington; and at 7:00 p.m., Lecture Hall, Peninsula College, Port Angeles, Washington.

Submit Written Comments to: Hearings Officer, Washington State Fisheries, P.O. Box 43147, Olympia, WA 98504, by February 24, 1994.

Date of Intended Adoption: March 15, 1994.

January 19, 1994

Judith Freeman

for Robert Turner

Director

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-051 Shrimp fishery—Puget Sound.** It is unlawful to fish for or possess shrimp taken for commercial purposes from Puget Sound except ((as provided for in this section:

(1) ~~SHRIMP DISTRICTS:~~ The following areas are defined as ~~shrimp fishing districts:~~

(a) ~~Shrimp District 1—(Protection Island, Discovery Bay) Waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island then to Rocky Point on the Miller Peninsula and all waters of Discovery Bay.~~

(b) ~~Shrimp District 2—(Griffin Bay) Waters south of a line projected true east west through Turn Rock Light from San Juan Island to Lopez Island and north of a line projected true east from Cattle Point on San Juan Island to Lopez Island.~~

(c) ~~Shrimp District 3—(Port Angeles) Waters inside Ediz Hook west of a line from the tip of Ediz Hook to the FFT Rayonier Dock.~~

(d) ~~Shrimp District 4—(Sequim Bay) Waters of Sequim Bay south of a line projected true west from Travis Spit on the Miller Peninsula.~~

(e) ~~Shrimp District 5—(Hood Canal) Waters south of the Hood Canal Floating Bridge.~~

(f) ~~Shrimp District 6—(Carr Inlet) Waters of Carr Inlet north of a line projected from Penrose Point to Green Point.~~

(2) ~~TRAWL GEAR:~~

~~(a) SEASONS— All waters of Puget Sound are open to trawl gear April 16 through October 15 except closed in:~~

- ~~(i) Shrimp Districts 1, 2, 3, 4, 5 and 6.~~
- ~~(ii) Waters closed to trawl fishing in WAC 220-48-015.~~

~~(b) GEAR RESTRICTIONS— Beam trawl gear only. Otter trawl gear may not be used.~~

~~(3) SHELLFISH POT GEAR:~~

~~(a) SEASONS— All waters of Puget Sound are open to shellfish pot gear April 16 through October 15 except:~~

~~(i) Open in Shrimp Districts 1, 2, and 3 from May 16 through September 15 except those waters of Shrimp District 1 within a line from the entrance to the Cape George Marina projected southwesterly to the easternmost tip of Diamond Point thence southeasterly to the westernmost tip of Beckett Point thence following the shore to the point of origin are closed to shrimp fishing.~~

~~(ii) Closed in Shrimp Districts 4, 5 and 6 unless opened by emergency regulation.~~

~~(b) GEAR RESTRICTIONS—~~

~~(i) In all areas, maximum 100 pots per fisher, except:~~

~~(A) Maximum 75 pots per fisher in Marine Fish-Shellfish Management and Catch Reporting Area 28B.~~

~~(B) Maximum 25 pots per fisher in Shrimp District 1.~~

~~(C) Maximum 50 pots per fisher in Shrimp Districts 2 and 5.~~

~~(D) Maximum 10 pots per fisher in Shrimp District 3.~~

~~(ii) In all shrimp districts:~~

~~(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.~~

~~(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.~~

~~(iii) In Shrimp Districts 2 and 5:~~

~~(A) The entire top, bottom and sides of the pot, except entrance tunnels, must be constructed of mesh material having a minimum mesh of such size that a 7/8 inch square peg can pass through without changing the shape of the opening.~~

~~(B) All entrance tunnels must open into the pot from the sides.~~

~~(C) The sum of the maximum widths of all entrance tunnels must not exceed one half of the perimeter of the bottom of the pot.~~

~~(e) Spot shrimp size restriction: It is unlawful to possess spot shrimp taken by shellfish pot gear that average more than 20 shrimp per pound as sampled by a minimum of two samples of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession)) under the provisions of an experimental fishery permit issued with an emerging commercial fishery license. See Chapter 220-140 for the qualifications and season, area and gear restrictions.~~

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 220-88A-010 Emerging commercial fishery—Puget Sound shrimp—Purpose.** The purpose of this chapter is to establish Puget Sound shrimp pot and Puget Sound shrimp trawl as emerging commercial fisheries, determine the qualification for obtaining experimental fishery permits to participate in these fisheries, and limit transferability of the permits.

NEW SECTION

**WAC 220-88A-020 Designation of Puget Sound shrimp pot and Puget Sound shrimp trawl as emerging commercial fisheries.** (1) The director designates the Puget Sound shrimp pot fishery as an emerging commercial fishery for which a vessel is required. Effective April 16, 1994, it is unlawful to fish for or retain shrimp taken for commercial purposes from Puget Sound using any type of shellfish pot gear unless the operator of the gear has an emerging commercial fishery license and a Puget Sound shrimp pot experimental fishery permit issued under the provisions of this chapter. Effective April 16, 1994, a shrimp pot fishery license or a shrimp pot—Hood Canal fishery license may not be used to fish for shrimp in Puget Sound.

(2) The director designates the Puget Sound shrimp trawl fishery as an emerging commercial fishery for which a vessel is required. Effective April 16, 1994, it is unlawful to fish for or retain shrimp taken for commercial purposes from Puget Sound using trawl gear unless the operator of the gear has an emerging commercial fishery license and a Puget Sound shrimp trawl experimental fishery permit issued under the provisions of this chapter. Effective April 16, 1994, a shrimp trawl—Puget Sound license may not be used to fish for shrimp in Puget Sound.

NEW SECTION

**WAC 220-88A-030 Emerging commercial fishery—Eligibility for Puget Sound shrimp pot experimental fishery permit.** (1) A single 1994 Puget Sound shrimp pot experimental fishery permit will be issued to an individual who has demonstrated historical and continuous participation in the Puget Sound shrimp pot fishery by:

(a) Being the owner of a vessel or vessels that held a shellfish pot (excluding crab) license (RCW 75.28.130(2)) during either 1991 or 1992, held this license during 1993, and:

(b) Can document, by means of valid fish receiving tickets, that the vessel or vessels landed at least 7,000 pounds, adjusted weight, of shrimp taken with shellfish pot gear from Puget Sound during the eligibility period of April 16, 1991 through November 1, 1993. For purposes of computing adjusted weight, spot prawns are totaled at two times the weight shown on the fish tickets and other pandalid shrimp are totaled at the weight shown on the fish tickets. No shrimp landed with any other gear, shrimp taken from waters other than Puget Sound, or shrimp taken during any other period of time satisfy this eligibility requirement.

(2) No emerging commercial fishery license holder may receive more than one Puget Sound shrimp pot experimental fishery permit.

(3) Puget Sound shrimp pot experimental fishery permits are valid only for the year issued and expire with the emerging commercial fishery license on December 31st of each year.

(4) Except as provided for in subsection (5), after December 31, 1994, a Puget Sound shrimp pot experimental fishery permit will only be issued to an individual who held an emerging commercial fishery license and Puget Sound shrimp pot experimental fishery permit the previous year, and who can establish by means of valid fish receiving tickets that a minimum of 2,000 adjusted pounds of shrimp taken with shellfish pot gear were landed from Puget Sound during the previous year. Application for a Puget Sound shrimp pot experimental fishery permit must be received at the department licensing office on or before April 1st of each year after 1994, or the license holder will be deemed to have withdrawn from the fishery and the provisions of subsection (5) of this section will apply.

(5) If, after December 31, 1994, the director determines that the number of Puget Sound shrimp pot fishers has dropped below twenty license holders, the director may admit additional fishers until there are twenty license holders. Individuals who were eligible in 1994 but did not obtain a Puget Sound shrimp pot experimental fishery permit, or individuals who have withdrawn from the fishery, are excluded from application for a future Puget Sound shrimp pot experimental fishery permit. Owners of vessels from which Puget Sound shrimp were landed with shellfish pot gear during the eligibility period, but who did not qualify for a 1994 Puget Sound shrimp pot experimental fishery permit, are eligible for application for a future Puget Sound shrimp pot experimental fishery permit, beginning with the owner of the vessel or vessels from which the highest non-qualifying catch was made and progressing to the lowest non-qualifying catch. If the pool of fishers who landed shrimp during the qualifying period is exhausted, new fishers will be invited to apply and will be selected at random from the applicants

#### NEW SECTION

**WAC 220-88A-040 Emerging commercial fishery—Eligibility for Puget Sound shrimp trawl experimental fishery permit.** (1) A single 1994 Puget Sound shrimp trawl experimental permit will be issued to an individual who has demonstrated historical and continuous participation in the Puget Sound shrimp trawl fishery by:

(a) Being the owner of a vessel or vessels that held a trawl (Puget Sound) license (RCW 75.28.140(1)) during either 1991 or 1992, held this license during 1993, and:

(b) Can document, by means of valid fish receiving tickets, that the vessel or vessels landed at least 2,800 pounds of shrimp taken from Puget Sound with trawl gear during the eligibility period April 16, 1991 through November 1, 1993. No shrimp landed with any other gear, shrimp taken from waters other than Puget Sound, or shrimp taken during any other period of time satisfy this eligibility requirement.

(2) No emerging commercial fishery license holder may receive more than one Puget Sound shrimp trawl experimental fishery permit.

(3) Puget Sound shrimp trawl experimental fishery permits are valid only for the year issued and expire with the emerging commercial fishery license on December 31st of each year.

(4) Except as provided for in subsection (5), after December 31, 1994, a Puget Sound shrimp trawl experimental fishery permit will only be issued to an individual who held an emerging commercial fishery license and Puget Sound shrimp trawl experimental fishery permit the previous year, and who can establish by means of valid shellfish receiving tickets that a minimum of 2,000 pounds of shrimp taken with shellfish trawl gear were landed from Puget Sound during the previous year. Application for a Puget Sound shrimp trawl experimental fishery permit must be received at the department licensing office on or before April 1st of each year after 1994, or the license holder will be deemed to have withdrawn from the fishery and the provisions of subsection (5) of this section will apply.

(5) If, after December 31, 1994, the director determines that the number of Puget Sound shrimp trawl fishers has dropped below ten license holders, the director may admit additional fishers until there are ten license holders. Individuals who were eligible in 1994 but did not obtain a Puget Sound shrimp trawl experimental fishery permit, or individuals who have withdrawn from the fishery, are excluded from application for a future Puget Sound shrimp trawl experimental fishery permit. Owners of vessels from which Puget Sound shrimp were landed with trawl gear during the eligibility period, but who did not qualify for a 1994 Puget Sound shrimp trawl experimental fishery permit, are eligible for application for a future Puget Sound shrimp pot experimental fishery permit, beginning with the owner of the vessel of vessels from which the highest non-qualifying catch was made and progressing to the lowest non-qualifying catch. If the pool of fishers who landed shrimp during the qualifying period is exhausted, new fishers will be invited to apply and will be selected at random from the applicants.

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

#### NEW SECTION

**WAC 220-88A-050 Emerging commercial fishery—Puget Sound shrimp experimental fishery permits—Nontransferability.** Puget Sound shrimp pot experimental fishery permits and Puget Sound shrimp trawl experimental fishery permits are nontransferable. The following conditions apply to issuance and use of these permits:

(1) A permit will only be issued to an individual who is a natural person.

(2) The permittee must be aboard the vessel during all fishing operations and must sign all fish receiving tickets, except that the director may allow operation of the gear and sale of the shrimp by an alternate operator in the case of a bona fide medical emergency for which the permittee has presented a physician's statement which includes the medical condition and expected date of recovery. Any permittee who misses an entire season is deemed to have withdrawn from the fishery.



NEW SECTION

**WAC 220-88A-060 Emerging commercial fishery—Puget Sound shrimp—Shrimp districts.** The following areas are defined as Puget Sound shrimp fishing districts:

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

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

(c) Shrimp District 3 - (Port Angeles) Waters inside Ediz Hook west of a line from the tip of Ediz Hook to the ITT Rayonier Dock.

(d) Shrimp District 4 - (Sequim Bay) Waters of Sequim Bay south of a line projected true west from Travis Spit on the Miller Peninsula.

(e) Shrimp District 5 - (Hood Canal) Water south of the Hood Canal Floating Bridge.

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

NEW SECTION

**WAC 220-88A-070 Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restriction.** It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) Seasons - All waters of Puget Sound are open to shellfish pot gear April 16 through October 15 except:

(a) Open in Shrimp Districts 1, 2, and 3 from May 16 through September 15 only, except those waters of Shrimp District 1 within a line from the entrance to the Cape George Marina projected southwesterly to the easternmost tip of Diamond Point thence southeasterly to the westernmost tip of Beckett Point thence following the shore to the point of origin are closed to shrimp fishing.

(b) Closed in Shrimp Districts 4, 5 and 6 unless opened by emergency regulation.

(2) Gear restrictions -

(a) In all areas, maximum 100 pots per fisher, except:

(i) Maximum 75 pots per fisher in Marine Fish-Shellfish Management and Catch Reporting Area 28B.

(ii) Maximum 25 pots per fisher in Shrimp District 1.

(iii) Maximum 50 pots per fisher in Shrimp Districts 2 and 5.

(iv) Maximum 10 pots per fisher in Shrimp District 3.

(b) In all shrimp districts:

(i) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(ii) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(c) In Shrimp Districts 2 and 5:

(i) The entire top, bottom and sides of the pot, except entrance tunnels, must be constructed of mesh material

having a minimum mesh of such size that that a 7/8 inch square peg can pass through without changing the shape of the opening.

(ii) All entrance tunnels must open into the pot from the sides.

(iii) The sum of the maximum widths of all entrance tunnels must not exceed one-half of the perimeter of the bottom of the pot.

(3) Spot shrimp size restriction: It is unlawful to possess spot shrimp taken by shellfish pot gear that average more than 20 shrimp per pound as sampled by a minimum of two samples of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession.

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

NEW SECTION

**WAC 220-88A-080 Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear.** It is unlawful to fish for shrimp for commercial purposes in Puget Sound using trawl gear except as provided for in this section:

(1) Seasons - All waters of Puget Sound are open to trawl gear April 16 through October 15 except closed in:

(a) Shrimp Districts 1, 2, 3, 4, 5, and 6.

(b) Waters closed to trawl fishing in WAC 220-48-015.

(2) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

**WSR 94-03-099**

**PROPOSED RULES**

**LOTTERY COMMISSION**

[Filed January 19, 1994, 10:57 a.m.]

Original Notice.

Title of Rule: New sections WAC 315-11A-118 Instant Game Number 118 ("Aces Wild"), 315-11A-119 Instant Game Number 119 ("Big Bucks"), 315-11A-120 Instant Game Number 120 ("Lucky Deal"), 315-11A-121 Instant Game Number 121 ("Hog Mania"); and amending WAC 315-34-040 Prizes for Lotto.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 118 (Aces Wild), 119 (Big Bucks), 120 (Lucky Deal), and 121 (Hog Mania); and to amend WAC 315-34-040.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeff 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-118, 315-11A-119, 315-11A-120, and 315-11A-121, 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: The proposal amends WAC 315-34-040 to eliminate references to prize allocation, prize pool and prize reserve.

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

The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, 814 4th Avenue, Olympia, WA 98506, on March 4, 1994, at 10:00 a.m.

Submit Written Comments to: Jeff Burkhardt, Lottery, P.O. Box 43025, Olympia, WA 98504-3025, by March 3, 1994.

Date of Intended Adoption: March 4, 1994.

January 12, 1994  
Evelyn P. Yenson  
Director

**NEW SECTION**

**WAC 315-11A-118 Instant Game Number 118 ("Aces Wild"). (1) Definitions for Instant Game Number 118.**

(a) Play symbols: The following are the "play symbols": "8," "9," "10," "J," "Q," "K," and "A." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 118, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
8	EGT
9	NIN
10	TEN
J	JAC
Q	QUE

K	KNG
A	ACE

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$7.00," "\$12.00," "\$21.00," "\$40.00," "\$400.00," and "\$4,000." 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 card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 118, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 7.00	SVN DOL
\$ 12.00	TLV DOL
\$ 21.00	TTN DOL
\$ 40.00	\$FORTY\$
\$ 400.00	FORHUND
\$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 11800001-1-000 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 118 constitute the "pack number" which starts at 11800001; 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 \$600.00 or less. For Instant Game Number 118, 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
FOR	\$ 4.00 (\$1, \$1, \$1, AND \$1; \$2, \$1, AND \$1)
SVN	\$ 7.00 (\$2, \$2, \$2, AND \$1; \$7)
TLV	\$ 12.00 (\$7, \$2, \$2, AND \$1; \$12)
TTN	\$ 21.00 (\$12, \$7, AND \$2; \$21)
FRY	\$ 40.00
FRH	\$400.00

(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 118.**

(a) The price of each instant game ticket shall be \$1.00.  
 (b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has an "A" play symbol shall be entitled to the prize shown below the "A."

(iii) 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 118 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 118; and/or

(ii) Vary the number of tickets sold in Instant Game Number 118 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 118.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 118 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 card" 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-119 Instant Game Number 119 ("Big Bucks"). (1) Definitions for Instant Game Number 119.**

(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 seven play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the seven 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 119, 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," "\$3.00," "\$5.00," "\$10.00," "\$20.00," "\$50.00," "\$100.00," and "\$10,000." 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 symbols 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 119, 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

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 11900001-1-000 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 119 constitute the "pack number" which starts at 11900001; 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 \$600.00 or less. For Instant Game Number 119, 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>	
TWO	\$ 2.00	(\$1 AND \$1; \$2)
THR	\$ 3.00	(\$1, \$1, AND \$1; \$3)
SIX	\$ 6.00	(\$2, \$2, AND \$2; \$2, \$2, 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)
FTY	\$ 50.00	
OHN	\$100.00	(\$50 AND \$50)

(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 119.**

(a) The price of each instant game ticket shall be \$2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly one of the two play symbols 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 119 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 119; and/or

(ii) Vary the number of tickets sold in Instant Game Number 119 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 119.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 119 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the seven 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 captions, 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-120 Instant Game Number 120 ("Lucky Deal"). (1) Definitions for Instant Game Number 120.**

(a) Play symbols: The following are the "play symbols": "8," "9," "10," "J," "Q," and "K." One of these play symbols appears in each of the 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 card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play

symbol caption. For Instant Game Number 120, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
8	EGT
9	NIN
10	TEN
J	JAC
Q	QUE
K	KNG

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$4.00," "\$7.00," "\$14.00," "\$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 card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 120, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 14.00	FRN DOL
\$ 21.00	TTN DOL
\$ 50.00	\$FIFTY\$
\$ 500.00	FIVHUND
\$ 5,000	FIVTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12000001-1-000 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 120 constitute the "pack number" which starts at 12000001; 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 \$600.00 or less. For Instant Game Number 120, 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
FOR	\$ 4.00 (\$1, \$1, \$1, AND \$1; \$4)
SVN	\$ 7.00 (\$4, \$1, \$1, AND \$1; \$7)
FRN	\$ 14.00 (\$7 AND \$7; \$14)
TTN	\$ 21.00 (\$14 AND \$7; \$7, \$7, AND \$7; \$21)

FTY	\$ 50.00
FVH	\$500.00

(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 120.**

(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 five play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 120 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 120; and/or

(ii) Vary the number of tickets sold in Instant Game Number 120 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 120.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 120 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six 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-121 Instant Game Number 121 ("Hog Mania"). (1) Definitions for Instant Game Number 121.**

(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 121, 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," "\$24.00," "\$40.00," "\$80.00," and "\$8,000." 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 121, 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
\$ 24.00	TTF DOL
\$ 40.00	\$FORTY\$
\$ 80.00	\$EIGHTY
\$ 8,000	EGTTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12100001-1-000 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 121 constitute the "pack number" which starts at 12100001; 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 \$600.00 or less. For Instant Game Number 121, 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
THR	\$ 3.00 (\$1, \$1, AND \$1; \$3)
EGT	\$ 8.00 (\$5, \$1, \$1, AND \$1; \$8)
SXT	\$ 16.00 (\$8 AND \$8; \$16)
TTF	\$ 24.00 (\$8, \$8, AND \$8; \$24)
FRY	\$ 40.00
ETY	\$ 80.00

(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 121.**

(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 121 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 121; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 121 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 121.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 121 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.

**AMENDATORY SECTION** (Amending WSR 93-03-008, filed 1/8/93, effective 2/8/93)

**WAC 315-34-040 Prizes for Lotto.** (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, third and fourth prize categories vary due to parimutuel calculation of prizes.

WINNING COMBINATIONS	PRIZE CATEGORIES	ODDS OF WINNING (ONE PLAY)
All six winning numbers in one play	First Prize (Jackpot)	1:13,983,816
Any five but not six winning numbers in one play	Second Prize	1:54,201

Any four but not five or six winning numbers in one play	Third Prize	1:1,033
Any three but not four, five or six winning numbers in one play	Fourth Prize	1:57

(2) ~~((Prize allocation. The prize allocation consists of forty eight percent of Lotto revenue. The prize allocation will be divided between the prize pool and the prize reserve as follows: prize pool forty six percent of Lotto revenue; prize reserve two percent of Lotto revenue.))~~ Reserved.

(3) Prize amounts.

(a) First prize (jackpot). The first prize will be the amount announced by the director as the Lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence). ~~((The director may utilize the prize reserve to augment the cash available to fund the jackpot prize. Any revenue remaining in the prize pool after providing sufficient moneys for payment of all first, second, third, and fourth prizes of that drawing shall be placed in the Lotto prize reserve for use pursuant to the terms of WAC 315-34-040 (3)(e).))~~

(b) Second prize. ~~((Five percent of the prize pool is to))~~ 2.3 percent of the sales for the drawing shall be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. ~~((Ten percent of the prize pool is to))~~ 4.6 percent of the sales for the drawing shall be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. ~~((Twenty one percent of the prize pool is to))~~ 9.66 percent of the sales for the drawing shall be divided equally among all players who selected three of the six winning numbers in one play (in any sequence).

(e) ~~((Prize reserve. The prize reserve will be held for payment of prizes at the discretion of the director.))~~ Reserved.

(f) Second and third prizes will be rounded down to the nearest dollar. Fourth prize will be rounded to the nearest dollar. ~~((The remainder or shortages, if any, from the rounding process shall be placed in or taken from the prize reserve.))~~

(g) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(h) The holder of two or more jackpot winning tickets with a cumulative total cash value of \$250,000 or more may elect to receive a single prize based on the total cash value with prize payments in accordance with subsection (5)(a) or (b) of this section.

(i) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

(4) Roll-over feature.

(a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will

be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing (~~(or placed in the prize reserve for future consideration at the discretion of the director)~~).

(c) If no player selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing (~~(or placed in the prize reserve for future consideration at the discretion of the director)~~).

(d) If no player selects three of the six winning numbers for any given drawing, the fourth prize allocation will be added to the jackpot accumulation for the next drawing (~~(or placed in the prize reserve for future consideration at the discretion of the director)~~).

(5) Prize payments will be made in accordance with WAC 315-30-030(6).

(a) Each prize that has a cash value of \$500,000 or more shall be paid in twenty annual payments.

(b) Each prize that has a cash value of more than \$250,000 but less than \$500,000 shall, at the discretion of the director, be paid either in ten annual payments or twenty annual payments.

(c) Each prize that has a cash value of \$250,000 or less shall be paid in a single payment.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form designated by the director.

**WSR 94-03-105**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**

[Filed January 19, 1994, 11:57 a.m.]

Original Notice.

Title of Rule: Personal use rules.

Purpose: Amend rules for personal use harvest of food fish and shellfish.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-16-460, new rule defining Titlow Beach Marine Preserve Area. Needed for regulatory proposals on harvest; WAC 220-56-100, amends definition of Bonilla-Tatoosh line to provide clarification and slightly expands recreational fishing area; WAC 220-56-105, new definition of Elochoman River mouth provides management of Elochoman Slough identical with Columbia River, amend Sammamish River mouth definition to provide correct name of bridge; WAC 220-56-123, new provisions for Westport Boat Basin to prevent snagging and a disorderly fishery; WAC 220-56-124, amend season at hatchery to extend fishery two additional weeks for harvest opportunity but close earlier in the evening to provide a more orderly fishery; WAC 220-56-128, amend hatchery closure zone for clarification and close food fish fishery at Titlow Preserve; WAC 220-56-190, note new provisions for Westport Boat Basin. This section is opened for amendments to salmon seasons that will result from actions by the Pacific Fisheries Management Council; WAC 220-56-191, this section is

opened for amendments to salmon seasons that will result from actions by the Pacific Fisheries Management Council; WAC 220-56-195, rescind Dabob and Quilcene Bay closures and manage concurrent with Hood Canal as spring chinook returns do not warrant closure; WAC 220-56-235, clarify bottomfish season open all year; amend rockfish bag limit to three fish in Areas 5-13 to reduce the harvest rate on rockfish; WAC 220-56-240, clarify season open all year; WAC 220-56-245, amend halibut bag limit to conform with federal recommendations; WAC 220-56-255, amend halibut seasons to conform with federal recommendations; WAC 220-56-285, amend sturgeon catch areas to close Snake River upstream from Lower Granite Dam and clarify boundary at Bonneville Dam in order to protect sturgeon; WAC 220-56-315, clarify buoy requirements for Hood Canal shrimp fishery; WAC 220-56-307, amend to include Titlow Preserve; WAC 220-56-320, clarify measurement of crab escape rings; WAC 220-56-350, amend hardshell clam closures to reflect harvest opportunity based on stock abundance; WAC 220-56-380, amend oyster closures to reflect harvest opportunity based on stock abundance; WAC 220-56-382, amend immediate family exemption to harvest rules to reflect 1993 legislative changes; WAC 220-56-390, clarify squid and octopus fisheries are open all year; WAC 220-56-400, amend abalone seasons to close during the spring and summer. Abalone abundance is declining and additional protection is needed; WAC 220-56-405, clarify that sea urchin fishery is open year around; WAC 220-56-410, clarify that sea cucumber fishery is open year around; and WAC 220-56-415, new section clarifying that goose barnacle season is open year around; chapter 220-57 WAC, salmon seasons in rivers are proposed based on preseason projections and expected action by the Pacific Fisheries Management Council except as follows: WAC 220-57-425, a closed zone within 200 feet of the mouth of the Baker River is proposed to protect milling sockeye salmon. These fish are needed for a rebuilding of the salmon stocks in the river and lakes; and WAC 220-57A-012 and 220-57A-152, closure of Baker Lake and Shannon Reservoir to salmon fishing is proposed to assist in the rebuilding of salmon stocks from these areas. This closure complements the Skagit River protection zone at the mouth of the Baker River.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, P.O. Box 43147, Olympia, WA, 902-2930; Implementation: Gene DiDonato and Mary Lou Mills, P.O. Box 43135, Olympia, 902-2200; and Enforcement: Dayna Matthews, P.O. Box 43147, Olympia, WA, 902-2927.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

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

These rules affect recreational fishers.

Hearing Location: The department will hold public hearings on Saturday, February 26, 1994, beginning at 10:00

a.m. at the following locations: Longview, Founders Room, Lower Columbia College, 1600 Maple, Longview, WA; Des Moines, Lecture Hall, Highline Community College, 2400 South 240th and Pacific Highway South, Des Moines, WA; Port Angeles, Lecture Hall, Peninsula College, 1502 East Lauridsen, Port Angeles, WA; and Wenatchee, Auditorium, Chelan County Public Utility District, 327 North Wenatchee Avenue, Wenatchee, WA.

Submit Written Comments to: Hearings Officer, Department of Fisheries, P.O. Box 43147, Olympia, WA 98504, by February 25, 1994.

Date of Intended Adoption: March 25, 1994.

January 19, 1993 [1994]

Robert Turner

Director

**NEW SECTION**

**WAC 220-16-460 Titlow Beach Marine Preserve Area.** The "Titlow Beach Marine Preserve Area" is defined as all waters and tidal and submerged lands within a line beginning at the mean high water line at the southernmost point of the Tacoma Outboard Association leasehold, then projected at a forty-five degree angle from the shoreline in a southerly direction to the intersection with the inner harbor line, then following the inner harbor line to the mean high water line opposite the Sixth Avenue extension, then following the mean high water line to the point of origin.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**AMENDATORY SECTION** (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

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

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.



Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Elochoman River - A line projected across the mouth at the entrance to Elochoman Slough.

Entiat River - Highway 97 Bridge.

Germany Creek - Downstream side of the Highway 4 Bridge.

Hoquaim River - Highway 101 Bridge.

Humptulips River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a boundary marker on a piling at Austin Point southerly across the Lewis River to a boundary marker on the opposite shore.

Methow River - Highway 97 Bridge.

Mill Creek - Downstream side of the Highway 4 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - ~~((Kenmore Highway))~~ 68th Avenue NE Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

Tucannon River - State Highway 261 Bridge.

Wallace River - The furthest downstream railroad bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the south-westerly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River - Highway 14 Bridge.

Little White Salmon River - At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River - Highway 101 Bridge.

Yakima River - Highway 240 Bridge.

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 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-124 Unlawful provisions—Hoodspport Hatchery.** During the period October 16 through ~~((November 30))~~ December 15, those waters of Catch Record Card Area 12 within a 1,000 foot arc seaward of yellow buoys at the mouth of Finch Creek at the Hoodspport Salmon Hatchery are regulated as provided for in this section:

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

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

(3) During the period October 16 through ~~((November 30))~~ December 15 it is unlawful to fish for or possess salmon taken from these waters from ~~((4:00))~~ 8:00 p.m. to 6:00 a.m.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

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

(1) ~~((Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla Tatoosh Line:~~

~~((a) May 1 through May 31 or chinook quota of 1,000, whichever occurs first—Bag Limit F except no coho may be retained.~~

~~((b) August 15 or when Area 4 quota is taken, whichever occurs later—Bag Limit F until coho quota of 12,000 taken.~~

~~((2) Pacific Ocean coastal waters: All waters west of the mouth of the Sekiu River, the Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10.~~

~~((a) Catch Record Card Area 4—July 12 through September 30, or 19,700 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than six salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

PROPOSED

~~(b) Catch Record Card Area 3—July 5 through September 30, or 4,000 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than six salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

~~(c) Catch Record Card Area 2 inside and shoreward of the 25 fathom curve—July 5 through September 30, or 77,100 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

~~(d) Catch Record Card Area 1—July 5 through September 9, or 96,300 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only. September 12—September 30, or 5,000 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only. During the fisheries provided for in this section, waters described in WAC 220-56-195(8) (Columbia River Mouth Conservation Zone 1; Control Zone 1) are closed to salmon fishing.~~

~~(e) For purposes of this section, all salmon retained from Catch Record Card Areas 1, 2, 3, and 4, during the coastal salmon season except for salmon taken from Area 4 east of the Bonilla-Tatoosh Line after August 15, and salmon taken from Grays Harbor and Willapa Bay Areas 2-1 and 2-2 prior to August 16 count as part of the cumulative catch for the seven consecutive day period.~~

~~(3)) Salmon seasons in the Strait of Juan de Fuca west of the mouth of the Sekiu River and coastal waters will be determined after meetings of the Pacific Fisheries Management Council. Fishers are put on notice that seasons are likely to change based on expected low returns of coho salmon.~~

~~(2) Grays Harbor (Catch Record Card Area 2-2) (a) Open to salmon angling coincidentally with the season, daily and weekly bag limits, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2). Lawful to fish from the bank only of the north and south jetties 7 days per week when the recreational season is in progress in adjacent ocean waters, (b) Bag Limit A - August 16 through September 15 in the Westport and Ocean Shores boat basins only, (c) Bag Limit A - September 16 through January 31: Waters of Catch Record Card Area 2-2 east of the Channel Marker 13 Line. There are additional restrictions at the Westport Boat Basin as provided for in WAC 220-56-123.~~

~~((4)) (3) Willapa Bay (Catch Record Card Area 2-1) (a) Open to salmon angling coincidentally with the season, daily and weekly bag limits, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2), (b) Bag Limit A - August 16 through January 31.~~

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

**WAC 220-56-195 Closed areas—Saltwater salmon angling.** The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McClinn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 15.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

~~(4) ((Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April 16 through August 15.~~

~~((5)) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulakala Point are closed to salmon angling April 16 through June 30.~~

~~((6)) (5) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.~~

~~((7)) (6) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through September 30.~~

~~((8)) (7) Columbia River Mouth Conservation Zone 1: Washington waters within Conservation Zone 1, which Conservation Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° true to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when~~

adjacent waters north of the Conservation Zone are open to salmon angling or the Buoy 10 fishery is open.

~~((9))~~ (8) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed from April 16 through June 30.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-235 Possession limits—Bottomfish.** It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

- (1) Coastal (Catch Record Card Areas 1 through 4):
  - (a) Lingcod:
    - (i) 3 fish in Catch Record Card Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line;
    - (ii) 2 fish in Catch Record Card Area 4 east of the Bonilla-Tatoosh line.
  - (b) Rockfish - 12 fish except 15 fish if taken from Catch Record Card Area 1.
  - (c) Surfperch (excluding shiner perch) - 15 fish.
  - (d) Wolfeel - 2 fish east of the Bonilla-Tatoosh line.
  - (e) Cabezon - 2 fish east of the Bonilla-Tatoosh line.
  - (f) All other species - no limit.
- (2) Inner Puget Sound (Catch Record Card Areas 5 through 13):
  - (a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	<del>((40))</del> 3 fish
Surfperch	10 fish
Pacific cod	15 fish
Pollock	15 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	2 fish
Cabezon	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish	<del>((40))</del> (3) fish
Surfperch	10 fish
Pacific cod	15 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish

(c) Catch Record Card Areas 8-1 through 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	<del>((5))</del> (3) fish
Surfperch	10 fish
Pacific cod	2 fish

Pollock	5 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish

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

(e) The daily bag limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

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

AMENDATORY SECTION (Amending Order 93-125, filed 10/20/93, effective 1/1/94)

**WAC 220-56-240 Bag limits—Other food fish.** It is unlawful for any one person to fish for or possess in any one day more than the following quantities and sizes of food fish taken for personal use. Unless otherwise provided, other food fish fishing is open the entire year:

- (1) Sturgeon:
  - (a) 1 fish not less than 48 inches nor more than 66 inches in length in the Columbia River and tributaries upstream from the Dalles Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.
  - (b) 2 fish with the following size restrictions in all other state waters:
    - (i) Minimum size is 42 inches in length;
    - (ii) Maximum size is 66 inches in length;
    - (iii) Not more than one of the two fish may be less than 48 inches in length; and
    - (iv) Not more than one of the two fish may equal or exceed 48 inches in length.
  - (c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.
  - (d) There is an annual personal use bag limit of 10 sturgeon.
- (2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.
- (3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.
- (4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

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

(a) 1 halibut taken from Catch Record Card Areas 1, 2, 3, and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh Line in any one day.

(b) ~~((2))~~ 1 halibut taken from those waters of Catch Record Card 4 east of the Bonilla-Tatoosh Line and Catch Record Card Areas 5 through 13.

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

**AMENDATORY SECTION** (Amending WSR 93-15-011, filed 7/8/93, effective 8/8/93)

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

- (1) Catch Record Card Areas 1 and 2: May 20 through June 10 - Thursdays and Fridays only. July 2 through September 30 - Fridays only.
- (2) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: May 1 until 85 percent of the quota has been taken; July 2 until the quota has been taken Fridays and Saturdays only.
- (3) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: May ((+3)) 1 through July 18 - Open 12:01 a.m. Thursday through 11:59 p.m. Tuesday of each week during the open period (closed Wednesdays).

**AMENDATORY SECTION** (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-285 Shad and sturgeon—Areas and seasons.** It is lawful the entire year to fish for or possess sturgeon and shad taken for personal use except in the following closed waters:

- (1) Waters lying one mile downstream below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except as provided in subsections (2) and (3) of this section.
- (2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River and all waters of the Snake River upstream from Lower Granite Dam.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville powerline crossing, approximately 1-1/4 mile downstream from the dam, are closed to the fishing for or possession of sturgeon, except when fishing with hand-casted hook and line gear from the mainland shore in those waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island thence to the Oregon angling boundary marker on Bradford Island (located approximately ((600)) 850 feet downstream from the fish ladder entrance to the lowermost Bonneville Dam powerline crossing. Closed to angling inside the south navigation lock at Bonneville Dam from a marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore.

**AMENDATORY SECTION** (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts.** (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters other than Shrimp District 5 it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp.

(b) In Shrimp District 5 (Hood Canal) it is unlawful to use more than one shrimp pot and one crab pot or ring net during the Hood Canal shrimp season. ((Only one)) Each unit of gear ((may be)) must be attached only to ((a)) its own buoy line and buoy during the Hood Canal shrimp fishery.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot.

**AMENDATORY SECTION** (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-320 Shellfish gear—Unlawful acts.** (1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half red or half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

Effective January 1, 1996, it is unlawful to fish for crab with shellfish pot gear unless such gear has two escape rings located in the upper half of the pot:

(a) Not less than 4-1/4 inches ~~((#))~~ inside diameter if used in Puget Sound outside Hood Canal; or

(b) Not less than 4-1/8 inches ~~((#))~~ inside diameter if used in Hood Canal, the Columbia River, Grays Harbor, Willapa Bay, or the Pacific Ocean.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

AMENDATORY SECTION (Amending WSR 93-15-011, filed 7/8/93, effective 8/8/93)

**WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons.** (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Belfair State Park - Closed the entire year.

(b) Brown Point - DNR Beach 57-B is open April 16 through May 15.

~~((#))~~ (c) Camano Island State Park: Open June 1 through June 30.

(d) Dabob Bay - All WDF-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows: WDF-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and WDF-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(e) Duckabush - All WDF-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of calms and oysters.

~~((#))~~ (f) Fort Flagler State Park: Open April 16 through June 15.

~~((#))~~ (g) Garrison Bay: Tidelands at Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed the entire year.

~~((#))~~ (h) Hoodsport: Tidelands at Hoodsport Salmon Hatchery are closed the entire year.

~~((#))~~ (i) Hope Island State Park: Open April 16 through June 30.

~~((#))~~ (j) Illahee State Park: Open April 16 through July 31.

~~((#))~~ (k) Kayak Point County Park: All tidelands are closed except tidelands north of the county fishing pier are open April 16 through May 15 of even-numbered years and tidelands south of the county fishing pier are open April 16 through May 15 of odd-numbered years.

(l) Liberty Bay - All WDF-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

(m) North Bay - All WDF-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except as follows: WDF-owned Oyster Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet will remain open.

~~((#))~~ (n) Oak Bay, East: Open April 16 through May 31.

~~((#))~~ (o) Oak Bay, West: Open April 16 through June 30.

~~((#))~~ (p) Oyster Reserves: Puget Sound state oyster reserves are closed the entire year except the following are open the entire year:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet.

(ii) Oakland Bay: Tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

((+)) (g) Penrose Point State Park: Open April 16 through April 30.

((+)) (r) Point Whitney: Open April 16 through May 31.

((+)) (s) Point Whitney Lagoon: Open May 15 through May 31.

((+)) (t) Point White: Open April 16 through September 30.

(u) Quilcene Bay - All WDF-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of calms the entire year.

((+)) (v) Rendsland Creek: Open April 16 through June 15.

((+)) (w) Shine Tidelands: Open April 16 through July 15.

((+)) (x) Spencer Spit State Park: Open April 16 through July 31.

((+)) (y) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.

((+)) (z) Twanoh State Park: Closed the entire year.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-380 Oysters—Areas and seasons.** (1)

It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point: DNR Beach 57-B is closed the entire year.

(b) Dabob Bay - All WDF-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows: WDF-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and WDF-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(c) Dewatto Bay: DNR Beach 44-A is open April 16 through July 15.

(d) Duckabush - All WDF-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of oysters the entire year.

((+)) (e) Eagle Creek: Open April 16 through July 31.

~~((+))~~ (f) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

~~((+))~~ (g) Illahee State Park: Open April 16 through April 30.

~~((+))~~ (h) Kitsap Memorial State Park: Open May 16 through June 30.

(i) Liberty Bay - All WDF-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

(j) North Bay - All WDF-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year, except as follows: WDF-owned Oysters Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet will remain open.

~~((+))~~ (k) Oyster Reserves: All Puget Sound oyster reserves are closed the entire year.

~~((+))~~ (l) Point Whitney Lagoon: Open July 1 through July 31.

~~((+))~~ (m) Potlatch State Park: Open April 16 through July 15.

~~((+))~~ (n) Potlatch: Beach 27044 is open April 16 through May 31.

(o) Quilcene Bay - All WDF-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams and oysters.

~~((+))~~ (p) Rendsland Creek: Open April 16 through July 31.

~~((+))~~ (q) Scenic Beach State Park: Open April 16 through July 15.

~~((+))~~ (r) Triton Cove State Park: Open April 16 through July 15.

(2) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

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

~~(2) ((It shall be unlawful for private tideland owners or lessees of state tidelands to allow any person other than the owner or lessee or immediate family of the owner or lessee to transport or possess unfrozen or unprocessed oysters, clams, cockles, borers, or mussels away from their owned or leased tidelands or adjoining owned or leased uplands in excess of the daily bag limit. Immediate family for purposes of this section means spouse, grandparent, parent, sibling, child, or grandchild. Immediate family members may take up to two times the daily bag limit of shellfish as provided for in WAC 220-56-310. Immediate family members possessing written authorization on their person may take shellfish in amounts not exceeding the presumption commer-~~

~~cial harvest amounts in RCW 69.30.010(8). No person may take commercial quantities of shellfish without department of health certification.~~

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

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-390 Squid, octopus.** It is lawful to take fish for squid and octopus the entire year.

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

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

**WAC 220-56-400 Abalone.** (1) It is unlawful to fish for or possess abalone taken for personal use from May 1 through September 30 each year.

(2) It is unlawful to remove undersized abalone from an attachment. Persons fishing for abalone must possess a 4-inch caliper and use it to determine if the abalone is of legal size before it is removed from its attachment.

~~((2))~~ (3) The first three legal size abalone taken must be retained, and it is unlawful to detach abalones once the daily bag limit has been taken.

~~((3))~~ (4) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

~~((4))~~ (5) Abalone harvest is limited to use of hands or abalone irons. Abalone irons must be less than 24 inches in length, straight, wider than 3/4 inch and thicker than 1/16 inch. All edges must be rounded. Use of curved irons, knives, or other sharp instruments is prohibited.

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

**WAC 220-56-405 Sea urchins.** (1) It is lawful to fish for sea urchins for personal use the entire year.

(2) It shall be lawful to take, fish for and possess sea urchins for personal use with any hand-operated instrument which does not penetrate the shell.

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

**WAC 220-56-410 Sea cucumbers.** (1) It is lawful to fish for sea cucumbers for personal use the entire year.

(2) It shall be lawful to take, fish for and possess sea cucumbers for personal use with any hand-operated instrument which does not penetrate the animal.

## NEW SECTION

**WAC 220-56-123 Unlawful provisions—Westport Boat Basin.** During the period July 1 through November 30, in the waters of the Westport Boat Basin:

(1) It is unlawful to fish for or possess salmon taken for personal use using any gear other than the gear provided for in this section:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook may not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have no more than two single hooks each of which may not exceed 3/4 inch from point to shank.

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

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

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

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

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

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(15) Waters of the Titlow Beach Marine Preserve Area are closed to the taking of food fish at all times.

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

**WAC 220-56-305 Sturgeon—Snake River.** It is unlawful to fish for and possess sturgeon taken for personal use from those waters of the Snake River within 400 feet down stream below any dam, rack or obstruction, and ~~((#))~~ it is unlawful to fish for or possess sturgeon taken from any waters of the Snake River ((and)) or tributaries upstream from ((the powerline crossing below the U.S. 12 Bridge at Clarkston, it is unlawful for anglers to retain any sturgeon and those hooked must be immediately released and returned to the water)) Lower Granite Dam.

NEW SECTION

**WAC 220-56-415 Goose barnacles.** It is lawful to take goose barnacles for personal use the entire year.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

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

~~(1) ((Catch Record Card Areas 5 and 6:  
(a) May 1 through June 15—Special daily bag limit of two salmon, except that all chinook salmon greater than 30 inches in length and all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(b) June 16 through July 15—Special daily bag limit of two salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) July 16 through September 6—Special daily bag limit of two salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(d) September 7 through October 31—Closed to salmon angling.~~

~~(e) November 1 through April 30—Bag Limit H, except that after April 15, all chinook greater than 30 inches in length must be released.~~

~~(2) Catch Record Card Area 7:~~

~~(a) November 1 through June 30—Bag Limit H, except during the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.~~

~~(b) July 1 through October 31—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(3) Catch Record Card Area 8-1:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through September 6—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) September 7 through October 31—Closed to salmon angling.~~

~~(4) Catch Record Card Area 8-2:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through October 31—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(5) Catch Record Card Area 9:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through September 6—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) September 7 through September 30—Closed to salmon angling except:~~

~~(i) Fishing allowed when fishing from the Edmonds Public Fishing Pier—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(ii) Fishing for pink salmon allowed in those waters west of Whidbey Island from Bush Point to Lagoon Point and within one quarter mile of the shoreline—Special daily bag limit of 2 pink salmon and all other salmon must be released. In the fishery provided for in this subsection, terminal gear is limited to pink or red artificial squid lures with barbless hook(s). Either a single hook with single or double points or not more than two single hooks may be used. A flasher or dodger may be used. Bait of any kind is prohibited.~~

~~(d) October 1 through October 31—Special daily bag limit of 2 salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches in length, but there is no minimum size for other salmon.~~



~~(6) Catch Record Card Areas 10, 11, and 13 - Bag Limit G.~~

~~(7) Catch Record Card Area 12 - Special daily bag limit of 3 salmon of which no more than 2 may be chinook salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(8)) Salmon seasons in Puget Sound east of the mouth of the Sekiu River will be determined after meetings of the Pacific Fisheries Management Council. Fishers are put on notice that seasons are likely to change based on expected low returns of coho salmon.~~

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

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

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

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

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

(3) The Titlow Beach Marine Preserve Area.

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

**WAC 220-57-140 Chehalis River.** (1) Bag Limit A - May 1 through June 30: Downstream from the Porter Bridge.

(2) Bag Limit A - July 1 through ~~((January 31))~~ September 30: Downstream from the ~~((Fuller Bridge to the Union Pacific Railroad Bridge in Aberdeen))~~ Mellon Street Bridge in Centralia.

(3) Bag Limit A - ~~((September 1 through September 30))~~ October 1 through January 31: Downstream from ~~((Porter Bridge to the Fuller Bridge))~~ the Highway 603 Bridge. ~~((Coho salmon greater than 20 inches in length must be released immediately.))~~

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

**WAC 220-57-155 Clearwater River (Jefferson County).** Bag Limit A - ~~((July))~~ September 1 through November 30: Downstream from the mouth of the Snahpish River.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

**WAC 220-57-210 Duckabush River.** ~~((1) Special Bag Limit - 2 pink salmon - August 16 through October 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All salmon other than pink salmon must be released.~~

~~((2)) Special Bag Limit - 2 chum salmon ((or two pink salmon or 1 pink and 1 chum salmon)) - November 1 through ((December 15))~~ January 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All other salmon must be released immediately.

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

**WAC 220-57-215 Dungeness River.** Bag Limit A except that up to six coho salmon may be retained in the daily bag limit. Chinook salmon and pink salmon must be released immediately - October ~~((+))~~ 16 through December 31: Downstream from markers at Duncan Road, the former Taylor Bridge site, approximately one mile below the state salmon hatchery rack.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

**WAC 220-57-250 Grays River.** Bag Limit A - September 1 through ~~((December))~~ October 31: Open from mouth to 7000-line bridge. During the period October 1 through ~~((December))~~ October 31, chinook salmon greater than 28 inches in length must be released immediately in those waters upstream from the covered bridge. West Fork Grays River closed to salmon angling.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-57-255 Green River (Cowlitz County).** Bag Limit A - except chinook salmon greater than 28 inches in length must be released - open September 1 through November 30: Downstream from fishing boundary markers located 1500 feet below the Toutle Hatchery temporary rack. Open waters are restricted to fly fishing gear only and it is unlawful to use any gear except fly fishing gear.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-57-310 Kalama River.** (1) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - ~~((last Saturday in May))~~ June 1 through December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.

(2) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - ~~((last Saturday in May through~~

~~December 31~~) open the entire year: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.

(3) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only and lawful salmon angling gear in those waters upstream from the fly fishing area to a point 1,000 feet below the fishway at the upper salmon hatchery and downstream from the fly fishing area to the Interstate 5 Bridge is limited to bait or lures with one single point hook only, measuring not more than 1/2 inch from point to shank.

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-57-319 Lewis River.** (1) Mainstem - Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from east fork to mouth.

(2) East fork:

(a) Bag Limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag Limit A - (~~April~~) June 1 through December 31: Downstream from Lucia Falls to the LaCenter Bridge. All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North fork:

(a) Bag Limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the east fork, except that at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway.

(c) During the period September 1 through November 30, in those waters downstream from the mouth of Colvin Creek to the lower Cedar Creek concrete boat ramp, lawful salmon angling gear is limited to bait or lures with one single pointed hook only, which hook measures not more than 1/2 inch from point to shank.

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

**WAC 220-57-335 Naselle River.** (1) Bag Limit A - (~~July 4~~) October 16 through January 31: Downstream from the Highway 4 Bridge to Highway 101 Bridge.

(2) Bag Limit A - October 16 through January 31: Downstream from the Big Hill Bridge to the Highway 4 Bridge.

(3) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending 93-15-011, filed 7/8/93, effective 8/8/93)

**WAC 220-57-370 Puyallup River.** Bag Limit A - July 16 through November 30 except up to four adult coho salmon may be retained in the daily bag limit: Downstream from the mouth of the Carbon River to the 11th Street Bridge.

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

**WAC 220-57-400 Salmon River (Jefferson County).** Bag Limit A - September (~~16~~) 1 through November 30: Downstream from the Q 1000 Road Bridge including waters within Olympic National Park outside the boundaries of the Quinault Indian Reservation.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

**WAC 220-57-425 Skagit River.** (1) Bag Limit A - July 1 through July 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length, coho salmon and sockeye salmon must be released immediately. All waters of the Skagit River between a line projected across the thread of the river 200 feet above the east bank of the Baker River and a line projected across the thread of the river 200 feet below the west bank of the Baker River are closed.

(2) Special Bag Limit of six salmon per day, not more than three of which may be adult salmon - August 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length, coho salmon and sockeye salmon must be released immediately. All waters of the Skagit River between a line projected across the thread of the river 200 feet above the east bank of the Baker River and a line projected across the thread of the river 200 feet below the west bank of the Baker River are closed through August 15.

(3) Bag Limit A - June 16 through July 31: Downstream from Gilligan Creek. Not more than one of the adult salmon may be a chinook salmon. Coho salmon and sockeye salmon must be released immediately.

(4) Special Bag Limit of six salmon not more than one of which may be an adult chinook and not more than three of which may be adult salmon of any species (the three adult fish includes the chinook, if taken) - August 1 to December 31: Downstream from the mouth of Gilligan Creek. Coho salmon and sockeye salmon must be released immediately.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

**WAC 220-57-430 Skokomish River.** Bag Limit A - August 1 through August 31 except all coho salmon must be released and November 1 through December ~~((45))~~ 31, except all coho salmon must be released: Downstream from the Highway 101 Bridge. Terminal gear on the Skokomish River is limited to one bait or lure with one single-pointed hook only, measuring no more than 1/2 inch from point to shank.

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

**WAC 220-57-435 Skykomish River.** Bag Limit A - ~~((July))~~ September 1 through December 31 except all chinook salmon must be released: Downstream from the confluence of north and south forks. During even-numbered years it is unlawful to retain pink salmon.

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

**WAC 220-57-450 Snohomish River.** Bag Limit A - ~~((July))~~ September 1 through December 31 except all chinook salmon must be released: Downstream from confluence of Skykomish and Snoqualmie rivers. During even-numbered years it is unlawful to retain pink salmon.

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

**WAC 220-57-455 Snoqualmie River.** Bag Limit A - ~~((July))~~ September 1 through December 31 except all chinook salmon must be released. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

**WAC 220-57-473 Tilton River.** (1) Mainstem - Bag Limit A - ~~((last Saturday in May))~~ June 1 through December 31: Downstream from west fork Tilton River.

(2) North fork - Bag Limit A - ~~((last Saturday in May))~~ June 1 through October 31: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles).

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

**WAC 220-57-480 Toutle River.** ~~((Closed to salmon angling the entire year.))~~ Bag Limit A - except chinook salmon greater than 28 inches in length must be released - September 1 through November 30.

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

**WAC 220-57-490 Union River.** ~~((Special Bag Limit: Two adult chum salmon - November 1 through January 31: Downstream from the North Shore Road Bridge. Coho salmon must be released immediately.))~~ Closed the entire year.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-57-495 Washougal River.** Bag Limit A - ~~((January 1 through December 31))~~ June 1 through March 15 except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon: Downstream from bridge at Salmon Falls to mouth. During the period October 1 through December 31, in waters upstream from the mouth of Little Washougal River, chinook salmon over 28 inches in length must be released. From September 1 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-235 Elochoman River.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

**WAC 220-57-210 Duckabush River.** ~~((+)) Special Bag Limit - 2 pink salmon - August 16 through October 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All salmon other than pink salmon must be released.~~

~~((2))~~ Special Bag Limit - 2 chum salmon ~~((or two pink salmon or 1 pink and 1 chum salmon))~~ - November 1 through ~~((December 15))~~ January 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All other salmon must be released immediately.

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

**WAC 220-57-130 Bogachiel River.** Bag Limit A<sub>1</sub> except release all coho salmon - July 1 through November 30: Downstream from the Highway 101 Bridge.

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

**WAC 220-57-135 Calawah River.** Bag Limit A<sub>1</sub> except release all coho salmon - July 1 through November 30: Downstream from the Highway 101 Bridge.

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

**WAC 220-57-200 Dickey River.** Bag Limit A<sub>1</sub> except release all coho salmon - July 1 through November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary.

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

**WAC 220-57-230 Elk River.** Bag Limit A<sub>1</sub> except release all coho salmon - July 1 through January 31:

Downstream from the confluence of the west and middle forks to the Highway 105 Bridge.

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

**WAC 220-57-270 Hoh River.** (1) Bag Limit C - May 16 through November 30: Downstream from the mouth of the south fork Hoh to Morgan's Crossing boat launch site.

(2) Bag Limit A, except release all coho salmon - May 16 through November 30: Downstream from Morgan's Crossing boat launch site.

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

**WAC 220-57-280 Hoquiam River.** Main Hoquiam River, west fork of Hoquiam River downstream from the bridge on the Dekay Road and east fork of Hoquiam River downstream from the abandoned flat car bridge below the mouth of Berryman Creek - Bag Limit A, except release all coho salmon - July 1 through January 31.

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

**WAC 220-57-285 Humptulips River.** (1) Bag Limit C - July 1 through January 31: Downstream of confluence of east and west forks to Highway 101 Bridge.

(2) Bag Limit A, except release all coho salmon - July 1 through January 31: Downstream from the Highway 101 Bridge.

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

**WAC 220-57-300 Johns River.** Bag Limit A, except release all coho salmon - July 1 through January 31: Downstream from Old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.

AMENDATORY SECTION (Amending Order 93-20), filed 3/31/93, effective 5/1/93)

**WAC 220-57-350 Nooksack River.** (1) Bag Limit A except that up to six coho salmon may be retained in the daily bag limit - (~~August~~) September 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Bag Limit A - October 1 through December 31: Downstream from Maple Creek to mouth of north fork.

(3) South Fork - Bag Limit A - October 1 through December 31: Downstream from the Saxon Bridge to mouth of south fork.

(4) Closed to the taking of pink salmon.

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

**WAC 220-57-385 Quillayute River.** Bag Limit A, except release all coho salmon - March 1 through November

30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters.

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

**WAC 220-57-415 Satsop River.** Bag Limit A, except release all coho salmon - October 1 through January 31: Downstream from the bridge at Schafer State Park on east fork. Chinook salmon must be released immediately.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-57-465 Stillaguamish River.** Special Bag Limit of two (~~chum~~) salmon not more than one of which may be a coho salmon. All chinook and pink salmon must be released - October 16 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. (~~It is unlawful to take or possess chinook, coho or pink salmon.~~)

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

**WAC 220-57-520 Wishkah River.** Bag Limit A, except release all coho salmon - July 1 through January 31: Downstream from the mouth of the west fork.

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

**WAC 220-57-525 Wynoochee River.** Bag Limit A, except release all coho salmon - July 1 through January 31: Downstream from the mouth of Schafer Creek.

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

**WAC 220-57A-012 Baker Lake (Whatcom County).** (~~Bag Limit I.~~) Closed to salmon angling the entire year.

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

**WAC 220-57A-152 Shannon Reservoir (Skagit County).** (~~Bag Limit I.~~) Closed to salmon angling the entire year.

**WSR 94-03-106**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
[Filed January 19, 1994, 11:58 a.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend marine fish and shellfish rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-16-015, clarification only. No anticipated effect; WAC 220-20-021, amend sturgeon and lingcod size allowances. The sturgeon length conforms

Washington and Oregon maximum size, and is necessary to recruit additional sturgeon into the broodstock population. The upper size limit on lingcod provides protection for female lingcod; WAC 220-20-025, allows chemical irritants to take octopus for scientific display purposes. The Department of Ecology has stated that no water quality variance permit is needed; WAC 220-33-060, corrects error in mesh size and indicates licensing; WAC 220-44-020, provides for directed anchovy and candlefish fisheries, permit only herring and sardine fisheries, clarifies licensing and prohibits incidental take of sturgeon. Conforms to current practice; WAC 220-44-030, license clarification only. Incidental catch provisions are unchanged; WAC 220-44-090, provides a reporting mechanism to land species taken without the EEZ which would otherwise be prohibited. Increases fishing opportunity; WAC 220-48-001, clarification only; WAC 220-48-005, clarifies incidental catch. No change from current practice; WAC 220-48-011, prohibits use of roller trawl in inner Puget Sound. Will reduce catch of rockfish; WAC 220-48-015, closes Clallam, Skagit and Discovery bays to trawl fishing in order to reduce gear conflicts; WAC 220-48-016, clarifies licensing only; WAC 220-48-017, closes Port Susan whiting fishery due to lack of stock abundance; WAC 220-48-019, see WAC 220-48-011; WAC 220-48-028, 220-48-031, 220-48-041, 220-48-051, 220-48-061, and 220-48-071, clarify licensing only; WAC 220-49-005, clarification and definitional only; WAC 220-49-011, requires separate licensing for herring and other baitfish; WAC 220-49-012, requires separate licensing for herring and other baitfish and prohibits purse seine for smelt, in order to protect salmon smolts; WAC 220-49-013 and 220-49-014, requires separate licensing for herring and other baitfish; WAC 220-49-017, prohibits use of gill net for smelt to protect salmon smolts; WAC 220-49-020, amend baitfish seasons for baitfish spawning protection; WAC 220-49-021, recodification only; WAC 220-49-023, clarification and allowance for use of fax; WAC 220-49-024, partially eliminate live box identification requirements; WAC 220-49-056, amend smelt seasons to provide additional protection; WAC 220-49-057, clarification only; WAC 220-49-063 and 220-49-064, revise procedure for spawn on kelp auctions and reporting requirements in order to provide for competitive bidding and insure adequate data; WAC 220-52-010 and 220-52-018, clarify licensing only; WAC 220-52-019, eliminate distance and depth requirements; WAC 220-52-01901, 220-52-020 and 220-52-030, clarify licensing only; WAC 220-52-040, eliminate red rock crab and tanner crab permit fisheries. There is currently no harvest, and if interest is expressed, these fisheries will be authorized under the emerging commercial fisheries statutes; WAC 220-52-043, clarify licensing only; WAC 220-52-046, proposal standardizes procedure for participation in coastal crab fishery when Washington season is closed. Allows fishers to not participate in Oregon fishery and have harvest opportunity in Washington waters; WAC 220-52-050, clarifies licensing, prohibits pink shrimp fishing in territorial waters and sets bottomfish incidental catch limits. Since no pink shrimp occur within territorial waters and the coastal bottomfish limits are set by the federal government, this proposal has minimal effect. WAC 220-52-051, 220-52-060, 220-52-063, 220-52-066, 220-52-068, 220-52-069, 220-52-070, and 220-52-071, clarify licensing only; WAC 220-52-073, amend sea urchin seasons and size limits to be set by

emergency rule. Current stock abundance does not provide any fishery that would last longer than 120 days; and WAC 220-52-075, eliminate log book requirements for ocean pink shrimp since these occur without territorial waters and no management data is required.

Reasons Supporting Proposal: See Summary above.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

Small Business Economic Impact Statement: The effect of the proposals on small businesses is as follows: WAC 220-16-015, no effect; WAC 220-20-021, sturgeon are taken in directed fisheries in the Columbia and coastal harbors, and as an incidental catch in coastal trawl fishing. This will slightly reduce the allowable catch, but is necessary to increase the number of breeding sturgeon. There are no alternate stocks of sturgeon to mitigate the effects on fishers who harvest sturgeon. No directed commercial lingcod fishery occurs east of the mouth of the Sekiu River, thus the effect of the lingcod upper size limit is minimal; WAC 220-20-025, only one person is using chemical irritants to take octopus, and this allows an activity that was previously prohibited; WAC 220-33-060, no effect; WAC 220-44-020, this proposal is consistent with current coastal baitfish fishery practices. The sturgeon release provision affects only incidental catch and does not preclude a directed sturgeon fishery; WAC 220-44-030, no effect; WAC 220-44-090, less than five vessels participate in this fishery and land in Washington. This proposal provides fishing opportunity that would otherwise be precluded; WAC 220-48-001, no effect; WAC 220-48-005, no effect on current fisheries; WAC 220-48-011, this rule affects trawlers in inner Puget Sound. It prohibits use of gear designed to be used in areas frequented by rockfish. Rockfish stocks in Puget Sound are in severe decline and a directed fishery has been prohibited since 1991. There are no alternate rockfish stocks in Puget Sound; WAC 220-48-015, trawl fishing in Clallam Bay is prohibited in order to provide recreational fishing opportunity. Fishing in Bellingham and Discovery bays provides recreational opportunity and reduces gear conflict with commercial shellfish fishers. There is ample opportunity for trawl fishing in other areas; WAC 220-48-016, no effect; WAC 220-48-017, Port Susan has been closed to whiting fishing for several years due to lack of stocks. The fishery will be opened by emergency rule if stocks recover. There are no other resident whiting stocks available. WAC 220-48-019, see WAC 220-48-011; WAC 220-48-028, 220-48-031, 220-48-041, 220-48-051, 220-48-061 and 220-48-071, no effect; WAC 220-49-005, no effect; WAC 220-49-011, the Commercial License Reform Act of 1993 created separate licenses for herring that correspond to herring endorsements under the herring limited entry fishery of 1974. Separate

licensing, distinct from other baitfish, is consistent with the reform act; WAC 220-49-012, see WAC 220-29-011 for licensing, purse seine is not a gear that has been traditionally used for smelt, and has an unacceptable level of salmon smolt by-catch; WAC 220-49-013 and 220-49-014, see WAC 220-49-011; WAC 220-49-017, gill nets for smelt take salmon smolts, which are in need of protection; WAC 220-49-020, surf smelt and herring spawning areas are critical habitat. No mitigation is available; WAC 220-49-021, no effect; WAC 220-49-023, eases requirements on spawn on kelp fishers; WAC 220-49-024, eliminate unneeded identification; WAC 220-49-056, some smelt stocks are reduced. Stocks are available in other areas; WAC 220-49-057, no effect; WAC 220-49-063 and 220-49-064, these proposals affect the method of auctioning spawn on kelp permits, and should have no effect on bidding; WAC 220-52-010 and 220-52-018, no effect; WAC 220-52-019, no effect as requirements are statutory or contained within DNR permit; WAC 220-52-01901, 220-52-020, and 220-52-030, no effect; WAC 220-52-040, no effect since no fishery presently occurs; WAC 220-52-043, no effect; WAC 220-52-046, this proposal will affect all fishers who wish to harvest crab in coastal waters but do not want to fish off Oregon. It provides opportunity for small boat owners that would otherwise be precluded by other harvesters; WAC 220-52-050, this proposal affects coastal shrimp trawlers, but is based on federal recommendations from the Pacific Fisheries Management Council. Federal preemption does not allow state variance; WAC 220-52-051, 220-52-060, 220-52-063, 220-52-066, 220-52-068, 220-52-069, 220-52-070 and 220-52-071, no effect; WAC 220-52-073, no effect; and WAC 220-52-075, reduce reporting requirement.

Hearing Location: The department will hold hearings at 1:00 p.m. on the following dates at the following locations: On Monday, February 28, 1994, Room 172, Natural Resources Building, 1100 Washington Street, Olympia, WA; and on Thursday, March 3, 1994, Harbor Center Conference Room, Port of Bellingham, Bellingham, Washington.

Submit Written Comments to: Hearings Officer, Washington State Fisheries, P.O. Box 43147, Olympia, WA 98504, by February 25, 1994.

Date of Intended Adoption: March 11, 1994.

January 19, 1994

Robert Turner

Director

**AMENDATORY SECTION** (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-16-015 General definitions—Trawl gear.**

(1) "Otter trawl" shall be defined as a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Otter trawl nets may be used both on and off the seabed. Otter trawl nets may be fished with or without trawl doors, and may employ warps or cables to direct fish. Otter trawl nets are restricted to the following three categories:

(a) "Bottom trawl" means an otter trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear.

(b) "Roller trawl" or "bobbin trawl" are identical, and mean an otter trawl with footropes equipped with rollers or

bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net during fishing on the seabed.

(c) "Pelagic trawl" means an otter trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. Pelagic trawl nets may not have footropes protected at the trawl mouth with rollers, bobbins, or discs.

(2) "Beam trawl" shall be defined as a type of bottom trawl, consisting of a bag-shaped trawl net utilizing a beam to spread the mouth of the net horizontally as it is towed and not having weighted otter frames or otter doors. The minimum mesh size for beam trawl nets is four and one-half inches in a food fish fishery and one and one-half inches in a shrimp fishery, unless otherwise provided.

(3) "Shrimp trawl" shall be defined as a tapered, funnel-shaped trawl net in which the mesh size is two inches or less in the intermediate and codend sections of the trawl. Otter doors, otter boards, or a beam may be used to spread the mouth of the net horizontally as it is towed. The mouth of the net is formed on the upper edge by a line to which floats are attached (headrope) and on the lower edge by a line which is usually weighted (footrope). Additional webbing is frequently attached to the codend section to prevent the net from chafing.

(4) "Scallop dredge" shall be defined as trawl gear with ~~((interlocking metal ring meshes))~~ a leading rigid frame opening with a trailing bag of metal rings or net mesh, which is legal gear for harvest of scallops.

(5) "Codend" shall be defined as the terminal, closed end of a trawl net.

(a) Single-walled codend is a codend constructed of a single wall of webbing knitted with single-ply mesh, or with double-ply mesh (double twine tied into a single knot).

(b) Double-walled codend is a codend constructed of two walls of webbing. The double-walled portion of the codend must be tied knot-to-knot to the trawl net, and may not be longer than twenty-five trawl meshes or twelve feet, whichever is greater. The use of double-walled codends is unlawful in pelagic trawls, roller trawls, and bobbin trawls.

(6) "Chafing gear" shall be defined as webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear. Chafing gear must not be connected to the terminal (closed) end of the codend.

(7) "Trawl riblines" shall be defined as heavy ropes or lines that run down the sides, top or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

(8) "Trawl mesh size" shall be defined as the distance between the inside of one knot and the inside of the opposite vertical knot in trawl mesh. Minimum trawl mesh size requirements are met if a wedge of legal size can be passed without undue force through sixteen of twenty sets of two meshes each of wet mesh in the codend.

**AMENDATORY SECTION** (Amending Order 85-24, filed 4/1/85)

**WAC 220-20-021 Sale of commercially caught sturgeon and bottomfish.** (1) It shall be unlawful for any person while engaged in commercial fishing for sturgeon or bottom fish to:

(a) Keep in excess of ~~((three))~~ two sturgeon not less than 48 inches in length nor more than ~~((72))~~ 66 inches in length or more than the equivalent of one limit of sport caught bottom fish for personal use. Any lingcod to be retained for personal use taken east of the mouth of the Sekiu River must be greater than ~~((22))~~ 26 inches in length and may not exceed 40 inches in length.

(b) Sell any sturgeon or bottom fish taken under such license to anyone other than a licensed wholesale dealer within or outside the state of Washington, except that a person who is licensed as a wholesale dealer under the provisions of RCW 75.28.300 may sell to individuals or corporations other than licensed wholesale dealers.

(c) Sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of any sturgeon taken under such license prior to the time that the sturgeon is sold under subsection (1)(b) of this section.

(2) It shall be unlawful for any wholesale dealer licensed under RCW 75.28.300 to purchase or attempt to purchase sturgeon eggs from sturgeon taken by any person licensed to take sturgeon for commercial purposes under chapter 75.28 RCW if the sturgeon eggs have been removed from the body cavity of the sturgeon prior to the sale of the sturgeon.

AMENDATORY SECTION (Amending Order 90-15, filed 3/1/90, effective 4/1/90)

**WAC 220-20-025 General provisions—Shellfish.** (1) It is unlawful to drive or operate any motor-propelled vehicle, land any airplane or ride or lead any horse on the razor clam beds of the state of Washington, as defined in WAC 220-16-257.

(2) It is unlawful to possess any soft-shelled crab for any purpose.

(3) It is unlawful to possess in the field any crab from which the back shell has been removed.

(4) It is unlawful to use any irritant chemicals when taking or fishing for octopus except for persons granted a scientific collector's permit from the department for the harvest of octopus for display or scientific purposes.

(5) It is unlawful to willfully damage crab or other shellfish. Any crab taken incidentally to a net fishery must be immediately returned to the water with the least possible damage to the crab.

(6) It is unlawful to fish for or possess shellfish taken for commercial purposes from the San Juan Islands Marine Preserve, except it is lawful to fish for crab in Parks Bay.

AMENDATORY SECTION (Amending Order 88-86, filed 9/2/88)

**WAC 220-33-060 Herring and anchovies.** It is unlawful to fish for herring or anchovies in the lower Columbia River for commercial purposes or to possess herring or anchovies taken from those waters for commercial purposes, except as provided in this section:

#### Gear

(1) Purse seine(~~(;)~~) and lampara(~~(-or round haul))~~ gear may be used to fish for herring or anchovies if the cork line of the gear does not exceed 1,400 feet in length and the

mesh size of the gear ~~((does not exceed))~~ is not less than one-half inch stretch measure.

#### Licensing

(2)(a) A baitfish purse seine fishery license is a license required to operate a gear provided for in this section and allows the operator to retain anchovies.

(b) A herring purse seine fishery license is a license required to operate a gear provided for in this section and allows the operator to retain herring.

(c) A baitfish lampara fishery license is a license required to operate a gear provided for in this section and allows the operator to retain anchovies.

(d) A herring lampara fishery license is a license required to operate a gear provided for in this section and allows the operator to retain herring.

#### Fishing periods

~~((2))~~ (3) Purse seine(~~(;)~~) and lampara(~~(-or round haul))~~ gear may be used to fish for herring or anchovies in SMCRA 1A 7 days per week from January 1 through December 31 of each year.

#### General

~~((3))~~ (4) Species of fish other than herring or anchovies taken in the operation of the purse seine(~~(;)~~) and lampara(~~(-or round haul))~~ gear shall be returned immediately to the water.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-44-020 Coastal baitfish gear.** ~~((1))~~ (1) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for or possess smelt, anchovies, candlefish, herring or pilchard taken for commercial purposes ~~((with purse seine, drag seine, or gill net gear))~~ from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, or 60A, ((and that portion of Area 58 within the United States 200 mile Fishery Conservation Zone)) except as provided for in this section.

~~((2))~~ (1)(a) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for ~~((and))~~ or possess smelt taken for commercial purposes except by hand net gear not exceeding 72 inches maximum frame width ~~((in Marine Fish-Shellfish Management and Catch Reporting Areas 59A, 59B, and 60A)).~~ It is unlawful to take smelt for commercial purposes ~~((in Marine Fish-Shellfish Management and Catch Reporting Areas 59A, 59B, and 60A))~~ during weekly closed periods ~~((extending))~~ from 8:00 a.m. Friday to 8:00 a.m. Sunday.

(b) Licensing: A smelt dip bag net fishery license is the license required to operate the gear provided for in this section.

(c) Incidental catch: It is lawful to retain only anchovies and candlefish taken incidental to a lawful smelt fishery.

~~((3))~~ (2)(a) It ~~((shall be lawful))~~ is unlawful to ~~((take;))~~ fish for ~~((and))~~ or possess ~~((for commercial purposes sturgeon, shad;))~~ candlefish(~~(;)~~) or anchovies ~~((and pilchards taken in Marine Fish-Shellfish Management and Catch Reporting Areas 59A, 59B, 60A, and that portion of Area 58 within the United States 200 mile Fishery Conservation Zone))~~ taken for commercial purposes with any ~~((lawful commercial fishing))~~ gear except purse seine or lampara not



exceeding 1,400 feet in length nor having mesh size less than 1/2 inch, or dip bag net not exceeding 72 inches maximum frame width.

(b) Licensing:

(i) A baitfish lampara fishery license is the license required to operate the lampara gear provided for in this section.

(ii) A baitfish purse seine fishery license is the license required to operate the purse seine gear provided for in this section.

(iii) A smelt dip bag net fishery license is the license required to operate the hand dip net gear provided for in this section.

(c) Incidental catch: It is lawful to retain only shad taken incidental to a lawful anchovy or candlefish fishery. Any sturgeon must be released unharmed.

~~((4)) (3)(a) It ((shall be)) is unlawful ((except by permit to take and fish for herring for commercial purposes or possess herring taken for commercial purposes from Marine Fish Shellfish Management and Catch Reporting Areas 59A, 59B, 60A, and that portion of Area 58 within the United States 200-mile Fishery Conservation and Management Zone with any type of gear)) to fish for or possess herring or pilchard taken for commercial purposes except as authorized by permit issued by the director.~~

(b) Licensing: An emerging commercial fishery license is the license for a permittee to fish for or retain herring or pilchard.

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

**WAC 220-44-030 Coastal bottomfish gear.** It is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington state ports, bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 29, 59A, 59B, 60A and that portion of Area 58 within the United States 200-mile Fishery Conservation Zone with any gear except as provided in this section:

(1) Otter trawl and beam trawl.

(a) It is unlawful to use, operate or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches.

(b) It is unlawful to use or operate any bottom roller or bobbin trawl having meshes less than 4.5 inches. A bottom roller or bobbin trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5-inch minimum mesh size.

Chafing gear must not be connected directly to the terminal (closed) end of the codend. For all bottom roller or bobbin trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(c) On roller or bobbin trawls, chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6.0 inches. Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

(d) It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches. Chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6 inches. Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(e) It is unlawful to use double wall codends in any trawl gear.

(f) Licensing: A food fish trawl—non-Puget Sound fishery license is the license required to operate the gear provided for in this section.

(2) Set lines.

(a) It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Set lines must be attended at least once every seven days. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A food fish set line fishery license is the license required to operate the gear provided for in this section.

(3) Bottomfish pots.

(a) It is unlawful for the operator of bottomfish pots to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Bottomfish pots must be attended at least once every seven days. Bottomfish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

(4) Commercial jig gear. Licensing: A bottomfish jig fishery license is the license required to operate the gear provided for in this section.

~~(5) Troll lines. ((It is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, except that in any coastal waters it is lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery.))~~ Licensing: A bottomfish troll fishery license is the license required to operate the gear provided for in this section.

~~(6) ((Shrimp trawls. It is unlawful in any coastal waters, to retain for commercial purposes more than 1,500 pounds per day of any bottomfish species other than Pacific whiting, shortbelly rockfish or arrowtooth flounder taken with shrimp trawl gear incidental to a lawful shrimp fishery.))~~

~~(7) It is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.~~

~~(8) It is unlawful to take or possess lingcod taken for commercial purposes with any gear from December 1 through April 14 in Coastal Marine Fish Shellfish Management and Catch Reporting Area 59B.))~~ Incidental catch.



(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, provided the bottomfish could be lawfully taken.

(b) It is unlawful to take salmon incidental to any lawful bottomfish fishery.

(c) It is lawful to retain sturgeon taken incidental to any lawful bottomfish fishery, provided the sturgeon could be lawfully taken.

(d) It is unlawful to retain any species of shellfish taken incidental to any lawful bottomfish fishery, except that it is lawful to retain octopus and squid.

#### NEW SECTION

**WAC 220-44-090 Far offshore fishery.** It is unlawful for any fisher to transport through the waters of the state, or land in any Washington state port, bottomfish taken without the exclusive economic zone (more than 200 miles offshore) except as provided for in this section:

(1) Any fisher may transport bottomfish through the waters of the state or land bottomfish taken without the exclusive economic zone provided:

(a) The fisher has, at least 48 hours prior to participating in the far offshore fishery, notified the department by either writing to the Marine Fish-Shellfish Division, Washington State Fisheries, 48A Devonshire Road, Montesano, WA 98563 or telephoning the department during regular business hours Monday through Friday to (206) 586-6129. The fisher must provide the following information: Vessel name and official number; anticipated fishing dates; anticipated port of landing; and

(b) The fisher has made the vessel available for a hold inspection, if required to do so by the department, prior to departure to participate in the far offshore fishery; and

(c) The fisher has notified the department at least 24 hours prior to landing bottomfish at any Washington state port. The fisher must provide the following information: Port of landing; estimated date and time of landing; estimated species composition and weight of fish aboard.

(2) It is unlawful for any fisher to fish within or land fish taken from within the exclusive economic zone during any trip for which a declaration to participate in the far offshore fishery has been made.

(3) Fishers participating in the far offshore fishery are required to be properly licensed in order to land bottomfish into a Washington state port.

(4) This section does not apply to bottomfish which have been previously landed in another state, territory or country, and does not apply to delivery by vessels other than the catcher vessel.

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

**WAC 220-48-001 Puget Sound bottomfish gear.** It is unlawful to fish for or possess bottomfish taken for commercial purposes in Puget Sound (~~with any gear~~) except as ~~(follows:~~

~~(1) Beam trawl and otter trawls, which include bottom trawl, roller trawl, and pelagic trawl.~~

~~(2) Set lines.~~

~~(3) Commercial jig.~~

~~(4) Troll lines.~~

~~(5) Drag seines.~~

~~(6) Bottomfish pots.~~

~~(7) Set nets, which include Pacific cod set nets and dogfish set nets)) provided for in this chapter.~~

Note: Gear specifications and seasons are provided for in the rest of chapter 220-48 WAC.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-48-005 Puget Sound bottomfish—General provisions.** (1) It is unlawful to possess any English sole less than 12 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(2) It is unlawful to possess any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(3) It is unlawful to possess lingcod taken with any commercial gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 24A, 24B, 24C, 24D, 25B, 25C, 25D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to possess any lingcod less than .26 inches in length or greater than 40 inches in length taken by any commercial gear in all state waters east of the mouth of the Sekiu River.

(5) It is unlawful to possess lingcod taken with any commercial gear from December 1 through April 14 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29.

(6) It is unlawful to possess lingcod taken by any commercial gear from June 16 through April 30 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, and 25E.

(7) It is unlawful to possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-063 and 220-52-066.

(8) Incidental catch.

(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, provided the bottomfish could be lawfully taken.

(b) It is unlawful to retain salmon or sturgeon taken incidental to any lawful bottomfish fishery in Puget Sound.

(c) It is unlawful to retain any species of shellfish taken incidental to any bottomfish fishery in Puget Sound, except that it is lawful to retain octopus and squid.

(d) It is unlawful to retain any whiting taken incidental to any bottomfish fishery in Catch Areas 24B, 24C or 26A except using pelagic trawl gear when these areas have been opened by the director for a directed whiting fishery.

AMENDATORY SECTION (Amending Order 91-39, filed 6/14/91, effective 7/15/91)

**WAC 220-48-011 Beam trawl and otter trawl—Gear.** (1)(a) **Mesh sizes.** It is unlawful to use or operate beam trawls or otter trawls having mesh size in the codend section less than 4 1/2 inches in waters of Puget Sound, unless otherwise provided.

(b) It is lawful to use or operate pelagic trawl gear having mesh size in the codend section of not less than 3 inches while fishing for Pacific whiting during the seasons provided in WAC 220-48-017 (1) and (2).

(2) **Chafing gear.**

(a) For bottom trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(b) For roller trawls and pelagic trawls chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6.0 inches.

(3) **Roller trawl.**

(a) It is unlawful to use a roller trawl in Puget Sound except in Marine Fish-Shellfish Management and Catch Reporting Area 29.

(b) It is unlawful to use a roller trawl (~~equipped with rollers, bobbins, or cookie discs (excluding wing tip bobbins) greater than 4 inches in diameter~~) that does not conform to the gear requirements in WAC 220-44-030.

**AMENDATORY SECTION** (Amending Order 91-39, filed 6/14/91, effective 7/15/91)

**WAC 220-48-015 Beam trawl and bottom trawl—Seasons.** (1) It is lawful to fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 22A, 22B, 23A, 23B, 23C, 25A, 25B, and 29 the entire year with the following exceptions:

(a) Those waters of Area 20A east of a line projected from Point Whitehorn to Sandy Point are closed the entire year.

(b) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and from the southwest corner of Point Roberts to Point Whitehorn to where these two lines are intersected by a line south from Kwomais Point in British Columbia and a line from Lilly Point to the north Alden Bank buoy are closed April 15 through May 31.

(c) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and Lilly Point to the north Alden Bank buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island are closed June 1 through June 30.

(d) Those waters of Area 23C south of a line projected from Kydaka Point to the bell buoy adjacent and west of Slip Point then to the most westerly landfall on Slip Point are closed the entire year.

(e) All of Area 25A is closed February 1 through April 15 of each year, and those waters of Area 25A lying southerly and westerly of a line projected from Kiapot Point to Gibson Spit (Sequim Bay) are closed the entire year.

(2) ~~((It is unlawful to take, fish for, or possess bottomfish taken with bottom trawl or beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 25E except on Monday through Thursday from December 1 through February 14 with the following exception: Those waters of Area 25E lying southerly of a line projected from Mill Point due east to the opposite shore, are closed the entire year.~~

~~(3))~~ It is unlawful to take, fish for or possess bottomfish taken with bottom trawl or beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 21B, 23D, 24A, 24B, 24C, 24D, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D the entire year.

~~((4))~~ (3) It is unlawful to operate bottom trawl or beam trawl in waters less than 60 feet in depth in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 25A, or 25B, (~~or 25E,~~) and it is unlawful to operate bottom trawl or beam trawl in waters less than 30 feet deep in all other waters of Puget Sound east of the mouth of the Sekiu River.

**NEW SECTION**

**WAC 220-48-016 Pelagic trawl—Gear—Licensing.**

(1) A food fish trawl—Puget Sound fishery license is a license required to operate pelagic trawl and allows the operator to retain whiting and other bottomfish taken in all Puget Sound catch areas except 24B, 24C and 26A.

(2) A whiting—Puget Sound fishery license is a license required to operate pelagic trawl and allows the operator to retain whiting and other bottomfish taken in all Puget Sound catch areas open to pelagic trawl.

**AMENDATORY SECTION** (Amending Order 91-39, filed 6/14/91, effective 7/15/91)

**WAC 220-48-017 Pelagic trawl—Seasons.** It is unlawful to take, fish for and possess bottomfish taken with pelagic trawl gear except in the Marine Fish-Shellfish Management and Catch Reporting Areas and during the times as follows:

(1) ~~((Area 24C south of a line projected due west from the flashing red light northwest of Lowell Point—Open Monday through Thursday, October 1 through January 14 unless otherwise provided.~~

~~(2) Area 26A—Open Monday through Thursday, October 1 through January 14.~~

~~(3) Areas 24B, that portion of 24C south of a line projected due west from the flashing red light northwest of Lowell Point, and 26A—Open Monday and Wednesday, January 15 until the in-season quota is taken but not beyond May 15 in any case.~~

~~(4))~~ Areas 20A and 20B - Open February 16 through April 15.

~~((5))~~ (2) In any area at any time so designated by a permit issued by the director of the department of fisheries.

**AMENDATORY SECTION** (Amending Order 82-72, filed 7/1/82)

**WAC 220-48-019 Roller trawl—Seasons.** It is lawful to use roller trawls in ~~((the same areas and during the same seasons as bottom trawl))~~ area 29 the entire year.

**AMENDATORY SECTION** (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

**WAC 220-48-028 Set net—Dogfish—Gear.** (1) It is lawful to take, fish for and possess dogfish with set net gear as described below:

(a) Maximum four nets, per vessel each net having a length not to exceed 1,000 feet.

(b) Net depth must not exceed 25 meshes.

(c) Net mesh must not be less than 5 inches.

(d) Net web material must be no finer than 210/30 denier nylon which is regular seine thread size number 12, or 0.048 inches in diameter.

(e) Dogfish set net tags, issued by the department of fisheries for the current year must be affixed to buoys on each end of each net.

(2) Licensing: A dogfish set net fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-48-031 Set line—Gear.** (1) It is unlawful to take, fish for, and possess bottomfish in Puget Sound except with set line gear as described below:

~~((1))~~ (a) Hook size must not be smaller than size 7/0 for Kirby style hooks or size 8 for tuna circle style hooks.

~~((2))~~ (b) Gangions made of single strand monofilament synthetic material are unlawful.

~~((3))~~ (c) Set lines must be marked at the surface at each terminal end as described in WAC 220-20-010(5).

(2) Licensing: A food fish set line fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

**WAC 220-48-041 Commercial jig—Gear.** (1) It is lawful to fish for and possess bottomfish with commercial jig gear.

(2) Licensing: A bottomfish jig fishery license is the license required to operate commercial jig gear in Puget Sound.

AMENDATORY SECTION (Amending Order 82-72, filed 7/1/82)

**WAC 220-48-051 Troll lines—Bottomfish—Gear.** (1) It is lawful to take, fish for, and possess bottomfish with troll line gear as specified below, unless otherwise provided:

~~((1))~~ (a) No more than two troll lines per vessel.

~~((2))~~ (b) No more than four spreads per line.

~~((3))~~ (c) The top spread can not be more than twenty-four feet from the weight on the end of the line.

(2) Licensing: A bottomfish troll fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 82-72, filed 7/1/82)

**WAC 220-48-061 Drag seines—Gear.** (1) It is lawful to take, fish for, and possess bottomfish, unless otherwise provided, with drag seine or beach seine gear as described below:

~~((1))~~ (a) Seines must not be longer than 350 feet in length.

~~((2))~~ (b) Net mesh must not be smaller than 1/2 inch stretch measure.

(2) Licensing: A food fish drag seine fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-48-071 Bottomfish pots—Gear and seasons.** (1) It shall be unlawful to take, fish for, and possess bottomfish for commercial purposes with bottomfish pot gear as described in WAC 220-16-145, except in the following Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:

~~((1))~~ (a) Areas 20A, 21A, 21B, 23A, and 23B - Open April 15 through November 30.

~~((2))~~ (b) Areas 23C and 23D - Open December 1 through April 14.

~~((3))~~ (c) Area 29 - Open all year.

~~((4))~~ (d) All other areas are closed the entire year, except by permit from the director.

(2) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

NEW SECTION

**WAC 220-49-005 Puget Sound baitfish—Definitions—General provisions.** It is unlawful to fish for or possess Puget Sound baitfish taken for commercial purposes except at the times, during the seasons and using the gear provided for in this chapter. "Baitfish" as used in this chapter means herring, candlefish (or sandlance), anchovy, pilchard (or Pacific sardine) and smelt.

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

**WAC 220-49-011 Herring, candlefish, anchovy ~~((and)), pilchard and smelt fishing—Lawful gear—Drag seine.~~** (1) Lawful drag seine gear in the Puget Sound herring, candlefish, anchovy ~~((and)), pilchard ((fishery)) and smelt fisheries~~ shall not exceed 350 feet in length or contain meshes less than 1/2 inch stretch measure.

(2) Licensing:

(a) A food fish drag seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain baitfish other than herring.

(b) A herring drag seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

AMENDATORY SECTION (Amending Order 76-148, filed 12/2/76)

**WAC 220-49-012 Herring, candlefish, anchovy ~~((and)), pilchard and smelt fishing—Purse seine.~~** (1) Lawful purse seine gear in the Puget Sound herring, candlefish, anchovy, and pilchard ~~((fishery)) fisheries~~ shall not exceed 600 feet in length or contain meshes less than 1/2-inch stretch measure~~((, except that in Areas 20A, 20B, 21A, and 21B, lawful purse seine gear shall not exceed~~

~~1,650 feet in length~~) unless otherwise authorized by permit from the director. Purse seine gear is not lawful gear for taking smelt in Puget Sound.

(2) Licensing:

(a) A baitfish purse seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain baitfish other than smelt or herring.

(b) A herring purse seine fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

**WAC 220-49-013 Herring, candlefish, anchovy ~~(and)~~, pilchard and smelt fishing—Dip bag net.** (1) Lawful dip bag net gear in the Puget Sound herring, candlefish, anchovy, and pilchard ~~(fishery)~~ fisheries shall not exceed 18 ~~(feet)~~ square ~~(or 18)~~ feet ~~(in diameter)~~. Lawful dip bag net gear in the Puget Sound smelt fishery shall not exceed 36 inches across the frame.

(2) Licensing:

(a) A smelt dip bag net fishery license is a license required to operate the gear provided for in this section and allows the operator to retain smelt and other baitfish other than herring.

(b) A herring dip bag net fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

**WAC 220-49-014 Herring, candlefish, anchovy, pilchard and smelt fishing—Lampara.** (1) Lawful lampara gear in the Puget Sound herring, candlefish, anchovy, and pilchard ~~(fishery)~~ fisheries shall not exceed 200 feet in length or contain meshes less than 1/2-inch stretch measure. Lampara gear is not lawful gear for taking smelt in Puget Sound.

(2) Licensing:

(a) A baitfish lampara fishery license is a license required to operate the gear provided for in this section and allows the operator to retain baitfish other than smelt or herring.

(b) A herring lampara fishery license is a license required to operate the gear provided for in this section and allows the operator to retain herring.

AMENDATORY SECTION (Amending Order 89-48, filed 6/22/89)

**WAC 220-49-017 Herring, candlefish, anchovy ~~(and)~~, pilchard and smelt fishing—Otter trawl and gill net.** (1) It is unlawful to fish for herring, candlefish, anchovy, ~~(or)~~ pilchard or smelt using otter trawl gear or gill net gear except as authorized by permit issued by the director.

(2) Licensing: The permit issued by the director will specify the fishery license required to operate the permit.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-49-020 Herring, candlefish, anchovy and pilchard—Seasons—Lawful gear—Purposes.** It shall be unlawful to take, fish for or possess for commercial purposes herring, candlefish, anchovy or pilchards in Puget Sound except during lawful seasons, with lawful gear and for such purposes as provided for hereinafter in each respective fishing area:

(1) Areas 20A, 20B, 21A, and 21B.

(a) Closed September 1 through ~~(April 15))~~ May 31 to all commercial fishing gear except for the spawn on kelp fishery as provided for in WAC 220-49-063.

(b) ~~((Open April 16 through May 31, with purse seine, lampara, dip bag net, and gill net, except as provided in WAC 220-49-021.~~

~~(e))~~ Open June 1 through August 31 with drag seine, purse seine, lampara, and dip bag net for bait and human consumption only ~~((except as provided in subsection (4) of this section)).~~

(2) It is unlawful to use purse seine gear in any Puget Sound area except 22A, 22B, 23A, 23B, 23C, 23D, and 29. Areas 22A and 22B are open the entire year to purse seine gear, except for closures set out in subsections (4) and (5) of this section. Areas 23A, 23B, 23C, 23D and 29 are open to purse seine gear the entire year.

(3) All other Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas ((22A, 22B, 23A, 23B, 23C, 23D, and 29)) - Open entire year with drag seine, ((purse seine,)) lampara, and dip bag net for human consumption or bait only except ((as provided in subsection (4) of this section.

~~(3) Areas 24A, 24B, 24C, 24D, 25A, 25B, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D—Open entire year, with drag seine, lampara, or dip bag net, for human consumption or bait only except as provided in subsection (4) of this section: *Provided*, That it shall be unlawful for any fisherman, including treaty Indian fishermen, to take, fish for or possess herring with any net gear which exceeds 200 feet in length, except drag seine gear (350-foot length).~~

~~(4) The director may authorize by permit the taking of herring in specified areas, quantities, and times, for emergency use as food for zoo animals; permit application requires written certification from the zoo director that no other source of herring suitable for zoo food is available and the shortage will damage the health or well-being of the zoo animals in custody of the zoo director)) for closures set out in subsections (4) and (5) of this section.~~

(4) The following areas are closed the entire year to all gear except dip bag net gear:

(a) Waldron Island - Waters of Cowlitz Bay inside of a line from Sandy Point to Point Disney, and the small bay on the east side of the island.

(b) Stuart Island - Waters of Reid Harbor.

(c) Swinomish Channel - Waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin.

(5) The following areas are closed from January 16 through April 15, except to dip bag net gear:

(a) Central San Juan Islands - Waters of Area 22A south of a line from Limestone Point on San Juan Island to Steep Point on Orcas Island, north of a line from Pear Point on San Juan Island to Rock Point on Lopez Island, west of a line projected true south from Deer Point on Orcas Island to landfall on Blakely Island, west of a line projected true north from Fauntleroy Point on Decatur Island to landfall on Blakely Island, and west of a line projected true south from the Lopez Pass navigation light on south Decatur Island to landfall on Lopez Island.

(b) Roche Harbor and Wescott Bay - Waters of Area 22A south of a line projected true east from McCracken Point to landfall on San Juan Island and east of a line projected from the Kellett Bluff navigation light on Henry Island to Bellevue Point on San Juan Island.

(c) Areas 22B, 24A, 24B, and 24D.

(d) Waters of Area 25A south of a line from Dungeness light to McCurdy Point.

(e) Waters of Area 25C south of a line from Tala Point to Foulweather Bluff.

(f) Areas 25D and 25E.

(g) Waters of Area 26B west of a line from Point Monroe to Point Jefferson.

(h) Area 26C.

(i) Waters of Area 26D north of a line from Neill Point to Piner Point.

(j) Waters of Area 27A north of a line from South Point to Lofall and contiguous waters of 27A south of a line projected true east from Hazel Point including all waters of Dabob and Quilcene Bays.

(k) Waters of Area 27B north of a line from Triton Head to Tekiu Point.

(l) Waters of Area 27C east of a line from Ayers Point to Union.

(m) Waters of Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet.

(n) Waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove.

(o) All contiguous waters of Area 28D north and east of a line projected from Dofflemeyer Point through Cooper Point to landfall on the west shore of Eld Inlet, including Totten Inlet, Hammersley Inlet and Oakland Bay.

AMENDATORY SECTION (Amending Order 76-148, filed 12/2/76)

WAC 220-49-021 Herring(~~(, candlefish, anchovy and pilchard fishing—Weekly periods)~~) for zoo food. (1) It (~~(shall be)~~) is unlawful to take, fish for or possess herring(~~(, candlefish, anchovy or pilchards in Areas 20A, 20B, 21A, and 21B from April 15 to May 31, except during weekly periods and daily hours hereinafter designated:~~

(1) Weekly periods: Monday, Tuesday, and Thursday.

(2) Daily hours: 8:00 a.m. to 6:00 p.m. on open days)

for any purpose except human consumption or fishing bait, except that the director may authorize by permit the taking of herring in specified areas, quantities and times for emergency use as zoo food for animals. Application for a zoo food permit requires written certification from the zoo director that no other source of herring is available and the

shortage of suitable zoo food will damage the health or well-being of zoo animals.

(2) Licensing: The permit issued by the director will specify the fishery license required to operate the permit.

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

WAC 220-49-023 Reporting. (~~((+))~~) It shall be unlawful for the original receiver of (~~(herring taken)~~) spawn on kelp product from Puget Sound (~~(Herring Fishing)~~) Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, and 21B during the period April 16 through May 31 to fail to report each calendar day's receipts by noon of the following working day to the Washington department of fisheries, Olympia, Washington; telephone (206) (~~(753-6637)~~) 902-2800 or telefacsimile to (206) 902-2944.

(~~((2))~~) It shall be unlawful for original buyer of herring from Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A or 21B to process or resell such herring until after the herring have been landed at a shore station.)

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

WAC 220-49-024 Herring, candlefish, anchovy and pilchard fishing—Live boxes—Identification. All herring, candlefish, anchovy and pilchard live boxes or other devices for holding live bait shall have attached thereto the (~~(name and boat)~~) fishery license number(~~(s)~~) of the owner in plainly legible letters not less than 3 inches in height, clearly visible above the waterline. In the case of licensed dealers (~~(and boathouse operators)~~) the (~~(owner's name or corporation name and)~~) dealer's license number shall be displayed as described above. It shall be unlawful to fail to identify live boxes as prescribed in this section.

AMENDATORY SECTION (Amending Order 91-39, filed 6/14/91, effective 7/15/91)

WAC 220-49-056 Smelt fishing—Seasons. It shall be unlawful (~~(during any open season)~~) to take, fish for or possess smelt for commercial purposes in Puget Sound except during the following seasons:

(1) Areas 20A and 21A - July 1 to April (~~((14))~~) 15.

(2) Area 22B - (~~(December 1 to April 14))~~ Closed the entire year.

(3) Areas 24A, 24B, 24C, and 24D - July 1 to April (~~((14))~~) 15.

(4) Areas 25A and 25E - November 1 to April (~~((14))~~) 15.

(5) Areas 26B, 26C, 26D, 27B, 27C, 28A, 28B, and 28C(~~(, and 28D)~~) - October 1 to April (~~((14))~~) 15 except those waters within 200 feet of shore adjacent to department property at Ross Point in Area 26C are closed to commercial smelt harvest.

(6) Area (~~((28A))~~) 28D - September 1 to April 14.

(7) All other areas open the entire year.

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

WAC 220-49-057 Smelt fishing—Weekly periods. It ~~((shall be))~~ is unlawful ~~((during any open season))~~ to ~~((take or))~~ fish for smelt for commercial purposes in Puget Sound except from 8:00 a.m. Sunday to 8:00 a.m. Friday and it ~~((shall be))~~ is unlawful to possess smelt taken for commercial purposes during such closed period.

AMENDATORY SECTION (Amending Order 91-08, filed 2/8/91, effective 3/11/91)

WAC 220-49-063 Spawn on kelp ((permits)) licenses—Applications. (1) Any herring fisher holding a herring ~~((validation))~~ fishery license under RCW 75.30.140 may participate in an auction for a spawn on kelp ~~((permits))~~ license (SOK license). Proof of current ~~((validation))~~ licensing must be presented before entering the auction. No more than one ~~((permit))~~ SOK license will be awarded to each ~~((validation))~~ herring license holder.

(2) The department shall offer ~~((spawn on kelp permits))~~ SOK licenses under the following conditions:

(a) The department shall establish a minimum acceptable bid for each ~~((permit))~~ license.

(b) ~~((Permits))~~ Licenses shall be offered by ~~((open and))~~ sealed bidding at auction. The ~~((permit))~~ license will be awarded to the bidder with the highest bid. In the event of tie bids, the tie breaker will be by coin toss.

(c) Each ~~((permit))~~ SOK license shall be auctioned separately. ~~((Sealed bids will be opened immediately after the open bidding and the permit will be awarded to the bidder with the highest bid.))~~ The successful bidder for a ~~((permit))~~ license must submit a certified check equal to the minimum acceptable bid prior to or at the conclusion of the bidding as a down payment on the winning bid price. If the winning bidder fails to submit a check the ~~((permit))~~ license will be awarded to the next highest bidder submitting such check.

(d) Bidding by proxy is allowed, provided the proxy holder has a power of attorney for the herring ~~((validation))~~ license holder represented.

(e) The successful bidder for a ~~((permit))~~ SOK license is required to sign and return to the department a copy of the ~~((spawn on kelp permit))~~ SOK license within 10 days after the award of a ~~((permit))~~ license together with the balance of the bid amount. Failure to return the ~~((permit))~~ license and bid balance will invalidate the award of the ~~((permit))~~ license and result in forfeiture of the deposit in the amount necessary to compensate the department for any damages. In such case the ~~((permit))~~ license shall be offered to the other bidders in descending order of their bid amount.

(f) If the ~~((permit))~~ license fails to be sold as described in (c) or (e) of this subsection, the ~~((permit))~~ license may be offered to any person possessing a herring ~~((validation))~~ license who offers the largest amount within a specified time period.

(g) The department may revoke the ~~((permit))~~ SOK license for noncompliance with the terms of the ~~((permit))~~ license. In case of ~~((permit))~~ license revocation, the bid amount shall be retained by the department.

(3) Licensing:

(a) Herring dip bag net, herring drag seine, herring lampara and herring purse seine licenses are licenses required to operate the respective gear and retain herring for the spawn on kelp fishery.

(b) A spawn on kelp fishery license is the license issued to a successful bidder and allows the holder to participate in the spawn on kelp fishery.

AMENDATORY SECTION (Amending Order 90-17, filed 3/8/90, effective 4/8/90)

WAC 220-49-064 Spawn on kelp ((permit)) license (SOK license) contract conditions. (1) ~~((Permit))~~ License contracts shall protect the environment, prevent waste, ensure compliance with applicable laws and regulations, and ensure faithful performance of lease terms and conditions.

(2) ~~((Permittees))~~ Licensees shall not sell any spawn on kelp to anyone who is not a licensed wholesale dealer, except that the ~~((permittee))~~ licensee may be a licensed wholesale dealer, and, after completing a state of Washington fish receiving ticket, may sell the spawn on kelp to someone who is not a wholesale dealer.

(3) ~~((Spawn on kelp permits))~~ SOK licenses are transferable only in the case of hardship and then only to any person holding a herring ~~((validation))~~ license except a person currently holding a ~~((spawn on kelp permit))~~ SOK license. The transfer shall be made on a form provided by the department, and the transferee shall be subject to the same terms and conditions of the original ~~((permit))~~ license. For purposes of this section, hardship means death or disablement of the licensee or loss of the licensee's vessel through no fault of the licensee.

(4) Every ~~((permittee))~~ licensee may surrender the ~~((permit))~~ license and shall be relieved of any obligation under the ~~((permit))~~ license except as otherwise provided. The ~~((permittee))~~ licensee must notify the department in writing of intention to surrender the ~~((permit))~~ license. If operations under the ~~((permit))~~ license have been conducted, the ~~((permittee))~~ licensee shall correct any adverse environmental effects caused by the operations, including but not limited to, release of any entrapped herring, removal of any herring enclosure, and placement of any herring spawn upon habitat suitable for hatch and release of herring fry. If the ~~((permit))~~ license is surrendered, the department will retain the amount of the bid.

(5) The ~~((permit))~~ license shall provide for revocation for noncompliance with the terms of the ~~((permit))~~ license. Grounds for revocation for noncompliance shall include, but not be limited to, failure to provide catch records as required, failure to provide required data on fishing and harvesting related activities, and failure to notify the department of anticipated times of fishing and harvesting. The ~~((permittee))~~ licensee shall be notified, in writing, of non-compliance, the necessary corrective measures and the amount of time allowed to take corrective action. The ~~((permittee's))~~ licensee's remedying of the noncompliance within the specified time shall result in no revocation of the ~~((permit))~~ license. The ~~((permittee))~~ licensee may appeal any cancellation under chapter 34.05 RCW.

(6) The ~~((permit))~~ license contract shall allow the ~~((permittee))~~ licensee to conduct operations reasonably necessary for the production of spawn on kelp. Nothing in

this section shall relieve the (~~permittee~~) licensee of any responsibility under applicable laws or regulations.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-49-015 Herring, candlefish, anchovy and pilchard fishing—Brush weir.
- WAC 220-49-016 Herring, candlefish, anchovy and pilchard fishing—Gill net.
- WAC 220-49-022 Herring, candlefish, anchovy and pilchard fishing—Special provisions—Closed areas.
- WAC 220-49-025 Herring, candlefish, anchovy, and pilchard fishing—Identification—Herring fishing vessel.
- WAC 220-49-026 Herring, candlefish, anchovy, and pilchard fishing—Identification—Herring buyer.
- WAC 220-49-055 Smelt fishing—Lawful gear.

**AMENDATORY SECTION** (Amending Order 88-28, filed 5/25/88, effective 8/22/88)

~~WAC 220-52-010 Shellfish—Unlawful acts. (1) It shall be unlawful to take, dig for or possess geoduck clams for commercial purposes except from registered aquatic farms under permit issued by the director or as provided in WAC 220-52-019.~~

~~(2) It shall be unlawful to take, dig for or possess clams taken for commercial purposes within the boundaries of any state park located on tidewater unless authorized by a permit issued by the director.~~

~~(3)) It ((shall be)) is unlawful to take oysters or clams for commercial purposes from tidelands reserved for public use unless authorized by a permit issued by the director.~~

~~((4)) (2)(a) It ((shall be)) is unlawful to take ((oysters, clams, or mussels)) shellfish for commercial purposes from state oyster reserves without ((being licensed under RCW 75.28.290 and having)) permission of the director of fisheries.~~

~~((5) It shall be unlawful to take from any building, seow, boat, live box, container, trap, net or vehicle any caught or impounded shellfish with intent to deprive the rightful owner of such shellfish.~~

~~(6)) (b) Licensing: An oyster reserve fishery license is the license required to take shellfish for commercial purposes from state oyster reserves.~~

~~(3) All geoduck and mechanical clam harvester vessels shall be issued an identification number. It is unlawful to fail to place this number ((will be placed)) in a visible location on each side of the vessel and on the top of the cabin or deck awning to be visible from the air. A sign board or banner arranged so the numbers can be seen at all times from directly overhead may be substituted if the vessel does not have a fixed roof. The numbers shall be black on a white background and shall be not less than 18 inches high and of proportionate width.~~

~~((7)) (4) It shall be unlawful for a commercial clam digger to harvest clams from intertidal ground without having on his person a signed authorization from the registered clam farmer for whom he is harvesting. The digger will also be required to have suitable personal identification with him when engaged in clam harvesting. The authorization from the registered clam farmer must be legible, dated and must contain the date on which the authorization expires, provided that in no instance may the authorization go beyond the end of any calendar year. The authorization must additionally contain the name of each bay or area where the registered clam farmer has owned or leased ground from which the named clam digger is authorized to harvest.~~

~~((8)) (5)(a) It is unlawful to fish for or possess ghost or mud shrimp taken for commercial purposes unless authorized by a permit issued by the director.~~

~~(b) Licensing: A burrowing shrimp fishery license is the license required to take ghost or mud shrimp for commercial purposes.~~

**AMENDATORY SECTION** (Amending Order 84-24, filed 3/27/84)

**WAC 220-52-018 Clams—Gear.** It shall be unlawful to take, dig for or possess clams, geoducks, or mussels taken for commercial purposes from any of the tidelands in the state of Washington except with a pick, mattock, fork or shovel operated by hand, except that permits for the use of mechanical clam digging devices to take clams other than geoducks may be obtained from the director of fisheries subject to the following conditions:

(1) Any or all types of mechanical devices used in the taking or harvesting of shellfish must be approved by the director of fisheries.

(2) A separate permit shall be required for each and every device and the permit shall be attached to the specific unit at all times.

(3) All types of clams to be taken for commercial use must be of legal size and in season during the proposed operations unless otherwise provided in specially authorized permits for the transplanting of seed to growing areas or for research purposes.

(4) The holder of a permit to take shellfish from tidelands by mechanical means shall limit operations to privately owned or leased land.

(5) The taking of clams from bottoms under navigable water below the level of mean lower low water by any mechanical device shall be prohibited except as authorized by the director of fisheries. Within the enclosed bays and channels of Puget Sound, Strait of Juan de Fuca, Grays Harbor and Willapa Harbor, the operators of all mechanical devices shall confine their operations to bottoms leased from the Washington department of natural resources, subject to the approval of the director of fisheries. The harvesting of shellfish from bottoms of the Pacific Ocean westward from the western shores of the state shall not be carried out in waters less than two fathoms deep at mean lower low water. In said waters more than two fathoms deep the director of fisheries may reserve all or certain areas thereof and prevent the taking of shellfish in any quantity from such reserves established on the ocean bottoms.



(6) Noncompliance with any part of these regulations or with special requirements of individual permits will result in immediate cancellation of and/or subsequent nonrenewal of all permits held by the operator.

(7) Applications must be made on the forms provided by the department of fisheries and permits must be in the possession of the operator before digging commences.

(8) All permits to take or harvest shellfish by mechanical means shall expire on December 31 of the year of issue.

(9) All mechanical clam harvesting machines must have approved instrumentation that will provide deck readout of water pressure.

(10) All clam harvest machines operating on intertidal grounds where less than ten percent of the substrate material is above 500 microns in size must be equipped with a propeller guard suitable for reducing the average propeller wash velocity at the end of the guard to approximately twenty-five percent of the average propeller wash velocity at the propeller. The propeller guard must also be positioned to provide an upward deflection to propeller wash.

(11) Clam harvest machines operating in fine substrate material where less than ten percent of the substrate material is above 500 microns in size, shall have a maximum harvest head width of 3 feet (overall) and the maximum pump volume as specified by the department of fisheries commensurate with the basic hydraulic relationship of 828 gpm at 30 pounds per square inch, pressure to be measured at the pump discharge.

(12) Clam harvest machines operating in coarser substrate material where more than ten percent of the substrate material is above 500 microns in size, shall have a maximum harvest head width of 4 feet (overall) and a maximum pump volume as specified by the department of fisheries commensurate with a basic hydraulic relationship of 1,252 gpm at 45 pounds per square inch, pressure to be measured at the pump discharge.

(13) All clam harvest machine operators must submit accurate performance data showing revolutions per minute, gallons per minute, and output pressure for the water pump on their machine. In addition, they shall furnish the number and sizes of the hydraulic jets on the machines. If needed, the operator shall thereafter modify the machine (install a sealed pressure relief valve) as specified by the department of fisheries to conform with values set forth in either WAC 220-52-018 (11) or (12) of this section. Thereafter, it shall be illegal to make unauthorized changes to the clam harvester water pump or the hydraulic jets. Exact description of the pump volume, maximum pressure and number and size of the hydraulic jet for each harvester machine shall be included in the department of fisheries' clam harvest permit.

(14) All clam harvest machines shall be equipped with a 3/4-inch pipe thread tap and valve that will allow rapid coupling of a pressure gauge for periodic testing by enforcement personnel.

(15) Each mechanical clam harvester must have controls so arranged and situated near the operator which will allow the operator to immediately cut off the flow of water to the jet manifold without affecting the capability of the vessel to maneuver.

(16) Licensing: A hardshell clam mechanical harvester fishery license is the license required to operate the mechanical harvester gear provided for in this section.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-019 Geoduck clams—Gear and unlawful acts.** (1) It is unlawful to take, fish for or possess geoduck clams taken for commercial purposes from any of the beds of navigable waters of the state of Washington except as provided in RCW 75.24.100 and rules of the director.

(2) (a) Only a manually operated water jet, the nozzle of which shall not exceed 5/8 inch inside diameter may be used to commercially harvest geoduck clams. Use of any other gear requires a permit from the director.

(b) It is unlawful in the commercial harvest of geoducks for through-hull fittings for water discharge hoses connected to the harvest gear to be below the surface of the water. Any through-hull fitting connected to the harvest gear which is above the surface of the water must be visible at all times.

(3) It is unlawful to take or fish for geoduck clams taken for commercial purposes between one-half hour before official sunset or 7:00 p.m. whichever is earlier and 7:00 a.m. No geoduck harvest vessel may be on a geoduck tract or harvest area after 7:30 p.m. or before 6:30 a.m. It is unlawful to take or fish for geoduck clams on Sundays or on state holidays as defined by the office of financial management. It is unlawful to possess geoduck clams taken in violation of this section.

(4) It is unlawful to harvest geoduck clams with any instrument that penetrates the skin, neck or body of the geoduck.

(5) It is unlawful to possess only the siphon or neck portion of a geoduck clam aboard a geoduck harvest vessel.

(6) It is unlawful to retain any food fish or shellfish other than geoduck clams during geoduck harvesting operations.

(7) It is unlawful for more than two divers from any one geoduck harvest vessel to be in the water at any one time.

(8) The following documents must be on board the geoduck harvesting vessel at all times during geoduck operations:

(a) A copy of the department of natural resources geoduck harvesting agreement for the tract or area where harvesting is occurring;

(b) A map of the geoduck tract or harvest area and complete tract or harvest area boundary identification documents or photographs issued by the department of natural resources for the tract or harvest area;

(c) A geoduck diver license for each diver on board the harvest vessel or in the water; and

(d) A geoduck (~~gear~~) fishery license as described in WAC 220-52-01901.

(9) It is unlawful to process geoducks on board any harvest vessel.

(10) It is unlawful to take or fish for geoduck clams for commercial purposes outside the tract or harvest area designated in the department of natural resources geoduck harvesting agreement required by subsection (8)(a) of this section. It is unlawful to possess geoduck clams taken in violation of this subsection.

~~(11) (It is unlawful to commercially harvest geoduck clams in areas which are shallower than 18 feet below mean lower low water (0.0 feet), or in areas shoreward from a line~~



200 yards seaward from and parallel to the line of ordinary high tide.) It is unlawful to harvest geoduck clams in areas deeper than seventy feet below the water surface at any tide height.

~~(12) ((It is unlawful for any harvest vessel to anchor less than 600 feet from a previously anchored harvest vessel. Harvest vessels must remain at least 600 feet apart while divers are in the water.~~

~~(13))~~ Holders of geoduck ((~~gear~~) fishery licenses ((issued under RCW 75.24.100 and WAC 220-52-01901)) shall comply with all applicable commercial diving safety regulations adopted by the Federal Occupational Safety and Health Administration established under the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. Some of those regulations appear at 29 C.F.R. Part 1910, Subpart T.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-01901 Geoduck ((~~gear~~) licenses.** (1) A geoduck ((~~gear~~) fishery license issued by the director is required for the commercial harvest of geoduck clams. Geoduck ((~~gear~~) fishery licenses were previously called "geoduck validations."

(2) Only persons holding current geoduck harvest agreements from the department of natural resources or their agents may apply for geoduck ((~~gear~~) fishery licenses. An application for a geoduck ((~~gear~~) fishery license must be on a form provided by the department, must be complete, and must be accompanied by a copy of the geoduck harvest agreement for which the license is sought.

~~(3) ((A geoduck gear license expires at the end of the calendar year following its issuance, or when the harvesting agreement for which it is issued terminates, whichever is earlier.~~

~~(4) The fee requirements of RCW 75.28.035 apply to any request to transfer a geoduck gear license or replace a lost geoduck gear license card.~~

~~(5))~~ Each geoduck ((~~gear~~) fishery license authorizes the use of two water jets or other units of geoduck harvest gear. Gear must meet the requirements of WAC 220-52-019(2). A geoduck ((~~gear~~) fishery license card is a "license card" under WAC 220-69-270.

~~((6))~~ (4) The director may suspend or revoke a geoduck ((~~gear~~) license used in violation of commercial diving safety regulations, including 29 C.F.R. Part 1910, Subpart T, adopted under the Occupational Safety and Health Act of 1970. The procedures of chapter 34.05 RCW apply to such suspensions or revocations. If there is a substantial probability that a violation of commercial diving safety regulations could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the director may suspend the license immediately until the violation has been corrected. The director shall not revoke a geoduck ((~~gear~~) license if the holder of the harvesting agreement corrects the violation within ten days of receiving written notice of the violation.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-020 Clams—Puget Sound—Seasons and areas.** (1) It shall be unlawful to take, dig for or possess clams, cockles, borers, and mussels, not including geoduck clams, taken for commercial purposes from the tidelands of registered aquaculture farms in Puget Sound except during the following seasons:

(a) Those tidelands lying west of the tip of Dungeness Spit from November 1 through March 31.

(b) Elsewhere on Puget Sound the entire year.

(c) Licensing: No fishery license is required to retain clams taken from registered aquaculture farms but registration is required prior to commercial harvest.

(2) It shall be unlawful to take, dig for or possess clams, cockles, borers and mussels except razor clams taken for commercial purposes from the tidelands of the state of Washington except from registered aquaculture farms or by permit issued by the director.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-030 Clams—Coastal—Seasons and areas.** (1)(a) It shall be lawful to take, dig for or possess clams, cockles, borers and mussels taken for commercial purposes, not including razor clams, from the tidelands of registered aquaculture farms in Grays Harbor and Willapa Harbor the entire year.

(b) Licensing: No fishery license is required to retain clams taken from registered aquaculture farms but registration is required prior to commercial harvest.

(2)(a) It shall be unlawful to take, dig for or possess razor clams taken for commercial purposes from Washington waters except ((as provided for in subsection (3) of this section or)) during commercial razor clam seasons opened by emergency rule.

~~((3) It shall be lawful to possess razor clams for commercial purposes for use within the state of Washington that are lawfully taken from within the boundaries of the Quinault Indian Reservation.)~~ (b) Licensing: A razor clam fishery license is the license required to take razor clams for commercial purposes.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-040 Crab fishery—Lawful and unlawful.** (1) It is unlawful for any vessel geared or equipped with commercial net fishing gear to have aboard any quantity of crab while fishing with said gear or having commercially caught food fish or other species of shellfish aboard.

(2) Unless otherwise provided, it is unlawful to set, maintain, or operate any baited or unbaited shellfish pots or ring nets for taking crabs, for commercial purposes, in any area at any time when it is unlawful to take or fish for crabs for commercial purposes therein.

(3) It is unlawful to have in the water any baited or unbaited shellfish pots or ring nets for taking crabs for commercial purposes, in any area at any time when it is unlawful to take or fish for crabs for commercial purposes

therein: *Provided*, That following the close of a commercial crab season, permission may be granted by the director on a case-by-case basis for fishermen to recover shellfish pots that have become irretrievable due to extreme weather conditions. Fishermen must apply to fisheries patrol for such permission within twenty-four hours prior to the close of season.

(4) It is unlawful for any person to take, or possess for commercial purposes female Dungeness crabs, or male Dungeness crabs measuring less than 6-1/4 inches, caliper measurement, across the back immediately in front of the tips.

(5) It is unlawful for any person to take or fish for crabs for commercial purposes in the Puget Sound licensing district with more than 100 shellfish pots or ring nets in the aggregate, and it shall be unlawful for any group of persons using the same vessel to take or fish for crabs for commercial purposes in Puget Sound with more than 100 shellfish pots or ring nets in the aggregate, provided it shall be unlawful for any person, or group of persons using the same vessel, to take or fish for crabs for commercial purposes with more than 20 shellfish pots or ring nets in the aggregate within the waters of Dungeness Bay lying west of a line projected from the new Dungeness Light southward to the outermost end of the abandoned dock at the Three Crabs Restaurant on the southern shore of Dungeness Bay.

(6) It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean during the first thirty days following the opening of a coastal crab season from any vessel which has not been issued a Washington crab vessel inspection certificate. The certificate will be issued to vessels made available for inspection in a Washington coastal port and properly licensed for commercial crab fishing if no Dungeness crabs are aboard. Inspections will be performed by authorized department of fisheries personnel not earlier than twelve hours prior to the opening of the coastal crab season and during the following thirty-day period.

(7) It is unlawful for any licensed fisher to fish for or possess Dungeness crab taken for commercial purposes with shellfish pot gear from Puget Sound waters unless the fisher has on his/her person a current Puget Sound crab pot/buoy brand certificate. The certificate shall contain space for: Vessel name; name of vessel operator(s); buoy brand(s) to be used; number of pots to be fished; Puget Sound endorsement number. The certificate may be obtained at a time and place specified by the director prior to the season opening upon inspection of all pots and buoys to be fished. Inspected gear must meet the requirements of legal gear as defined in WAC 220-20-010 and 220-52-043 in order to be certified. It is unlawful for a fisher to have aboard the fishing vessel or in the water more pots than the number shown on the certificate or to have buoys aboard the vessel with numbers other than those shown on the certificate. Upon inspection of gear, the certificate may be amended during the fishing season.

~~((8) It is unlawful for any person to take or possess for commercial purposes red rock crabs in the Puget Sound licensing district without having first obtained a license and permit to fish for red rock crabs for commercial purposes~~

~~authorized by the director of the department of fisheries. The permit must accompany the fisher at all times while fishing for red rock crabs for commercial purposes and must be made available for inspection by any authorized representative of the department of fisheries.~~

~~(9) It is unlawful to take or possess tanner crab taken for commercial purposes from Marine Fish Shellfish Management and Catch Reporting Areas 58B, 59, or 60A without having in possession a permit issued by the director authorizing fishing activity for tanner crab.)~~

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-043 Crab fishery—Gear—Licensing.**

(1) It shall be unlawful to take or fish for crabs for commercial purposes except with shellfish pots and ring nets.

(2) It shall be unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless such gear meets the following requirements:

(a) Pot gear must have not less than two escape rings or ports not less than 4-1/4 inches inside diameter.

(b) Escape rings or ports described above must be located in the upper half of the trap.

(3) All buoys attached to commercial crab gear in Puget Sound waters must consist of a durable material and remain floating on the water's surface when five pounds of weight is attached. It is unlawful to use bleach or antifreeze bottles or any other container as a float. No buoys attached to commercial crab gear in Puget Sound may be half red in color and half white in color, as these colors are reserved for personal use crab gear as described in WAC 220-56-320 (1)(c).

(4) Licensing:

(a) A dungeness crab—Puget Sound fishery license is a license required to operate the gear provided for in this section, and allows the operator to retain dungeness crab taken in Puget Sound.

(b) Crab pot—Puget Sound and crab ring net—Puget Sound fishery licenses are licenses required to operate the gear provided for in this section, and allow the operator to retain crab other than dungeness crab taken in Puget Sound.

(c) Crab pot—non-Puget Sound and crab ring net—non-Puget Sound fishery licenses are licenses required to operate the gear provided for in this section and allow the operator to retain crab taken in state waters other than Puget Sound and offshore waters.

(5) Incidental catch: It is unlawful to retain salmon or shellfish other than octopus taken incidental to any lawful crab fishery.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-046 Crab fishery—Seasons and areas.**

It is unlawful to fish for or possess Dungeness crabs taken for commercial purposes except during the lawful open seasons and areas as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except 25C, 27A, 27B, 27C, 28A, 28B, 28C, and 28D - open October 1 through April 15, provided that it is unlawful to set any crab gear prior to 9:00 a.m. on the opening day of the season.

(2) Coastal, Pacific Ocean, Grays Harbor, Willapa Harbor and Columbia River waters - open December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 28 unless the coastal crab fishery is delayed, in which case the following provisions apply:

(a) After consultation with the Oregon Department of Fish and Wildlife, the director will, by emergency rule, establish the softshell crab demarcation line.

(b) During a coastal crab delayed season, any Washington licensed crab fisher or crab fisher whose vessel is registered in Washington state and who harvests crab south of the softshell crab demarcation line is prohibited from fishing for or landing crab north of the softshell crab demarcation line for thirty days after the coastal crab season opens north of the softshell crab demarcation line except that any fisher who certifies nonparticipation in the coastal crab fishery during the previous forty-five days may fish north of the softshell crab demarcation line after the opening of the delayed season. The certification is an instrument for purposes of RCW 40.16.030.

(c) No fisher harvesting crab north of the softshell crab demarcation line may set baited crab gear in the area more than sixty-four hours in advance of the season opening time.

**AMENDATORY SECTION** (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-050 Shrimp fishery—Coastal waters.**

It is unlawful to fish for or possess shrimp taken for commercial purposes from coastal waters except as provided for in this section:

(1) **Trawl gear:**

(a) **Season** - Open to trawl fishing April 1 through October 31 of each year.

(b) **Gear restrictions** - The following gear is prohibited:

(i) Shrimp trawl gear having a mesh size greater than two inches in the intermediate or codend. It is lawful to have mesh larger than two inches in the wings or body of the trawl.

(ii) It is unlawful for any fisherman to be in possession of any gear having mesh size greater than two inches in the intermediate or codend while any shrimp are aboard the vessel.

(c) **Species restriction** - It is unlawful to retain ocean pink shrimp taken within the territorial boundaries of the state.

(d) **Licensing:**

(i) A shrimp trawl—non-Puget Sound fishery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp other than ocean pink shrimp.

(ii) An ocean pink shrimp delivery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp taken in offshore waters.

(2) **Shellfish pot gear:**

(a) **Season** - Open to shellfish pot gear fishing the entire year.

(b) **Gear restrictions** - No mesh restriction.

(c) **Species restriction** - It is unlawful to retain ocean pink shrimp taken within the territorial boundaries of the state.

(d) **Licensing:**

(i) A shellfish pot fishery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp other than ocean pink shrimp.

(ii) An ocean pink shrimp delivery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp taken in offshore waters.

(3) **Minimum number of shrimp per pound:**

The count must average no more than 160 shrimp per pound for a minimum of two samples increasing at a rate of one sample per one thousand pounds landed or in possession up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession. This subsection applies only to loads of 3,000 pounds of shrimp or more.

(4) **Incidental catch:**

(a) It is unlawful to take salmon incidental to any shrimp fishery.

(b) It is unlawful to retain more than 1,500 pounds of any bottomfish species taken incidental to a shrimp trawl fishery in which ocean pink shrimp comprise more than one-half of the volume of shrimp aboard. It is unlawful to retain more than 1,000 pounds of any bottomfish species taken incidental to a shrimp trawl fishery in which spot prawns comprise more than one-half of the volume of shrimp aboard. If a species or species complex trip limit established under WAC 220-44-050 is less than 1,500 pounds or 1,000 pounds respectively, it is unlawful to land in excess of that trip limit.

(c) It is unlawful to retain any species of shellfish taken incidental to any lawful shrimp fishery, except that it is lawful to retain octopus and squid.

**AMENDATORY SECTION** (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-051 Shrimp fishery—Puget Sound.** It is unlawful to fish for or possess shrimp taken for commercial purposes from Puget Sound except as provided for in this section:

(1) **SHRIMP DISTRICTS:** The following areas are defined as shrimp fishing districts:

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

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

(c) Shrimp District 3 - (Port Angeles) Waters inside Ediz Hook west of a line from the tip of Ediz Hook to the ITT Rayonier Dock.

(d) Shrimp District 4 - (Sequim Bay) Waters of Sequim Bay south of a line projected true west from Travis Spit on the Miller Peninsula.

(e) Shrimp District 5 - (Hood Canal) Waters south of the Hood Canal Floating Bridge.

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

(2) TRAWL GEAR:

(a) SEASONS - All waters of Puget Sound are open to trawl gear April 16 through October 15 except closed in:

- (i) Shrimp Districts 1, 2, 3, 4, 5, and 6.
- (ii) Waters closed to trawl fishing in WAC 220-48-015.

(b) GEAR RESTRICTIONS - Beam trawl gear only. Otter trawl gear may not be used.

(c) LICENSING: A shrimp trawl - Puget Sound fishery license is the license required to operate the gear provided for in this section.

(3) SHELLFISH POT GEAR:

(a) SEASONS - All waters of Puget Sound are open to shellfish pot gear April 16 through October 15 except:

(i) Open in Shrimp Districts 1, 2, and 3 from May 16 through September 15 except those waters of Shrimp District 1 within a line from the entrance to the Cape George Marina projected southwesterly to the easternmost tip of Diamond Point thence southeasterly to the westernmost tip of Beckett Point thence following the shore to the point of origin are closed to shrimp fishing.

(ii) Closed in Shrimp Districts 4, 5, and 6 unless opened by emergency regulation.

(b) GEAR RESTRICTIONS -

(i) In all areas, maximum 100 pots per fisher, except:

(A) Maximum 75 pots per fisher in Marine Fish-Shellfish Management and Catch Reporting Area 28B.

(B) Maximum 25 pots per fisher in Shrimp District 1.

(C) Maximum 50 pots per fisher in Shrimp Districts 2 and 5.

(b) Maximum 10 pots per fisher in Shrimp District 3.

(ii) In all shrimp districts:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(iii) In Shrimp Districts 2 and 5:

(A) The entire top, bottom, and sides of the pot, except entrance tunnels, must be constructed of mesh material having a minimum mesh of such size that a 7/8 inch square peg can pass through without changing the shape of the opening.

(B) All entrance tunnels must open into the pot from the sides.

(C) The sum of the maximum widths of all entrance tunnels must not exceed one-half of the perimeter of the bottom of the pot.

(c) Spot shrimp size restriction: It is unlawful to possess spot shrimp taken by shellfish pot gear that average more than 20 shrimp per pound as sampled by a minimum of two samples of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession.

(d) LICENSING -

(i) A shellfish pot fishery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp in open waters of Puget Sound other than Hood Canal.

(ii) A shrimp pot - Hood Canal fishery license is a license required to operate the gear provided for in this section, and allows the operator to retain shrimp in all open waters of Puget Sound.

(4) INCIDENTAL CATCH: It is unlawful to retain food fish or shellfish taken incidental to any lawful shrimp fishery, except that it is lawful to retain octopus and squid.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

**WAC 220-52-060 Crawfish fishery.** It is unlawful to fish for or possess crawfish taken for commercial purposes except as provided for in this section:

(1) General crawfish provisions:

(a) Crawfish may not be taken for commercial purposes with gear other than shellfish pots and no person may fish more than 400 pots.

(b) The open season for commercial crawfish fishing is first Monday in May through October 31, except in Washington waters of the Columbia River downstream from the mouth of the Walla Walla River crawfish may be taken from April 1 through October 31.

(c) The minimum commercial crawfish size is 3-1/4 inches in length from the tip of the rostrum (nose) to the tip of the tail and all undersize crawfish and female crawfish with eggs or young attached to the abdomen must be immediately returned unharmed to the waters from which taken. Fishermen must sort and return illegal crawfish to the waters from which taken immediately after the crawfish are removed from the shellfish pot and prior to lifting additional pots from the water.

(d) Fishermen may not discard into any water of the state any crawfish bait.

(e) Crawfish fishing is not allowed within 1/4 mile of the shoreline of developed parks.

(f) The provisions of this section do not apply to the commercial culture of crawfish at a registered aquatic farm.

(2) It is unlawful to fish for crawfish for commercial purposes in the following waters:

**Clallam**

- Anderson Lake
- Crescent Lake

**Clark**

- Battleground Lake

**Cowlitz**

- Merrill Lake

**Grant**

- Deep Lake
- Potholes Res.
- Coulee Lake
- Soap Lakes
- Sun Lakes

**Grays Harbor**

- Sylvia Lake

**Island**

- Cranberry Lake

**Jefferson**

Anderson Lake

**King**

Cedar Lake  
 Elbow Lake  
 Green Lake  
 Green River  
 Margaret Lake  
 Sammamish Lake  
 Sammamish River  
 Sammamish Slough  
 Walsh Lake

**Kittitas**

Easton Lake

**Klickitat**

Horsethief Lake  
 Roland Lake

**Lewis**

Mineral Lake

**Okanogan**

Alta Lake  
 Buffalo Lake  
 Campbell Lake  
 Conconully Lake  
 Conconully Res.  
 Crawfish Lake  
 Omak Lake  
 Osoyoos Lake  
 Pearrygin Lake

**Pacific**

Middle Nemah River  
 North Nemah River  
 Smith Creek

**Pend Oreille**

Browns Lake (on Brown Cr)  
 Calispell Lake  
 Cooks Lake  
 Conklin Lake  
 Davis Lake  
 Half Moon Lake  
 Mystic Lake  
 No Name Lake  
 Shearer Lake  
 Vanee Lake

**Pierce**

Clear Lake  
 Spanaway Lake  
 Steilacoom Lake  
 Wapato Lake

**Skagit**

Beaver Lake  
 Caskey Lake  
 Cranberry Lake

Everett Lake  
 Minkler Lake  
 Pass Lake  
 Sixteen Lake  
 Whistle Lake

**Skamania**

Goose Lake  
 Mosquito Lake  
 South Prairie Lake  
 Stump (Tunnel) Lake

**Snohomish**

Ballinger Lake  
 Chaplain Lake  
 Flowing Lake  
 Goodwin Lake  
 Ki Lake  
 Martha Lake  
 Pass Lake  
 Roesiger Lake  
 Serene Lake  
 Shoecraft Lake  
 Silver Lake  
 Stevens Lake  
 Stickney Lake  
 Storm Lake

**Thurston**

Deep Lake  
 Hicks Lake  
 Long Lake  
 Patterson Lake  
 Summit Lake  
 Ward Lake

**Whatcom**

Budd Lake  
 Bug Lake  
 Caine Lake  
 Fishtrap Creek  
 Johnson Creek  
 Padden Lake  
 Toad or Emerald Lake

(3) It is lawful for an individual fisherman to fish for crawfish in the waters set out below with up to the number of pots shown.

Name of Lake, River, or Slough	County	Max. Pots Allowed
Alder Lake (Res.)	Pierce/Thurston	200
Aldwell Lake (Res.)	Clallam	100
Alkali Lake	Grant	100
Bachelor Slough	Clark	100
Baker Lake	Whatcom	200
Banks Lake	Grant	200
Big Lake	Skagit	200
Black Lake	Thurston	200
Blue Lake	Grant	200
Bonaparte Lake	Okanogan	100
Buckmire Slough	Clark	100
Camas Slough	Clark	100
Campbell Lake	Skagit	100
Cassidy Lake	Snohomish	100

Cavanaugh Lake	Skagit	200
Chehalis River	Lewis/Grays Harbor	100
Chelan Lake	Chelan	200
Clear Lake	Skagit	100
Coal Creek Slough	Cowlitz	100
Columbia River	Clark, Cowlitz, etc.	200
Copalis River	Grays Harbor, etc.	100
Cowlitz River	Clark, Cowlitz, etc.	100
Curlew Lake	Ferry	200
Cushman Lake #1	Clark	100
Deep River	Wahkiakum	100
Deschutes River	Thurston	100
Diablo Lake	Whatcom	200
Drano Lake	Skamania	100
Elochoman River	Wahkiakum	100
Erie Lake	Skagit	100
Evergreen Reservoir	Grant	100
Fisher Island Slough	Cowlitz	100
Goose Lake (upper)	Grant	100
Grays River	Pacific	100
Harts Lake	Pierce	100
Hoquiam River	Grays Harbor	100
Humtuplups River	Grays Harbor	100
John's River	Grays Harbor	100
Kapowsin Lake	Pierce	200
Kalama River	Cowlitz, etc.	100
Klickitat	Klickitat	100
Lackamas Lake (Res.)	Clark	100
Lake River	Clark	100
Lawrence Lake	Thurston	100
Lenore Lake	Grant	200
Lewis River	Clark/Cowlitz	100
Loomis Lake	Pacific	100
Mayfield Lake	Lewis	200
McIntosh Lake	Thurston	100
McMurray Lake	Skagit	100
Merwin Lake	Clark/Cowlitz	200
Moses Lake	Grant	200
Naselle River	Pacific, etc.	100
Nisqually River	Pierce, etc.	100
Nooksack River	Whatcom	100
North River	Grays Harbor	100
Palmer Lake	Okanogan	100
Patterson Lake (Res.)	Okanogan	100
Portage Bay	King	100
Rattlesnake Lake	King	100
Ross Lake (Res.)	Whatcom	200
Salmon Lake	Okanogan	100
Satsop River	Grays Harbor	100
Shannon Lake (Res.)	Skagit	200
Sidley Lake	Okanogan	100
Silver Lake	Pierce	100
Silver Lake	Cowlitz	200
Skagit River	Skagit/Whatcom	200
Skamokawa River	Wahkiakum	100
Snake River	Franklin/Walla Walla	200
Snohomish River	Snohomish	100
St. Clair Lake	Thurston	100
Swift Lake (Res.)	Skamania	200
Terrell Lake	Whatcom	100
Toutle River	Cowlitz	100
Union Lake	King	200
Vancouver Lake	Clark	200
Warden Lake	Grant	100
Washington Lake	King	200
Washougal River	Clark/Skamania	100
Whitestone Lake	Okanogan	100
Willapa River	Pacific	100
Wiser Lake	Whatcom	100
Wind River	Cowlitz	100
Wishkah River	Grays Harbor	100
Woodland Slough	Clark	100
Wynoochee River	Grays Harbor	100
Yakima River	Kittitas	100
Yale Lake (Res.)	Clark/Cowlitz	200

~~((3))~~ (4) Commercial crawfish harvest permits will be issued to prescribe the number of allowable crawfish pots per fisherman per body of water in suitable crawfish harvest sites not listed in subsection (2) of this section as follows:

- (a) Under 20 acres - no commercial harvest.
- (b) 20 acres to 100 acres - 50 pots.
- (c) 101 acres to 400 acres - 100 pots.
- (d) Over 400 acres - 200 pots.

(e) Permits will be issued only in waters where fishing will not conflict with high density residential or recreational areas, and no permit will be issued where developed parks encompass more than one-half of the water shoreline.

(f) The department of fisheries shall fix the maximum number of pots to be permitted in any given body of water. Once the permitted maximum number of pots for any given body of water has been reached, no further permits will be issued. Permits will be issued on a first-come, first-serve basis consistent with all other regulations concerning issuance of commercial crawfish harvest permits.

(5) Licensing: A shellfish pot fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 87-69, filed 7/8/87)

**WAC 220-52-063 Octopus fishery.** (1) It shall be lawful at any time to take or fish for octopus for commercial purposes with shellfish pot (~~or ring net~~) gear in any of the waters of the state of Washington except in those waters of the Tacoma Narrows between a line from the north end of Days Island to the southern tip of Point Fosdick and a line from the navigational buoy at Point Defiance to the navigational buoy at the entrance to Gig Harbor.

(2) It shall be lawful to possess octopus for commercial purposes taken incidentally to any other lawful bottom fish or shellfish fishery, except that it shall be unlawful for divers to take octopus for commercial purposes except as authorized by permit issued by the director for display or scientific purposes.

(3) It shall be unlawful to possess any octopus mutilated in the process of its fishing or taking.

(4) It is unlawful to fish for octopus using more than 200 shellfish pots without first having obtained a permit authorized by the director.

(5) Licensing: A shellfish pot fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

**WAC 220-52-066 Squid fishery.** (1) It is lawful at any time to take or fish for squid for commercial purposes with drag seine gear not exceeding 350 feet in length and having meshes of not less than 1-1/4 inches stretch measure, dip bag net, brail, and squid jigging gear. Dip bag net and brail may not exceed 10 feet in diameter nor have a mesh less than one inch stretch measure. Other gear may be used to fish for squid commercially if authorized by a permit issued by the director.

(2) Food fish, other shellfish except octopus, and squid eggs caught while fishing for squid must be returned to the

water immediately. It is lawful to retain for commercial purposes squid taken incidental to another commercial fishery.

(3) Each vessel fishing for squid may use a lighting system with a combined power of not more than 10 kilowatts (10,000 watts). Lights of 200 watts or greater must be shielded and may not be directed to any point more than 100 feet from the vessel while fishing for or attracting squid.

(4) It is unlawful to fish for squid for commercial purposes within 1/4 mile of the shoreline of an incorporated city or town.

(5) Licensing: A squid fishery license is the license required to operate the gear provided for in this section.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-068 Scallop fishery—Coastal waters.** It is unlawful to fish for or possess scallops taken for commercial purposes from coastal and offshore waters except as provided for in this section.

(1) Season: July 1 through November 30.

(2) Gear: Only scallop dredge gear may be used. Scallop dredge gear may not exceed fifteen feet in width per unit of gear (~~nor have a ring size less than~~) and must have three (~~inches inside diameter~~) inch or larger net mesh or rings throughout. Scallop dredges may not use a dredge liner nor have chaffing gear covering any portion of the top half of the dredge.

(3) Licensing: A shrimp trawl—non-Puget Sound fishery license is the license required to operate the gear provided for in this section.

(4) Incidental catch: It is unlawful to retain food fish or shellfish taken incidental to any lawful scallop fishery, except that it is lawful to retain octopus and squid.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-069 Scallop fishery—Puget Sound.** It is unlawful to fish for or possess scallops taken for commercial purposes from Puget Sound except as provided for in this section:

(1)(a) Rock scallops and weathervane scallops. It is unlawful at any time to take or possess rock or weathervane scallops taken for commercial purposes from Puget Sound unless a person has first obtained a scallop brood stock permit issued by the department. The permit will specify the species, location, time, and quantity of scallops that can be taken for brood stock or culture purposes.

(b) Licensing:

(i) A shellfish dive fishery license is a license that allows a permittee to retain rock and weathervane scallops for brood stock purposes.

(ii) Shrimp trawl—Puget Sound and food fish trawl—Puget Sound fishery licenses are licenses that allow a permittee to retain weathervane scallops for brood stock purposes.

(2) Pink scallops and spiny scallops.

(a) General provisions:

(i) Pink and spiny scallops may be harvested from Puget Sound at any time.

(ii) The minimum commercial pink or spiny scallop size is 2 inches in length from the hinge to the outer margin of the shell.

(iii) Persons fishing for pink or spiny scallops must have approval of the Washington state department of health. Scallops may only be taken from areas approved by the department of health and any fisher taking pink or spiny scallops must have on board the harvesting vessel a valid department of health shellfish toxin sampling agreement.

(iv) No other shellfish except octopus and squid or food fish may be retained while scallop fishing or possessed aboard the scallop fishing vessel.

(b) Trawl gear provisions:

(i) Trawlers may only use single beam trawls not exceeding ten feet in width and having mesh size no smaller than two inches in the intermediate portion and cod end of the trawl.

(ii) Trawling for scallops is prohibited in waters less than 120 feet below mean lower low water.

(iii) Trawling for scallops is prohibited in the following areas:

(A) All waters closed to bottomfish trawl in WAC 220-48-015.

(B) Shrimp Districts 1 and 3 as defined in WAC 220-52-051.

(C) Sea Urchin Districts 1 and 2 closed waters defined in WAC 220-52-073 (1)(a)(i), (ii), and (1)(b)(ii).

(iv) Licensing: A shrimp trawl—Puget Sound fishery license is the license required to operate the gear provided for in this section.

(c) Shellfish diver gear provisions:

(i) Diving for scallops is prohibited in Sea Urchin Districts 1 and 2 closed waters as defined in WAC 220-52-073 (1)(a)(i), (ii), (1)(b)(i), and (ii).

(ii) Licensing: A shellfish dive fishery license is the license required to take scallops with shellfish diver gear.

AMENDATORY SECTION (Amending Order 86-190, filed 11/26/86)

**WAC 220-52-070 Goose barnacle fishery:** (1) It is unlawful to take or possess Pacific goose barnacles taken for commercial purposes without having first obtained a permit to do so issued by the director.

(2) Licensing: An emerging commercial fishery license is the license required for a permittee to retain goose barnacles.

AMENDATORY SECTION (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-071 Sea cucumbers.** It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

(1) Sea cucumber districts:

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to

Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(iii) Within one-quarter mile of Green Point on Spieden Island.

(iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

**(2) Sea cucumber areas and seasons:**

(a) District 1 open May 1 through October 31, 1991.

(b) District 2 open May 1 through October 31, 1992.

(c) District 3 open May 1 through October 31, 1993,

except:

(i) Marine Fish Shellfish Management and Catch Reporting Area 26C is closed to the harvest of sea cucumbers after August 31, 1993.

(ii) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island are closed to the harvest of sea cucumbers at all times.

(iii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis are closed to the harvest of sea cucumbers at all times.

(d) District 4 open May 1 through October 31, 1994.

(e) Other areas and times as authorized by permit issued by the director.

(f) During the seasons provided for in this subsection, harvest is restricted to Monday through Wednesday May 1 through May 14, Monday through Thursday May 15 through June 30, and Monday through Friday thereafter. Divers may not take sea cucumbers from one-half hour before official sunset to official sunrise or 6:00 a.m., whichever is later.

**(3) Shellfish diver gear:**

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or

possess geoduck clams on a vessel that has sea cucumbers on board.

(d) Licensing: A sea cucumber dive fishery license is the license required to operate the gear provided for in this section.

**(4) Trawl gear:**

It is unlawful to fish for or possess sea cucumbers taken with trawl gear.

**AMENDATORY SECTION** (Amending WSR 93-15-051, filed 7/14/93, effective 8/14/93)

**WAC 220-52-075 Shellfish harvest logs.** It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, shrimp other than ocean pink shrimp, squid, octopus, or sand shrimp fishing or operator of mechanical clam digging device to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, sea cucumbers, sea urchins, shrimp other than ocean pink shrimp, squid, octopus, scallops, clams, or sand shrimp aboard. The vessel operator must submit the harvest logs for inspection upon request by authorized department of fisheries representatives. The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing activity occurred, except that commercial sea cucumber harvest logs must be received for each month of the season provided for in WAC 220-52-072 regardless of whether harvest activity occurred during the month, and all shellfish harvesters must submit a log that must be received by the tenth day following the termination of commercial fishing activity showing that shellfish harvest has terminated for the year.

(1) Vessel operators engaged in commercial harvest of shrimp or crawfish with shellfish pot or ring net gear must record the vessel Washington department of fisheries boat registration number, number of pots or ring nets pulled, date pulled, soak time, and gear location before leaving the catch area where taken, and weights must be recorded upon landing or sale. In addition, vessel operators engaged in commercial harvest of shrimp in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, or 27C (Hood Canal) must record the total number of pots they have in the water and the total number of buoys attached to those pots, and the department's copy of the completed harvest log must be submitted weekly, postmarked no later than Friday and showing harvest activity for the period Thursday of the week previous to submission through Wednesday of the week the harvest log is submitted.

(2) Vessel operators engaged in commercial harvest of shrimp other than ocean pink shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Vessel operators engaged in commercial harvest of sea urchins or sea cucumbers must record the vessel identity, date, location, and the approximate number of sea urchins or



sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Vessel operators engaged in commercial harvest of clams with mechanical digging devices must record the vessel identity, location, and date of harvest before the end of each day's fishing and the weights by clam species must be recorded upon landing or sale.

(5) Vessel operators engaged in commercial harvest of scallops must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow or dive hour before leaving the catch area where taken.

(6) Vessel operators engaged in commercial harvest of squid, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type, catch area, starting and ending time of fishing, and numbers of other species caught and returned. Weights of squid must be recorded on landing or sale.

(7) Vessel operators engaged in commercial harvest of octopus, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type and amount, catch area and hours fished. Weights of octopus must be recorded on landing or sale.

(8) Vessel operators engaged in commercial harvest of sand shrimp, except when taken incidental to any other lawful fishery, must record the location or identification number of the harvest tract, date of harvest, number of trenches pumped, average length and width of trenches (yards), total number of sand shrimp retained (dozens), total number of sand shrimp sold (dozens), and the name of the sand shrimp buyer.

**AMENDATORY SECTION** (Amending Order 91-132, filed 11/1/91, effective 12/2/91)

**WAC 220-52-073 Sea urchins.** It is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section.

**(1) Sea urchin districts:**

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island. The following areas within Sea Urchin District 1 are closed to the harvest of sea urchins at all times:

(i) Those waters within one-quarter mile of Green Point on Spieden Island.

(ii) Those waters within one-quarter mile of Gull Reef, located between Spieden and Johns Island.

(b) Sea Urchin District 2 (Southern San Juan Islands and Port Townsend) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island and Areas ~~((21A, 21B, 22B,))~~ 21A, 21B, 22B, 23B

and 25A. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times:

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island; south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(c) Sea Urchin District 3 (Port Angeles) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C east of a line projected true north from Low Point, and Area 23D.

(d) Sea Urchin District 4 (Sekiu) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C west of a line projected true north from Low Point and those waters of Area 29 east of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock).

(e) Sea Urchin District 5 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 29 west of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock) and Areas 59A and 59B. Within Sea Urchin District 5, waters within one-quarter mile of Tatoosh Island are closed to the harvest of sea urchins at all times.

~~(2) ((Sea urchin areas, seasons, species, and sizes:~~

~~(a) District 1 is open November 1, 1991, through March 1, 1992, Monday through Wednesday only, and is open March 2, 1992, through April 15, 1992, Monday and Tuesday only, to harvest of red sea urchins between 4.0 and 5.5 inches in size.~~

~~(b) District 4 is open November 1, 1991, through April 15, 1992, Monday through Wednesday only, to harvest of red sea urchins between 3.75 and 5.25 inches in size.~~

~~(c) Otherwise as authorized by a permit issued by the director.~~

~~(d) All sizes in this subsection are shell diameter exclusive of the spines.~~

~~(3)) Sea urchin seasons and sizes:~~

~~Sea urchin seasons and sizes will be set by emergency rule.~~

(3) Shellfish diver gear:

(a) It is unlawful to take sea urchins by any means other than shellfish diver gear.

(b) Divers may only use hand-operated equipment that does not penetrate the shell.

~~((b))~~ (c) Sea urchins may not be taken from water shallower than 10 feet below mean lower low water.

~~((c) Green and)~~ (d) Purple sea urchins may not be taken.

~~((d))~~ (e) Divers operating from a vessel must have a number assigned by the department, placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air and the number must be black on white no less than 18 inches high and of proportionate width.

~~((e))~~ (f) Divers may not take sea urchins from one-half hour after sunset to one-half hour before sunrise.

~~((f))~~ (g) No processing of sea urchins is permitted aboard the harvest vessel.

~~((g))~~ (h) Divers may not take sea urchins for use other than as human food.

~~((h))~~ ~~[Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvesting operation or when commercial quantities of sea urchins are aboard.]~~

~~((i))~~ (i) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvesting operation or when commercial quantities of sea urchins are aboard.

(j) Variance from any of the provisions of this subsection is only allowed if authorized by a permit issued by the director.

(k) Licensing: A sea urchin dive fishery license is the license required to operate the gear provided for in this section.

**WSR 94-03-001**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-405, Docket No. TV-931239—Filed January 5, 1994, 3:52 p.m.]

In the matter of amending WAC 480-12-321 relating to classification of log roads.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-22-116, filed with the code reviser on November 3, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-22-116, for 9:00 a.m., Wednesday, December 15, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until December 2, 1993.

Written comments were presented by Thomas A. Buechal on behalf of Tobar Inc., and by the commission staff.

In reviewing the comments, commission staff agreed that the log hauling practices are changing, and that many times a carrier has only one load per logging show, making it impractical to classify a road prior to hauling on it. Therefore, the commission amends the proposed rule to allow log roads to be classified either prior to hauling, or as the first load is being transported.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on December 15, 1993, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by Cathie Anderson on behalf of the commission staff. After considering the written and oral comment, the commission adopted the rule as amended.

In reviewing the entire record, the commission determines that WAC 480-12-321 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

**ORDER**

THE COMMISSION ORDERS That WAC 480-12-321 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission consid-

ered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 4th day of January 1994.

Washington Utilities and Transportation Commission  
 Sharon L. Nelson, Chairman  
 Richard Hemstad, Commissioner

**AMENDATORY SECTION** (Amending Order R-334, Docket No. TV-2331, filed 12/17/90, effective 1/17/91)

**WAC 480-12-321 Log road classification—Must have.** ~~((Logging))~~ Each log road((s)) upon which a carrier((s)) will be transporting domestic logs for compensation shall be classified before beginning transportation on a road, or during the first trip using a road, in accordance with the specifications named in Item 860 of WUTC Tariff No. 4-A or reissues thereof. ~~((Log road classification forms may be obtained from any commission office.))~~

(1) The classification of a ~~((logging))~~ log road ~~((shall be))~~ is the responsibility of the carriers and shippers, with primary responsibility upon ~~((the))~~ each carrier((s)).

(2) ~~((Each log road shall be classified prior to commencing transportation and the completed classification form must be filed with the commission, at the local district office, no later than five days after commencing transportation. It shall be the responsibility of all carriers employed on the job to obtain a copy of the road classification and))~~ Blank log road classification forms may be obtained from any commission office.

(3) Each carrier using a road subject to classification shall classify the road as provided in this rule or, if the road has been classified by another carrier, obtain a copy of the completed classification form.

(4) Each carrier shall ~~((also))~~ retain a copy of the completed log road classification form at ~~((carrier's))~~ its main office for a period of not less than three years after concluding transportation upon the road subject to inspection by the commission.

~~((3))~~ (5) Common or contract carriers operating under a combination of service contract as defined in RCW 81.80.060 are not required to classify ~~((logging))~~ log roads unless they use other common or contract carriers to provide transportation services.

**WSR 94-03-002**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-407, Docket No. TV-931256—Filed January 5, 1994, 3:56 p.m.]

In the matter of amending WAC 480-12-260 relating to bills of lading for motor freight carriers.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-23-084, filed with the code reviser on November 17, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-23-084, for 9:00 a.m., Wednesday, December 22, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until December 9, 1993.

Written comments were presented by Diane R. Nelson on behalf of the Washington State Courier Association, Thomas R. Stotler for Buckey's Courier Systems, Jim Dellamaggiore for Viking Freight Systems, and Don Frey for Puget Sound Truck Lines supporting this proposal, and by the commission staff. The proposal would allow regulated motor carriers to store certain documents electronically in addition to the present paper retention.

One change was made, for clarification, to subsection (8).

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on December 22, 1993, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by Cathie Anderson of the commission staff. After considering the written and oral comments, the commission adopted the rule with a minor clarifying change in subsection (8).

In reviewing the entire record, the commission determines that WAC 480-12-260 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

#### ORDER

THE COMMISSION ORDERS That WAC 480-12-260 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption under RCW 34.05.355.

DATED at Olympia, Washington, this 4th day of January 1994.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-276, Cause No. TV-2092, filed 9/17/87)

**WAC 480-12-260 Bills of lading.** (1) Each common carrier transporting property for compensation is required to issue at time of shipment a bill of lading setting forth complete information as hereinafter required.

(2) Bills of lading shall not be required on the following:

(a) Shipments of grain, fruits or vegetables from farms to elevators, processing plants or warehouses on hauls of not over 50 miles;

(b) On regular milk routes from dairy farms to creamery or markets;

(c) On dump truck work;

(d) Shipments of forest products or coal;

(e) Hauling of garbage or other worthless materials;

(f) Local cartage in cities subject to regulation; and

(g) Where other orders of the commission authorize exceptions to this rule.

The foregoing exceptions shall apply when, and only when, a daily trip record is kept showing all information necessary for the determination of legal charges such as number of trips made, miles traveled, tonnage, number of cans, cubic yards, cords, or other transportation units, and such trip record is carried in lieu of bills of lading. Local cartage carriers in the cities subject to regulation shall use either bills of lading or a local cartage delivery sheet, way bill or expense bill containing sufficient information to indicate the origin and destination and weight of the commodity and the number of packages in the shipment.

(3) ~~((a))~~ Bills of lading shall be those prescribed and set out in the governing classifications.

~~((b)) Documents retained by carrier must be assigned a progressive number and filed numerically. All numbers in a series shall be accounted for. Such documents must be maintained at the main office of the carrier for a period of 3 years, subject to inspection by the commission.~~

~~((c))~~ Carriers may use a combination freight bill/bill of lading or other shipping form, providing that it incorporates all the essential provisions and contract terms and conditions of the standard bills of lading specified in ~~((a))~~ this subsection.

(4) Bills of lading shall be issued in triplicate (or more) and shall consist of an original bill of lading, a memorandum bill of lading and a shipping order. The three documents shall be signed by shipper and carrier. Original and a memorandum copy shall be delivered to shipper. Shipping orders must be retained by the carrier and must be numbered ~~((and filed in numerical order at the main office of the carrier for a period of three years subject to inspection by the commission))~~. If freight bills or other documents are also used ~~((in addition thereto))~~, a cross reference shall be shown on bill of lading (shipping order) as filed. Unless freight bills are used the bill of lading must show all information required by subsection (6) of this ~~((rule))~~ section. A copy of the bill of lading, manifest or freight bill, covering the goods being carried, must be in possession of the driver of the vehicle and subject to inspection by commission representatives.

(5) The goods covered by a bill of lading must be in the possession or control of the carrier at the time such bill of

lading is issued. A bill of lading shall cover only goods received from one shipper, tendered at one time, picked up at one place, consigned to one consignee, at one destination and delivered to one place: *Provided, however,* That this rule shall not be construed as prohibiting a carrier from picking up or delivering separate portions contained in the bill of lading if such separate portions are identified and the provisions for such service are duly published in the applicable tariff.

(6) Common carriers who make a regular practice of issuing freight bills (or any equivalent documents by whatever term identified including "waybills" or "expense bills") are not required to show the "rate," "freight charges" or "total to collect" on bills of lading. When freight bills or manifests are used they shall contain all the information necessary to ascertain the legal charges such as routing, exact location of shipper, origin station, exact location of consignee, destination station, number and kind of packages, complete description of goods which can be identified in tariff usage, and weight, miles, hours, or other units on which rates or charges are based. When rates are based on hours of service, the time of beginning the service and the time that service is completed, as prescribed by applicable items in the commission's tariffs, must be shown on the billing documents. ~~((Any records required by this subsection shall be retained in the files of the carriers in the same manner and for the same period required by subsection (4) of this rule for bills of lading (shipping orders).))~~

(7) Shipments which are greater than the capacity of the available equipment of the carrier may be accepted on one bill of lading, providing the entire shipment is tendered to the carrier at one time and is accepted by and remains in the actual or constructive possession of the carrier until moved. On such shipments the first truck shall be loaded to its capacity. The remainder of the shipment must be moved from the premises of the shipper and started to its destination within 48 hours following the first load. The revenue billing for the shipment shall be made on one bill at the time shipment is accepted and showing the entire weight, the rate assessed and the total freight charge, and a notation showing what part is on the first truck and shall be carried on the first truck. Each succeeding truck shall carry a bill showing the part on it and giving reference to the revenue billing ahead for rate and total charges and must in every instance bear the notation "Part of Pro No. . . ." and then be attached to and become a part of original record. The provisions of this section do not apply to the transportation of liquid commodities in bulk or tank equipment. (Constructive possession means that the shipment is under the control of the carrier and that the carrier is in all ways responsible for its safe-keeping.)

(8) Bills of lading, shipping orders, daily trip records, manifests or other records required by this rule must be assigned consecutive numbers and a copy must be maintained in the main office of the carrier for a period of three years, available to inspection by the commission. All numbers in a series must be accounted for.

Required copies may consist of the original hard paper copy of the document or may exist as electronically imaged or archived data.

(a) Hard paper copies may be filed in numerical order, alphabetically by customer name, by route designation, or chronologically by date of service.

(b) Carriers may elect to maintain required files as electronically imaged or archived material if the material is readily retrievable, the information is accessible to all authorized personnel, the information can be read, printed copies can be produced upon request, authenticity of stored data can be assured by appropriate means, the data cannot be altered after storage, and all information required by subsection (6) of this section is maintained.

**WSR 94-03-003**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-408, Docket No. TS-931257—Filed January 5, 1994, 3:58 p.m.]

In the matter of amending WAC 480-50-010 and 480-50-040 relating to tariff filing for freight-only boat operators.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-23-083, filed with the code reviser on November 17, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-23-083, for 9:00 a.m., Wednesday, December 22, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until December 9, 1993.

Written comments were presented by David Wiley and Russell W. Prichett and by the commission staff. The proposal would require the filing of tariffs by commercial ferries who do not carry passengers and thus need no certificate to operate. The proposal makes the rules consistent with an Attorney General Opinion and updates "steamboat" references to the term "commercial ferries," consistent with a recent statutory change.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on December 22, 1993, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by Cathie Anderson. After considering the written and oral comments, the commission adopted the rule amendments as noticed.

In reviewing the entire record, the commission determines that WAC 480-50-010 and 480-50-040 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

## ORDER

THE COMMISSION ORDERS That WAC 480-50-010 and 480-50-040 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rules shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption under RCW 34.05.355.

DATED at Olympia, Washington this 4th day of January 1994.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-50-010 Definitions.** For the purposes of these rules (~~and regulations~~), the term "~~(passenger and ferry steamboat companies~~" shall mean, when used herein, ~~those steamboat companies which~~) commercial ferries" means commercial ferries that are required by chapter ~~((248, Laws of 1927))~~ 81.84 RCW to ~~((apply for and))~~ obtain ~~((from the Washington utilities and transportation commission))~~ certificates of public convenience and necessity from the commission before operating. The term "common carrier ferry companies" means every company owning, controlling, leasing, operating or managing any vessel on the waters of the state for the public use in the conveyance of persons or property for hire except towboats, tugs, scows, lighters, rowboats, sailboats under twenty gross tons, open steam launches five tons gross or under, and vessels under five tons gross powered by gas, fluid, naphtha, or electric motors.

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 R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-50-040 Tariffs.** (1) (~~"Passenger and ferry steamboat companies"~~) "Commercial ferries" and "common carrier ferry companies" shall prepare, publish, file and ~~((when necessary))~~ reissue their tariffs ~~((drawn))~~ in accordance with ~~((and subject to))~~ the then current provisions of the commission's "Tariff Circular No. ~~((5, "supplements thereto and reissues thereof))~~ 6.

(2) Tariffs of "~~(passenger and ferry steamboat companies)~~ commercial ferries" must be drawn in the name of the certificate holder and show ~~((the))~~ its certificate number ~~((in connection therewith))~~.

(3) Tariffs of "common carrier ferry companies" must contain a title page which identifies the name of the company; its business name, if any; its business address; its

business telephone number; and the name, address and business telephone number of the issuing agent.

**WSR 94-03-008  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed January 6, 1994, 4:15 p.m., effective March 1, 1994]

Date of Adoption: December 30, 1993.

Purpose: To correct a typographical error in WAC 296-20-135.

Citation of Existing Rules Affected by this Order:  
Amending WAC 296-20-135.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Other Authority: SHB 1352.

Pursuant to notice filed as WSR 93-21-073 on October 20, 1993.

Changes Other than Editing from Proposed to Adopted  
Version: To correct a typographical error in WAC 296-20-135.

Effective Date of Rule: March 1, 1994.

January 6, 1994  
Mark O. Brown  
Director

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

**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. 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, occupational therapy, naturopathic physician ~~((and))~~, nurse practitioners procedure codes, and other providers, as determined by department policy is:

\$34.51 for services rendered from September 1, 1993, to February 28, 1994.

\$36.58 for services rendered after March 1, 1994.

(3) The conversion factor or base fee for anesthesia is \$20.74.

**WSR 94-03-009  
PERMANENT RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed January 7, 1994, 9:23 a.m.]

Date of Adoption: January 7, 1994.

Purpose: To interpret and administer provisions of the new Washington Mortgage Brokers Practices Act passed by the 1993 legislature.

Statutory Authority for Adoption: Section 9, chapter 468, Laws of 1993.

Pursuant to notice filed as WSR 93-24-099 on November 30, 1993.

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

January 7, 1994

John L. Bley

Director

**Chapter 50-60 WAC  
MORTGAGE BROKERS AND LOAN ORIGINATORS—LICENSING**

NEW SECTION

**WAC 50-60-010 Definitions.** (1) "Material litigation" is defined as any past or pending litigation which would be relevant to the director's ruling on an application for a mortgage brokerage license, including but not limited to the following types of litigation:

(a) Any previous convictions for a felony in the last seven years or currently pending felony charges.

(b) Any previous or pending civil actions involving financial misconduct, including but not limited to violations of the Mortgage Brokers Practices Act, the Consumer Protection Act, or state or federal securities laws.

(2) A "branch office" is defined as a fixed physical location such as an office, separate from the principal place of business of the licensed mortgage broker, where a licensee holds itself out to the public as acting as a mortgage broker. "Hold out to the public" means advertising or otherwise informing the public that mortgage loans are made or negotiated at that location, or listing that location on business cards, stationery, brochures, rate lists or other promotional items, but does not include listing a home or mobile telephone number on business cards or stationery in addition to listing the telephone number of a licensed place of business.

(3) A "principal" of any partnership, company, association or corporation is defined as any person who owns a ten percent interest or more in the partnership, company, association or corporation.

NEW SECTION

**WAC 50-60-020 Statutory exemptions.** (1) The following are exempt from all provisions of these rules, with the exception of those who must comply with RCW 19.146.0201 according to RCW 19.146.020(2):

(a) Any person doing business under the laws of this state or the United States relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;

(b) An attorney licensed to practice law in this state who is not principally engaged in the business of negotiating residential mortgage loans when such attorney renders services in the course of his or her practice as an attorney;

(c) Any person doing any act under order of any court;

(d) Any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the residential mortgage loans;

(e) A real estate broker or salesperson licensed by the state who obtains financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker and who receives only the customary real estate broker's or salesperson's commission in connection with the transaction;

(f) Any mortgage broker approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(g) Any mortgage broker approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, 12 U.S.C. Sec. 1701, as now or hereafter amended;

(h) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality or any of the entities in this subsection (1)(h); and

(i) A real estate broker who provides information only in connection with a CLO system, who may receive a fee for such information in an amount approved by the director and who conforms to all rules of the director with respect to the providing of such service.

(2) Those persons otherwise exempt under subsection (1)(f), (g), and (i) of this section must comply with RCW 19.146.0201.

NEW SECTION

**WAC 50-60-030 Application procedure for mortgage broker license.** Each person, as defined in RCW 19.146.010(8), desiring to obtain licensure as a mortgage broker shall apply to the director by submitting the following:

(1) An application shall be made in the form prescribed by the director.

(2) The applications described in subsection (1) of this section must be accompanied by:

(a) A surety bond or equivalent as described in RCW 19.146.205 (3)(a), (b), or (c).

(b) Payment to the director of five hundred dollars for each application as a license fee to cover the costs of investigation and processing of the application, and otherwise enforcing this chapter.

(3) Each principal of an applicant that is a corporation or a partnership, or the owner if the applicant is unincorporated, shall complete and submit the following with the application:

(a) Biographical information including complete and accurate employment history and a description of any material litigation for the preceding seven years.

(b) An independent credit report obtained from a recognized credit reporting agency.

(c) A signed authorization for a background investigation.

PERMANENT

(d) A completed fingerprint card accepted by the Washington state patrol.

(4) Notwithstanding any other provision of these rules, the director may deny an application as incomplete if the applicant fails within ten business days to meet a second request from the director for information, except that the director may grant an extension to the applicant when good cause is shown. An example of good cause may include, but shall not be limited to, death or incapacitating illness of the preparer, or other catastrophic occurrence. Denial under such circumstances shall not affect new applications filed after the denial. Following denial on such grounds and upon submission of an additional license fee, an applicant may reapply.

#### NEW SECTION

**WAC 50-60-040 Experience requirements.** (1) An applicant who has two years of experience in the following categories shall be judged to meet the experience requirements for licensing as expressed in RCW 19.146.210 (1)(e):

- (a) Mortgage broker, or responsible individual or branch manager;
- (b) Mortgage banker, or responsible individual or branch manager;
- (c) Loan officer, with responsibility primarily for loans secured by lien interests on real estate;
- (d) Branch manager of lender, with responsibility primarily for loans secured by lien interest on real estate.
- (e) Mortgage broker with license from another state whose licensing standards are determined by the director to be substantially similar to this state.

(2) An applicant who is currently active and licensed as a real estate broker in Washington or a state with similar licensing requirements, and who has at least two years of experience as a real estate broker, and who has completed a training course approved by the director covering all laws and regulations applicable to the business of mortgage brokering will be judged to meet the experience requirements as expressed in RCW 19.146.210 (1)(e).

#### NEW SECTION

**WAC 50-60-050 Access to criminal history information.** (1) The director may review the criminal conviction record that is maintained by any federal, state or local law enforcement agency relating to:

- (a) An applicant for a license under this article; or
- (b) Any principal of a partnership, company, association or corporate applicant for a license under this article.

(2) The director may refuse to grant a license or may suspend or revoke a license if the applicant, licensee, or any principal of a partnership, company, association or corporate applicant, fails to provide a complete set of fingerprints and a recent photograph on request.

#### NEW SECTION

**WAC 50-60-060 License fee.** New license.

(1) For each application for a Washington mortgage broker license, the director shall receive and there shall be paid to the director prior to issuance of the license a

nonrefundable license fee of five hundred dollars to cover the license period stated on the license.

(2) For each application for a Washington mortgage broker branch office license, the director shall receive and there shall be paid to the director prior to issuance of the license a nonrefundable license fee of one hundred dollars to cover the license period as stated on the license.

#### NEW SECTION

**WAC 50-60-070 Branch office application procedure.** Application may be made for branch office licenses in a form specified by the director. However, the branch manager of each branch office must be a licensed mortgage broker, and therefore must complete a separate application for a mortgage broker license as required by WAC 50-60-030 if he or she is not already licensed. This will require surety bond or equivalent as described in RCW 19.146.205 (3)(a), (b), or (c).

#### NEW SECTION

**WAC 50-60-080 Surety bond for applicants engaged in the business of a mortgage broker.** (1) A licensee engaged in the business of a mortgage broker shall obtain and file with the director prior to licensing a surety bond in the amount of forty thousand dollars issued by a bonding company or insurance company authorized to do business in this state.

(2) In lieu of such surety bond, the applicant may deposit with the director a certificate of deposit or other time deposit properly assigned to the director for an amount equal to the required bond. The depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the director, to substitute other qualified deposits, and shall be required to do so on written order of the director made for good cause shown.

(3) In lieu of such surety bond, the applicant may deposit with the director an irrevocable letter of credit drawn in favor of the director for an amount equal to or greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, savings and loan association, or credit union as such applicant may designate and the director may approve.

(4) The surety bond or approved equivalents listed in subsections (1), (2), and (3) of this section are subject to the provisions of RCW 19.146.240.

#### NEW SECTION

**WAC 50-60-090 License standards for applicants licensed in other jurisdictions.** An applicant licensed in other jurisdictions is required to follow the application procedure as stated in WAC 50-60-030.

#### NEW SECTION

**WAC 50-60-100 License standards for associations.** Since all members of an association are legally responsible for actions of an association, all members of an association must complete an application for licensing and must meet the criteria for licensing as set forth in chapter 19.146 RCW and chapter 50-60 WAC.



NEW SECTION

**WAC 50-60-110 Sale, transfer, or change of control of a licensed mortgage broker agency or business.** (1) A Washington state mortgage broker license is not transferable or assignable.

(2) Whenever a licensee who is a sole proprietorship intends to sell or otherwise transfer their interest in a licensed mortgage broker company or business, the seller (transferor) and buyer (transferee) will insure that there is incorporated within the body of the sale agreement or document of transfer appropriate clauses that set forth provisions relative to the following:

(a) Stipulation that the buyer (transferee) is responsible for obtaining a valid Washington state mortgage broker license prior to completion of the sale or transfer.

(b) Stipulation that the buyer (transferee) is responsible for obtaining the appropriate surety bond, or acceptable alternative, and filing such surety bond or acceptable alternative with the director prior to completion of the sale or transfer.

(c) Clear assignment of the responsibility for all payments due to customers and third party service providers on or before the effective date of the sale to either the seller (transferor) or the buyer (transferee).

(d) Clear assignment of the responsibility for maintaining and preserving the accounting and other records as required by RCW 19.146.060 and WAC 50-60-140 to either the seller (transferor) or the buyer (transferee).

(e) Stipulation that the buyer (transferee) is restricted from or is authorized to use the seller's (transferor's) mortgage broker business name.

(f) Clear assignment of the responsibility to either the buyer (transferee) or seller (transferor) for providing notification of the sale or transfer to all of the seller's (transferor's) clients with loan applications currently in process, or who have deposited funds with the seller (transferor), or who have executed some other form of written agreement with the seller (transferor). The agreement shall also indicate which party is responsible for notifying all third-party service providers for whom the seller or transferor is holding deposits from borrowers to pay fees for their services.

(3) Whenever a licensee that is a partnership or corporation intends to sell or otherwise transfer a controlling interest in a licensed mortgage broker company or business, the seller (transferor) and buyer (transferee) will insure that there is incorporated within the body of the sale agreement or document of transfer appropriate clauses that set forth provisions relative to the following:

(a) Stipulation that the buyer (transferee) is responsible for obtaining a valid Washington state mortgage broker license prior to completion of the sale or transfer.

(b) Stipulation that the buyer (transferee) is responsible for obtaining the appropriate surety bond, or acceptable alternative, and filing such surety bond or acceptable alternative with the director prior to completion of the sale or transfer.

(c) Clear assignment of the responsibility for all payments due to customers and third-party service providers on or before the effective date of the sale to either the seller (transferor) or the buyer (transferee).

(d) Clear assignment of the responsibility for maintaining and preserving the accounting and other records as required by RCW 19.146.060 and WAC 50-60-140 to either the seller (transferor) or the buyer (transferee).

(e) Stipulation that the buyer (transferee) is restricted from or is authorized to use the seller's (transferor's) mortgage broker business name.

(f) Clear assignment of the responsibility to either the buyer (transferee) or seller (transferor) for providing notification of the sale or transfer to all of the seller's (transferor's) clients with loan applications currently in process, or who have deposited funds with the seller (transferor), or who have executed some other form of written agreement with the seller (transferor). The agreement shall also indicate which party is responsible for notifying all third-party service providers for whom the seller or transferor is holding deposits from borrowers to pay fees for their services.

(4) Whenever there is a change in a principal of a licensee that is a corporation or partnership, the licensee must provide the director with all information required of a principal when an application is made for a mortgage brokers license as specified in WAC 50-60-030. The director shall make a determination, prior to completion of the sale, whether the proposed new principal in the licensee meets the requirements which must be met to be licensed as a mortgage broker as specified in RCW 19.146.210.

NEW SECTION

**WAC 50-60-120 Employees of licensed mortgage broker.** RCW 19.146.200 prohibits a person from engaging in the business of a mortgage broker without first obtaining and maintaining a mortgage broker license, except as an employee of a person licensed or exempt from licensing. For the purpose of licensing of mortgage brokers, an employee is defined as any individual who has an employment relationship, acknowledged by both the employee and the licensee, where the individual is treated as an employee by the licensee for purposes of compliance with federal income tax laws.

NEW SECTION

**WAC 50-60-130 Disclosures required to borrower.** Disclosures required by RCW 19.146.030 (1), (2)(c), (d), (e), and (f) shall be made in the form approved by the director.

NEW SECTION

**WAC 50-60-140 Recordkeeping requirements.** Each mortgage broker required to be licensed by chapter 468, Laws of 1993, shall retain the original contract for the broker's compensation, an accounting of all funds received in connection with the loan, a copy of the settlement statement as provided to the borrower if the loan closed, a record of any fees refunded to the applicant if the loan did not close, copies of the good faith estimate and all other written disclosures, and all other correspondence, papers or records relating to the loan application for a minimum of six years after a mortgage application is received. These records shall be retained in all cases where a mortgage application has been received, any deposits or fees associated with a

mortgage application have been accepted, or any written agreement has been executed.

#### NEW SECTION

**WAC 50-60-150 Disclosure of significant developments.** (1) A licensee shall be required to notify the director in writing within thirty days of the occurrence of any of the following significant developments:

- (a) Licensee filing for bankruptcy or reorganization.
  - (b) Notification of license revocation procedures in any state against the licensee.
  - (c) The filing of a felony indictment related to mortgage brokering activities of licensee, officer, director, or principal.
  - (d) A licensee, officer, director, or principal being convicted of a felony.
  - (e) Notification of cancellation of the licensee's surety bond as required for licensing, or any significant decline in value of any alternative to the surety bond held by the director.
  - (f) The filing of any material litigation against the licensee.
  - (g) A sale, transfer, or change of control of a licensed mortgage broker agency or business.
- (2) A licensee shall be required to notify the director in writing ten days prior to a change of business location.

#### NEW SECTION

**WAC 50-60-160 License denial.** (1) The director may deny, suspend or condition a license if the licensee, any principal of any corporate or partnership licensee, or the owner if the applicant is unincorporated:

- (a) Has not paid the required license fee;
- (b) Has not posted the required bond or otherwise complied with RCW 19.146.205;
- (c) Has had any license issued under chapter 468, Laws of 1993, or any similar statute of this or any other state suspended, revoked, or restricted within five years of the filing of the present application;
- (d) Has been convicted of a felony within seven years of the filing of this application;
- (e) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter;
- (f) Has misrepresented or concealed material facts in obtaining a mortgage brokers license or in reinstatement thereof;
- (g) Has violated the provisions of the Mortgage Broker Practices Act, the rules promulgated pursuant to that act, or the Consumer Protection Act;
- (h) Has had the surety bond required for licensure canceled;
- (i) Has allowed the licensed mortgage brokerage business to deteriorate into a condition which would result in denial of a new application for a license;
- (j) Has aided or abetted an unlicensed person to practice if a license is required;

(k) Has demonstrated incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(l) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceed their assets or in the sense that the applicant or licensee cannot meet their obligations as they mature;

(m) Has failed to comply with an order issued by the director, or his or her designee, or an assurance of discontinuance entered into with the director, or his or her designee;

(n) Has performed an act of misrepresentation or fraud in any aspect or the conduct of the mortgage brokerage business or profession;

(o) Has failed to cooperate with the director, or his or her designee, by:

(i) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary actions or denial, suspension, or revocation of a license under this chapter;

(ii) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;

(iii) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding; or

(p) Has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or authorized representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action.

(2) The director may deny, suspend or condition a license if the owner, if the applicant is a sole proprietorship; the general partner(s), if the applicant is a partnership; or the chief executive officer, if the applicant is a corporation; does not have the required two years of experience in the residential mortgage loan industry as defined in WAC 50-60-040.

(3) The director may not issue a license if he or she finds that the applicant, or any person who is a director, officer or principal of the applicant, has within the previous seven years been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws of this state. For the purposes of this rule, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty or no contest or nolo contendere or stipulated to facts sufficient to justify a finding of guilt to a charge thereof before a court or federal magistrate, or shall have been found guilty thereof by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such pleas of guilty, or such decision, judgment, or verdict, shall have been set aside, reversed, or otherwise abrogated by lawful judicial process or unless the person convicted of the crime shall have received a pardon therefore from the President of the United States or the governor or

other pardoning authority in the jurisdiction where the conviction was had, or shall have received a certificate of good conduct granted by the state board of pardons and paroles pursuant to the provisions of the executive law to remove the disability under this subsection because of such conviction.

(4) The director may find that a person has failed to demonstrate financial responsibility, character and general fitness such as to warrant a belief that the business will be operated honestly, fairly and efficiently within the purposes of chapter 468, Laws of 1993, whenever:

(a) The person is or has been subject to an injunction issued pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act, or rules promulgated thereunder, or chapter 19.86 RCW, the Consumer Protection Act;

(b) The person has had a license to engage in a similar business suspended or revoked within the previous seven years by any local, state or federal agency within the United States, and that license has not been reinstated without restriction;

(c) The person has had a surety bond or an equivalent form of business insurance canceled or revoked for cause in the previous two years;

(d) The person is a defendant in pending material litigation;

(e) The person's independent credit report issued by a recognized credit reporting agency indicates a substantial history of unpaid debts;

(f) The applicant is insolvent in the sense that the value of the applicant's liabilities exceed the value of their assets, or in the sense that the applicant cannot meet their obligations as they mature;

(g) The person has not demonstrated an acceptable level of knowledge of all laws and regulations applicable to the business of mortgage brokering through compliance with the experience and educational requirements set forth in WAC 50-60-040; or

(h) The applicant has violated the requirements of the Mortgage Brokers Practices Act, the rules promulgated pursuant to that act, or the Consumer Protection Act.

**NEW SECTION**

**WAC 50-60-170 Transitional rule.** Pursuant to the authority granted under RCW 19.146.210(3), the director declares the effective date of the licensing requirement expressed in RCW 19.146.200 to be extended to November 30, 1993. Businesses engaged in mortgage brokering and required to be licensed under chapter 468, Laws of 1993, may file an application with the director and obtain, upon acceptance of the application as complete and a determination by the director that the applicant meets the verifiable requirements for licensing, an interim license. This interim license shall expire on February 28, 1994, unless extended by the director. This section shall be void after July 1, 1994.

**NEW SECTION**

**WAC 50-60-180 Licensing of independent contractors to conduct mortgage brokering.** A person may be licensed as an independent contractor to conduct the business of mortgage brokering provided that:

(1) The person meets all requirements for licensing as a mortgage broker under chapter 19.146 RCW or any rule adopted thereunder, with the exception that a surety bond or equivalent in the amount of five thousand dollars shall meet the bonding requirement; and

(2) The person is an independent contractor for a licensed mortgage broker that has accepted responsibility under its license for any and all violations of chapter 19.146 RCW or rules adopted thereunder that the independent contractor may commit and the person has on file with the director a binding written agreement with the licensed mortgage broker to that effect; and

(3) The surety bond or equivalent posted by the licensed mortgage broker with which the person contracts runs to the benefit of the state and any person or persons who suffer loss by reason of the independent contractor's violation of any provision of this chapter or rules adopted thereunder.

The license to conduct business as an independent contractor under a licensed mortgage broker shall state the names of both the independent contractor and the licensed mortgage broker with which the contractor has contracted. This license shall permit the independent contractor to perform mortgage brokering business under the named licensed mortgage broker only. An independent contractor must obtain a separate license for each licensed mortgage broker under which the contractor contracts to conduct the business of mortgage brokering.

**WSR 94-03-010  
PERMANENT RULES  
EDMONDS COMMUNITY COLLEGE  
[Filed January 7, 1994, 10:38 a.m.]**

Date of Adoption: December 16, 1993.

Purpose: To provide a process for dealing with student disciplinary actions.

Citation of Existing Rules Affected by this Order: Amending chapter 132Y-125 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-21-065 on October 19, 1993.

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

January 5, 1994

Barbara R. Patterson

Vice-President

Human Resources

**AMENDATORY SECTION** (Amending Resolution No. 82-4-1, filed 4/28/82)

**WAC 132Y-125-004 Disciplinary procedures.** Enrollment in Edmonds Community College carries with it the obligation that the student will be a responsible citizen of the college. At the same time the college has the responsibility of informing students of their rights and responsibilities, defining reasonable standards of behavior, and assuring substantive and procedural due process.

The following ~~(section establishes a procedure for)~~ procedures apply to the administration of disciplinary action for nonacademic violations.

PERMANENT

~~((Most disciplinary proceedings will be conducted informally between the student and the dean for student services or the dean's designee. In some cases, at the discretion of the dean or the student, formal procedures may be invoked.))~~

(1) **Responsibility.** The dean ~~((for))~~ of students ((services)) is the executive officer of the college with regard to student affairs, including discipline, and shall initiate all disciplinary procedures ~~((The dean is responsible for assembling facts on cases referred to her/his office, making provisions for suitable hearings, convening the college discipline committee when it is requested, notifying students and others concerned, keeping confidential files and reports on cases, following up each discipline case until it is closed, and destroying out of date files on discipline cases))~~ except those which result from civil rights violations. Discipline as a result of civil rights violations shall be initiated by the vice-president of human resources, the executive officer of the college with responsibility for civil rights compliance. Hereafter, wherever this policy refers to the dean of students, the vice-president of human resources should be substituted if the charge is a civil rights violation.

(2) **Guidelines for student conduct.** The following are guidelines for acceptable student conduct. A student enrolling in the college assumes a responsibility for conduct compatible with the college's function as an educational institution. Although Edmonds Community College is dedicated to an open, free society, there are some actions incompatible with the mission of an institution of higher education.

Grounds for disciplinary action shall include, but not be limited to, the following:

(a) Dishonesty, including, but not limited to, cheating, plagiarism, or knowingly furnishing false information to the college.

(b) Forgery, alteration, or misuse of college documents, records, or identification.

(c) Obstruction or disruption of teaching, institutional or instructional research, administration of the college, disciplinary procedures, or other college activities, including but not limited to, meetings of the board of trustees, community service functions, or other authorized activities on college premises.

(d) Physical and/or verbal abuse of any person on college-owned or controlled property or at college-sponsored or supervised functions or conduct which threatens or endangers the health or safety of any such person; assault and battery; harassment.

(e) Theft of or damage to property of the college or of a member of the college community or of a visitor to the campus.

(f) Unauthorized entry or occupancy of college facilities or blocking access to or egress from such areas.

(g) Unauthorized use of college supplies or equipment.

(h) Violation of college policies or ~~((of campus))~~ regulations, including, but not limited to, ((campus)) regulations concerning student organizations, the use of college facilities, or the time, place and manner of public expression.

(i) Illegal use, possession, or distribution of drugs on campus or at any college-sponsored event, or appearance on campus or at any college-sponsored event while under the

influence of illegally used drugs as described in the college's alcohol and drug policy.

(j) Use, possession or distribution of alcoholic beverages on college property or appearance on campus or at any college-sponsored event while under the influence of alcohol. Use or possession of alcoholic beverages at any college event shall be by approved permit and restricted to persons of legal age as described in the college's alcohol and drug policy.

(k) Disorderly conduct; lewd, indecent, or obscene conduct or expression; breach of the peace; or aiding, abetting, or procuring another to breach the peace on college-owned or controlled property or at college-sponsored or supervised functions.

(l) Failure to comply with directions of college officials acting in the performance of their duties.

(m) Illegal possession or use of firearms, explosives, dangerous chemicals, substances or instruments or other weapons which can be used to inflict bodily harm on any individual or damage upon a building or grounds of the college or college-owned or controlled property or at college-sponsored or supervised functions ((without written authorization)).

~~((n))~~ (n) Hazing, whether it is physical or verbal, which interferes with the personal liberty of a fellow student, faculty member, or employee of the college.

(o) Acts or behaviors which discriminate against staff, students or the public on the basis of race, ethnic origin, sex, age, sexual orientation, or disability as described in the college's human rights policies.

(p) Trespass or unauthorized presence through entering or remaining unlawfully, as defined by state law, including computer trespass or using college premises, facilities or property without authority.

~~(3) ((Disciplinary measures available to enforce standards of student conduct.~~

~~(a) Reprimand. A reprimand serves to place on record that a student's conduct in a specific instance does not meet the standards expected at the college. A person receiving a reprimand is notified in writing by the dean for student services that this serves as a warning that continued conduct of the type described in the reprimand may result in formal action against the student. S/he is further informed that records of reprimands are confidential property of Edmonds Community College and are destroyed two years after the last entry has been made concerning any disciplinary action against an individual student, and that such records are not considered part of a student's permanent records at the college.~~

~~(b))~~ Initiation of disciplinary action. Anyone may report, orally or in writing, violations to the dean of students, or designee, who may initiate disciplinary procedures.

(a) Notice. The student shall be informed of the provisions of the code of student rights and responsibilities. Any student charged with a violation shall receive written notice delivered to the student personally or by registered or certified mail to the student's last known address no later than fifteen business days after a reported violation. (This notice will not be ineffective if presented later due to the student's absence.) This notice shall contain:

(i) The time, date, place, and nature of the alleged misconduct;

(ii) Specific provisions of any policies or regulations allegedly violated;

(iii) The time and date the student is required to meet with the dean of student services, or designee;

(iv) That anything the student says at the meeting with the dean, or designee, may be used against the student;

(v) Inform the student that failure to appear may subject the student to any sanction authorized by this code.

**(b) Summary suspension.** ~~((i))~~ The dean ~~((for))~~ of students ~~((services))~~ or designee may summarily suspend any student from the college for not more than ten academic calendar days pending investigation, action or prosecution of charges of an alleged violation or violations of the guidelines for student conduct, if the dean ~~((for))~~ of students ~~((services))~~ has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other college community members, or the protection of college property requires such suspension.

~~((i))~~ During the period of summary suspension, suspended students shall not enter the campus of the college other than to meet with the dean ~~((for))~~ of student services or to attend the disciplinary hearing. However, the dean may grant the student special permission to enter for the express purpose of ~~((meeting with faculty, staff, or students in))~~ preparation for the hearing.

~~((iii))~~ If the dean ~~((for))~~ of students ~~((services))~~, or designee, finds it necessary to exercise the authority to summarily suspend a student s/he shall:

~~((A))~~ (i) Give an oral or written notice of the alleged misconduct and violation(s) of any provision of the guideline for student conduct;

~~((B))~~ (ii) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

~~((C))~~ (iii) Give an oral or written explanation of the ~~((corrective action or punishment))~~ summary suspension (up to a maximum of ten academic calendar days suspension) which may be imposed ~~((to))~~ on the student;

~~((D))~~ Notify the student that s/he may either accept the disciplinary action or, within forty eight hours or two work days following receipt of this notification, file at the office of the dean for student services, a written request for a hearing by the committee on student conduct. If the request is not filed within the prescribed time, it will be deemed as waived.

~~((E))~~ Notify the student that should the student request a hearing, s/he may bring an advocate to speak in his or her behalf.

~~(iv)~~ If oral notice is given, it shall be followed by written notice within forty eight hours.

~~(v)~~ The processing of hearing actions shall be accomplished according to the provisions set forth in this code, Article F, *Disciplinary and hearing procedures*, beginning with Section 5.

**(c) Disciplinary probation.** The dean for student services, after close evaluation of the individual case, may restrict the college-related activities of students or groups of students as s/he deems necessary and feasible by placing them on disciplinary probation. Disciplinary probation may be imposed for a period of not to exceed one year. Repetition during the probationary period of conduct resulting in disciplinary probation may be cause for suspension or other disciplinary action.

**(d) Disciplinary suspension.** Disciplinary suspension serves as a penalty against the student as a result of his conduct which fails to meet standards expected at the college. A suspended student is not to occupy any portion of the campus for a period to be specified in writing and is denied all college privileges including class attendance. Disciplinary suspension requires the approval of the president.

**(e) Expulsion.** An expelled student is denied all further college privileges. Students may be expelled only with the approval of the president.

**(4) Emergency procedure.** Nothing herein shall prevent faculty members or administrators from taking reasonable summary action as may be necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student or the safety and protection of other students or of college property or where the student's conduct materially and substantially disrupts the educational process. The faculty member or administrator should immediately bring the matter to the attention of the dean for student services for appropriate disciplinary action.

**(5) The committee on student conduct.**

~~(a)~~ A standing committee shall be established annually by the dean for student services to conduct hearings when requested by a student regarding disciplinary actions.

~~(b)~~ The chairperson shall be elected by the committee.

~~(c)~~ The committee shall include:

~~(i)~~ Two students designated by the president of the associated students.

~~(ii)~~ One administrator of the college designated by the college president, not to be the dean for student services.

~~(iii)~~ Two persons representing the faculty, designated by the faculty association president.

~~(d)~~ A quorum shall consist of four members.

~~(e)~~ All committee members shall have voting rights with simple majority rule.

**(6) Disciplinary and hearing procedures.**

~~(a)~~ Allegations of misconduct shall be filed in the dean for student services' office in writing. Upon investigation, the dean for student services shall initiate appropriate action.

~~(b)~~ Students alleged to have conducted themselves inappropriately shall be provided with written notice to meet with the dean for student services or designee for a preliminary conference regarding the basis for possible disciplinary action. The notice must be given at least twenty four hours or one work day prior to the scheduled appointment, and shall contain a statement of the allegations.

~~(c)~~ If after the preliminary conference and investigation, the dean for student services determines that the student's conduct has not been in violation of college standards, the dean will dismiss proceedings and exonerate the student.

~~(d)~~ If after the student's preliminary conference, the recommendation of the dean for student services is for disciplinary action, the student shall receive the following in writing:

~~(i)~~ Notification of the findings and conclusions of the investigation by the dean for student services.

~~(ii)~~ Notification of the disciplinary action which is to be recommended.

~~(iii)~~ Notification that the student may either accept the disciplinary action or, within forty eight hours or two work

days following receipt of this notification, file at the office of the dean for student services, a written request for a hearing by the committee on student conduct. If the request is not filed within the prescribed time, it will be deemed as waived.

(iv) Notification that should a student request a hearing s/he may bring an advocate to speak on his or her behalf.

(e) If the student does not request a hearing, the dean for student services shall carry out the disciplinary action.

(f) If the student decides to request a hearing, s/he shall file at the office of the dean for student services a written notice of this intent as specified above. Within forty eight hours or two work days of requesting the hearing the student shall file at the office of the dean a specific written response to each of the charges.

(g) A meeting of the committee on student conduct shall be convened not earlier than twenty four hours or one work day nor later than forty eight hours or two work days after submission of the student's response to the charges for formal hearing and to make a recommendation in the case to the president.

**(i) Hearing procedure.**

(A) The chairperson shall select a person to keep a record of the proceedings.

(B) The chairperson shall designate a person to collect and preserve all exhibits in evidence.

(C) The committee on student conduct shall present a recommendation after the conclusion of the hearing.

(D) The dean for student services or designee shall make the first presentation. In the event witnesses are called, they may be questioned by the student or student's representative and the committee.

(E) Upon completion of the presentation by the dean for student services, the student may make his/her presentation and may present any witness desired. Again, the committee or the dean may question any witness.

(F) After the completion of the presentation by the student, both sides shall then be permitted to make any closing arguments after which the committee may ask any questions.

(G) The hearing will then be closed and the committee will retire to executive session for deliberation.

(H) When a recommendation has been reached, the committee will reconvene and announce its recommendation. The meeting will then be adjourned.

**(ii) Evidence.**

(A) The committee may, upon agreement by both parties, receive sworn written statements in lieu of sworn oral testimony at the hearing.

(B) The committee has the right to control:

(B.1) Relevance

(B.2) Materiality

(B.3) Competency

(B.4) Number and conduct of witnesses

**(iii) Recommendations of the committee.**

(A) In making a recommendation, the committee shall consider the following issues:

(A.1) Does the alleged act constitute a violation of acceptable standards of student conduct?

(A.2) Did the student involved commit the acts with which s/he was charged?

(A.3) Were there any mitigating circumstances?

(A.4) What sanctions have been imposed in previous cases of a similar nature?

(B) Recommendations shall include:

(B.1) Findings of fact

(B.2) Conclusions

(B.3) A recommendation on whether to uphold the decision and recommended action of the dean for student services or to institute other disciplinary action or to exonerate the student of charges.

(C) The record of the hearing, the findings, and the recommendations of the committee on student conduct shall be reviewed by the president.

(D) The president shall announce the decision within forty eight hours or two work days after receipt of said record, findings and recommendations:

(E) The president's decision shall be final.) (iv) Emergency procedure. Nothing herein shall prevent faculty members or administrators from taking reasonable summary action as may be necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student or the safety and protection of other students or of college property or where the student's conduct materially and substantially disrupts the educational process. The faculty member or administrator should immediately bring the matter to the attention of the dean of students for appropriate disciplinary action.

**(C) Meeting with the dean of students, or designee.**

(i) After considering the initial evidence and interviewing the student or students involved, the dean of students, or designee, may take any of the following actions: Impose the sanction of written reprimand; exonerate a student or students; refer the case to a hearing before the president; or dismiss the case (after whatever counseling or advice may be appropriate).

(ii) Dean's decision notice: The student shall receive written notice of the dean's decision, as well as a summary of the evidence and notice of the right to appeal within ten days to the president.

(iii) Action taken by or at the recommendation of the dean of student services, or designee, within the provisions of this section is final unless the student appeals.

(iv) All recommendations involving disciplinary probation, suspension, or dismissal other than summary suspension will be referred to the college president, or designee.

**(4) Hearing with the president.**

(a) The student shall be given written notice of the time, date, and location of the hearing and the specific charges against the student. The student shall be accorded reasonable access to the case file, which will be retained by the dean of students, or designee.

(b) The student may be represented by counsel of the student's own choosing provided that the student shall bear the cost and shall give three days' notice thereof to the dean of students, or designee.

(c) The college may be represented by the dean of students, or designee, including an assistant attorney general.

(d) A decision shall be made prior to the hearing whether or not the hearing will be tape recorded or transcribed. If a recording or transcription is made, a copy thereof shall be on file at the office of the dean of students. If a recording or transcription is not made, the decision of

the president or designee shall include a summary of the testimony.

(e) The president, or designee, shall exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses.

(f) Hearings will be closed to the public, except for the dean and/or designee, immediate members of the student's family, witnesses, and the student's representative. An open hearing may be held, at the discretion of the president, if requested by the student. The president may choose whether or not to let witnesses remain for any part of the hearing which does not include their testimony.

(g) The dean of students, or designees, shall make the first presentation. In the event witnesses are called, they may be questioned by the student or student's representative.

(h) Upon completion of the presentation by the dean of students, or designee, the student may make his/her presentation and may present any witness desired. Either side may offer rebuttal.

(i) The president and the student, or his/her representative, may question any witness.

(j) The president may, upon agreement by both parties, receive sworn written statements in lieu of oral testimony at the hearing. The president has the right to control the number and conduct of witnesses.

(k) After the completion of the presentation by the student, both sides shall then be permitted to make any closing arguments after which the president may ask any questions.

(l) The hearing will then be closed.

(m) The burden of proof shall be on the dean, or designee, who must establish the guilt of the student by a preponderance of the evidence.

(n) Formal rules of evidence and procedures shall not be applicable to disciplinary proceedings conducted pursuant to this code. The president shall admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

(o) When a recommendation decision has been reached, the president may reconvene and announce his/her recommendation or let the parties know approximately when they will receive the written decision.

(p) The president's decision shall be final.

(5) Sanctions. The following definitions of disciplinary terms have been established and shall be the sanctions imposed upon violators of the code of student rights and responsibilities:

(a) Warning. Notice to a student, either verbally or in writing, that the student has been in violation of college rules or regulations or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(b) Reprimand. Formal action censuring a student for violation of the college rules or regulations or for failure to meet the college's standards of conduct. Reprimands shall be made in writing to the student, with copies filed in the office of the dean of students. A reprimand will include the statement that continuation or repetition of the specific

conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(c) Restitution. Any individual student may be required to make a restitution for damage or loss to college or other property and for injury to persons. Failure to make restitution within thirty days will result in suspension for an indefinite period of time as set forth in subsection (5) of this section provided that a student may be reinstated upon payment.

(d) Disciplinary probation. Formal action placing conditions upon the student's continued attendance for violation of college rules or regulations or the failure to meet the college standards of conduct. Disciplinary probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation warns the student that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation may be for a specified period which may extend to graduation or other termination of the student's enrollment in the college.

(e) Suspension/dismissal. Temporary, indefinite, or permanent dismissal from the college of a student for violation of college rules and regulations. The notification suspending/dismissing a student will indicate, in writing, the term of the suspension, if applicable, and any special conditions which must be met before readmission. Copies of the notification shall be kept on file in the office of the dean of students and in the student's official educational record. Refund of fees for the quarter in which disciplinary action is taken shall be in accordance with the college's refund policy. Students who are suspended or dismissed from the college may be denied access to all or any part of the campus or other facility during the duration of the period of suspension.

#### WSR 94-03-019

#### PERMANENT RULES

#### LOTTERY COMMISSION

[Filed January 7, 1994, 2:52 p.m.]

Date of Adoption: January 7, 1994.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 114 (Wild-card), 115 (Cash Roulette), 116 (Fortune), and 117 (Cash Crop).

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 93-24-098 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: In Game 117, a "melon" play symbol was substituted for the "tree" play symbol.

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

January 7, 1994  
Evelyn P. Yenson  
Director



**NEW SECTION**

**WAC 315-11A-114 Instant Game Number 114 ("Wildcard"). (1) Definitions for Instant Game Number 114.**

(a) Play symbols: The following are the "play symbols": "9," "10," "J," "Q," "K," "A," and " 𐀀 ." 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 114, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
9	NIN
10	TEN
J	JAC
Q	QUE
K	KNG
A	ACE
𐀀	JKR

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$3.00," "\$4.00," "\$7.00," "\$11.00," "\$21.00," "\$40.00," and "\$10,000." 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 114, 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
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 11.00	ELV DOL
\$ 21.00	TTN DOL
\$ 40.00	\$FORTY\$
\$ 10,000	TENTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 11400001-000 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 114 constitute the "pack number" which starts at 11400001; 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 less than \$600.00. For Instant Game Number 114, 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
THR	\$ 3.00 (\$1, \$1, AND \$1; \$3)
SVN	\$ 7.00 (\$3, \$3, AND \$1; \$4, \$1, \$1, AND \$1; \$7)
ELV	\$ 11.00 (\$7, \$3, AND \$1; \$4, \$3, \$3, AND \$1)
TTN	\$ 21.00 (\$11, \$7, AND \$3; \$21)
FRY	\$ 40.00
ETY	\$ 80.00 (\$40 AND \$40)

(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 114.**

(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 a 𐀀 play symbol shall be entitled to the prize shown below the 𐀀 play symbol.

(iii) 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 114 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 114; and/or

(ii) Vary the number of tickets sold in Instant Game Number 114 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 114.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 114 all of the following validation requirements apply:

PERMANENT



(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-115 Instant Game Number 115 ("Cash Roulette"). (1) Definitions for Instant Game Number 115.**

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," and "6." 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 115, 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

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$6.00," "\$12.00," "\$18.00," "\$50.00," "\$500.00," and "\$2,500." 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 115, 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
\$ 6.00	SIX DOL
\$ 12.00	TLV DOL
\$ 18.00	EGN DOL
\$ 50.00	\$FIFTY\$
\$ 500.00	FIVHUND
\$ 2,500	TWFHUND

(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 11500001-000 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 115 constitute the "pack number" which starts at 11500001; 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 less than \$600.00. For Instant Game Number 115, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1)
SIX	\$ 6.00 (\$2, \$2, AND \$2; \$2, \$2, \$1, AND \$1; \$6)
TLV	\$ 12.00 (\$6 AND \$6; \$6, \$2, \$2, AND \$2; \$12)
EGN	\$ 18.00 (\$12 AND \$6; \$6, \$6, AND \$6; \$18)
FTY	\$ 50.00
FVH	\$500.00

(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 115.**

(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:

PERMANENT

(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 115 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 115; and/or

(ii) Vary the number of tickets sold in Instant Game Number 115 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 115.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 115 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-116 Instant Game Number 116 ("Fortune"). (1) Definitions for Instant Game Number 116.**

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "\$\$." 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 116, 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
\$\$	DLRS

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$3.00," "\$7.00," "\$12.00," "\$19.00," "\$50.00," and "\$500.00." 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 116, 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
\$ 7.00	SVN DOL
\$ 12.00	TLV DOL
\$ 19.00	NIT DOL
\$ 50.00	\$FIFTY\$
\$ 500.00	FIVHUND

(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 11600001-000 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 116 constitute the "pack number" which starts at 11600001;

PERMANENT

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 less than \$600.00. For Instant Game Number 116, 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
THR	\$ 3.00 (\$1, \$1, AND \$1; \$3)
SVN	\$ 7.00 (\$3, \$3, AND \$1; \$7)
TLV	\$ 12.00 (\$7, \$3, \$1, AND \$1; \$12)
NIT	\$ 19.00 (\$12 AND \$7; \$19)
FTY	\$ 50.00
FVH	\$500.00

(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 116.**

(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 a \$\$ play symbol shall be entitled to the \$500 prize shown below the \$\$ play symbol.

(iii) 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 116 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 116; and/or

(ii) Vary the number of tickets sold in Instant Game Number 116 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 116.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for

Instant Game Number 116 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-117 Instant Game Number 117 ("Cash Crop"). (1) Definitions for Instant Game Number 117.**

(a) Play symbols: The following are the "play symbols": , , , , , , and . 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. Two of the five play spots shall be labeled "winning crop."

(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 117, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	LEMN
	CORN
	MELN

PERMANENT



APPL  
CHRS  
GRPS  
STBR

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$4.00," "\$8.00," "\$12.00," "\$20.00," "\$40.00," "\$80.00," and "\$8,000." 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 crop."

(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 117, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 80.00	SEIGHTY
\$ 8,000	EGTTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 11700001-000 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 117 constitute the "pack number" which starts at 11700001; 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 less than \$600.00. For Instant Game Number 117, 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
FOR	\$ 4.00 (\$1, \$1, \$1, AND \$1; \$4)
EGT	\$ 8.00 (\$4 AND \$4; \$8)
TLV	\$ 12.00 (\$8 AND \$4; \$12)
TWY	\$ 20.00 (\$12 AND \$8; \$12, \$4, AND \$4; \$20)
FRY	\$ 40.00
ETY	\$ 80.00

(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 117.**

(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 three play symbols matches exactly one of the play symbols labeled "winning crop," 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 117 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 117; and/or

(ii) Vary the number of tickets sold in Instant Game Number 117 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 117.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 117 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

PERMANENT

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.

**WSR 94-03-020**  
**PERMANENT RULES**  
**LOTTERY COMMISSION**  
[Filed January 7, 1994, 2:57 p.m.]

Date of Adoption: January 7, 1994.

Purpose: To repeal and amend various sections due to the implementation of the lottery's instant ticket accounting system (ITAS) which will change the method of accounting for instant tickets between retailers and the lottery and will enable players to redeem winning instant tickets of \$600 or less at any lottery retailer in the state.

Citation of Existing Rules Affected by this Order: Repealing WAC 315-02-120, 315-06-140, 315-06-150, 315-06-160 and 315-06-180; and amending WAC 315-04-180, 315-04-210, 315-06-035, 315-06-170, 315-06-190, 315-10-030, 315-10-060, 315-10-080, and 315-30-030.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 93-24-098 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: In the adopted version of WAC 315-04-180: Subsection (2)(b), the director may require a police report or other evidence of tickets' disappearance; subsection (2)(c) allows 30 days for a retailer to return a pack never activated by the end of a game, rather than require that they be returned immediately; and subsection (2)(d) allows two exceptions to the prohibition on reimbursing a retailer for ticket losses: Where tickets are mutilated or where the retailer's license is revoked.

In the adopted version of WAC 315-04-210: The section applies to terminations as well as suspensions and revocations; and subsection (2) allows that the director shall reimburse retailers who have lost their licenses for unsold tickets already paid for.

In the adopted version of WAC 315-10-030: Subsection (5) allows that retailers may sell instant tickets for 60 days after the official end of a game, rather than 14 days as proposed.

In the adopted version of WAC 315-10-060: Subsection (2) allows that retailers may sell instant tickets for 60 days after the official end of a game, rather than 14 days as proposed.

Effective Date of Rule: The effective date of this rule-making order is to be concurrent with the full operation of the lottery's instant ticket accounting system, but not to be earlier than February 9, 1994.

January 7, 1994  
Evelyn P. Yenson  
Director

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

**WAC 315-04-180 Obligations of lottery retailers.** (1) ~~((All tickets accepted by the lottery retailer from its assigned depository shall be considered sold to the lottery retailer (unless returned to the depository from which they were obtained within the time specified and as permitted by the director). The purchase price shall be paid to the depository, less the value of lower tier prizes in each book and any discount authorized by these rules.~~

~~(2) After acceptance, the lottery retailer is responsible for the condition and security of the tickets and for any losses resulting from tickets which become lost, stolen, mutilated, damaged or otherwise unsaleable. The director shall not reimburse the lottery retailer for any losses which occur after acceptance of the tickets or for which the lottery has no duty or responsibility-))~~ (a) The method of accounting for a retailer's payment to the director for instant ticket packs received prior to the lottery's instant ticket accounting system (ITAS) being fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect prior to February 9, 1994.

(b) The method of accounting for a retailer's payment to the director for instant ticket packs received on or after the day ITAS becomes fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect on the day of ITAS' becoming fully operational, which shall not be prior to February 9, 1994.

(c) It is the intent of the Washington state lottery commission that those repeals and amendments filed with the state of Washington office of the code reviser to take effect no earlier than February 9, 1994, shall take effect when ITAS is fully operational. In the event that ITAS is not fully operational on February 9, 1994, Title 315 WAC shall remain in effect as it was prior to February 9, 1994, and shall so remain until ITAS does become fully operational. When ITAS becomes fully operational, the director shall make an announcement to all concerned parties, thereby establishing the effective date of said repeals and amendments.

(2)(a) Upon acceptance of a pack of instant tickets from the director, the retailer shall be responsible for the condition and security of the pack. The retailer shall hold the pack in its own safekeeping until it is ready to begin sale of the pack. Immediately prior to beginning sale, the retailer shall place the pack in "activated" status in the lottery's instant ticket accounting system (ITAS). Placement in activated status designates that the tickets in the pack may be sold, and prizes in the pack may be paid.

(b) In the event that instant tickets accepted by the retailer are lost, stolen or in any way unaccounted for prior to their being placed in activated status on ITAS, the retailer shall, upon discovery of their disappearance, immediately notify the director of each pack or portion of a pack so unaccounted for, lost or stolen. The retailer may be required to provide the director a police report or other evidence of the pack's disappearance. The retailer shall be charged twenty-five dollars for each pack or portion of a pack unaccounted for, lost or stolen.

(c) A retailer may return an unopened pack, at no charge, to the director at any time prior to the pack having

PERMANENT

been placed in activated status. Within thirty days of the official end of an instant game, a retailer shall return to the director all packs never activated in that game. Retailers shall be charged twenty-five dollars for each pack or portion thereof which was not returned to the director and not activated in accordance with this section.

(d) Upon placement of a pack in activated status, the retailer shall be liable to the director for payment for the pack, in the amount calculated under WAC 315-06-035. Payment for a pack shall be due to the director no later than twenty calendar days after the pack has been placed in activated status. The director shall not reimburse the retailer for any ticket losses which occur after activation of the pack from which the tickets came, except as allowed by WAC 315-04-210(2) or 315-06-190.

(e) Each lottery retailer and lottery license applicant shall sign and comply with a lottery instant retailer agreement. Failure to sign or to comply shall result in revocation or denial of a retailer's lottery license.

(3) Each lottery retailer shall abide by the law, these rules and all other directives or instructions issued by the director.

(4) Each lottery retailer grants to the director ~~((and the commission and employees of the commission))~~ an irrevocable license to enter upon the premises of the lottery retailer in which tickets may be sold or any other location under the control of the lottery retailer where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.

(5) All property given, except tickets, to a lottery retailer remains the property of the director, and, upon demand, the lottery retailer agrees to deliver forthwith the same to the director.

(6) All books and records pertaining to the lottery retailer's lottery activities shall be made available for inspection and copying, during the normal business hours of the lottery retailer and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director ~~((or employees of the commission))~~.

(7) All books and records pertaining to the lottery retailer's lottery activities shall be subject to seizure by the director ~~((or employees of the commission))~~ without prior notice.

(8) No lottery retailer shall advertise or otherwise display advertising in any part of the lottery retailer's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery and the lottery retailer shall remove any advertising forthwith if requested by the director.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

**WAC 315-04-210 Procedure if license is terminated, suspended or revoked.** (1) Upon termination, revocation or suspension of a lottery retailer's license for any reasons whatsoever, the lottery retailer must ~~((appear at its assigned depository or before the director or his or her designee, by a date designated by the director for the purpose of rendering)),~~ by a date designated by the director, render a final lottery accounting~~((, the))~~ and surrender ~~((of the lottery~~

retailer's license, his or her identification card and other)) all lottery property. ~~((Upon the lottery retailer's failure to appear by the designated date to render a final accounting, or otherwise to surrender the license, identification card and other lottery property as instructed, the depository shall immediately notify the director by telephone and confirm in writing)),~~ as well as unsold lottery tickets, to the director.

(2) The director shall reimburse each retailer whose license is terminated, suspended or revoked for payments made for unsold tickets which had been placed in activated status prior to termination, suspension or revocation which the retailer returns to the director.

AMENDATORY SECTION (Amending Order 114, filed 2/9/89)

**WAC 315-06-035 Instant ticket purchase price and conditions.** (1) The lottery retailer's purchase price for each pack of instant tickets shall be the retail price of the pack ~~((less the value of the pack's low tier prizes))~~ less the retailer discount authorized pursuant to WAC 315-04-190. ~~((Lottery retailers shall reimburse the lottery for each low tier prize payment made by the lottery for winning tickets purchased from the lottery retailer.))~~

(2) Lottery retailers shall make payment to the lottery by ~~((business check, cashier's check, certified check, money order or))~~ electronic funds transfer (EFT). ~~((The director may designate the form of payment.))~~

(3) The director shall establish payment terms for purchase of instant tickets and shall issue instructions for such payments to lottery retailers.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

**WAC 315-06-170 ~~((Deposits of lottery revenues.))~~** Filing of reports. ~~((1) Each lottery retailer shall purchase the tickets distributed to it and the monies for payment of these tickets shall be deposited to the credit of the state lottery account in a designated depository. Deducted from the total purchase cost to the lottery retailer, in such manner as the director may require shall be the amount, if any, which the lottery retailer may pay as prizes and which it may retain as compensation for its services in accordance with these rules. The lottery))~~ Each lottery retailer~~((s shall))~~ may be required to file with the director periodic reports of ~~((their))~~ its respective receipts and transactions in the sale of tickets in such form as approved by the director.

~~((2) Each lottery retailer shall account to its assigned depository for all proceeds resulting from its sales of tickets within such time as may be specified by the director for any particular type or kind of lottery which may be authorized by the commission.))~~

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

**WAC 315-06-190 Erroneous or mutilated tickets.** (1) Tickets erroneously made out or in any way mutilated when received by a lottery retailer are to be returned by the lottery retailer immediately to the ~~((depository servicing said lottery retailer))~~ director. Credit may be allowed for said tickets but only ~~((at the point of original sale to the lottery~~

retailer. ~~No credit shall be allowed~~) if the authenticity of the ~~(ticket cannot)~~ tickets can be reasonably determined by the director.

(2) Unless the director is satisfied that a mutilated ticket is authentic, no credit or prize will be issued to the holder of said ticket.

**AMENDATORY SECTION** (Amending WSR 89-21-029, filed 10/10/89, effective 11/10/89)

**WAC 315-10-030 Instant games criteria.** (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00, except for those tickets used in authorized media promotions and authorized retailer incentive programs.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of \$25.00 or less. Higher tier prizes are of more than \$25.00. The director shall determine the number of lower and higher tier prizes.

(5) The start date and closing date of the instant game shall be publicly announced. Lottery retailers shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Lottery retailers may continue to sell tickets for each instant game for up to ~~((44))~~ sixty days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) ~~((To claim an instant game prize of \$25.00 or less, the claimant shall present the apparent winning ticket to the lottery retailer from whom the ticket was purchased. The lottery retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the lottery retailer cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the lottery retailer and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.~~

~~((b))~~ To claim an instant game prize of ~~((more than \$25.00 through))~~ \$600.00 or less the claimant either may present the apparent winning ticket to ~~((a))~~ any lottery retailer ~~((included in the computer validation system,))~~ regardless of where the ticket was purchased, or may ~~((complete a claim form, as provided in WAC 315-06-120, which is obtained from a lottery retailer or the director and mail the completed form together with))~~ present the apparent winning ticket to the ~~((director))~~ lottery by mail or in person. When ~~((the))~~ a retailer is presented with a claim under this section, the retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. The prizes shall be paid during all normal business hours of that retailer provided that claims can be validated on the ~~((computer validation))~~ lottery's instant ticket accounting system (ITAS). The retailer shall not charge the claimant any fee for payment of the prize or for cashing a business check drawn on the retailer's account.

~~((b))~~ In the event the retailer cannot verify the claim, the claimant shall present a claim to the ~~((director))~~ lottery by mail or in person. If the claim is validated by the ~~((director))~~ lottery, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize of more than \$600.00, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the lottery retailer or the ~~((director))~~ lottery and mail or present in person the completed form together with the apparent winning ticket to the ~~((director))~~ lottery. Upon validation by the director, a check shall be ~~((forwarded))~~ mailed or presented to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(d) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand



prize drawing, if any, for that or any subsequent instant game.

(e) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

AMENDATORY SECTION (Amending Order 115, filed 4/10/89)

**WAC 315-10-060 Official end of game.** (1) The director shall announce the official end of each instant game. A player may submit a ~~((low tier))~~ winning ticket ~~((to the lottery retailer from whom the ticket was purchased or the lottery and a high tier winning ticket to the lottery))~~ for prize payment up to one hundred and eighty days after the official end of game. In order to participate in a grand prize drawing in which the entry is the submittal of one or more winning or nonwinning tickets, a player must redeem and submit such a ticket or tickets within the time limits set forth in chapter 315-11 WAC governing the conduct of that specific game.

(2) A lottery retailer may continue to sell tickets for each instant game up to ~~((fourteen))~~ sixty days after the official end of that game.

~~(3) ((At the discretion of the director, a lottery retailer may return to the lottery unsold lottery tickets for each game. Lottery retailers who are permitted by the director to return tickets within thirty days after the official end of that game will receive full credit for the tickets returned from the lottery. Lottery retailers who are permitted by the director to return tickets between thirty one and ninety days after the official end of game will be charged a fifteen percent restocking fee. The lottery has no obligation to grant credit for tickets returned more than ninety days after the official end of game.~~

~~(4))~~ Return of tickets by state liquor control board outlets shall be governed by the interlocal cooperative agreement between the lottery and the state liquor control board.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

**WAC 315-10-080 Retailer settlement.** (1) Each retailer licensed with the lottery ~~((after May 31, 1991,))~~ to sell instant tickets shall establish an account for deposit of moneys derived from instant game sales with a financial institution that has the capability of electronic funds transfer (EFT) and shall make payment of all moneys due the lottery through the EFT account. Funds generated from the sale of instant tickets ~~((shall be))~~ are held in trust by the retailer ~~((for))~~ until transfer to the lottery.

(2) Each retailer ~~((required to establish an account pursuant to this section))~~ shall make deposits periodically to ~~((that))~~ its EFT account sufficient to cover moneys due the lottery. The director shall specify the days on which moneys

due shall be withdrawn by EFT. Moneys not deposited by a specified day of withdrawal shall be overdue and delinquent.

AMENDATORY SECTION (Amending WSR 92-11-033, filed 5/15/92, effective 6/15/92)

**WAC 315-30-030 On-line games criteria.** (1) The base price of an on-line play shall not be less than \$.50 and not more than \$5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer claiming a prize shall submit the apparent winning ticket as specified by the director. The ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line retailer through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of \$600.00 or less, the claimant shall present the winning on-line ticket to any on-line retailer or to the lottery.

(i) If the claim is presented to an on-line retailer, the on-line retailer shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may ~~((obtain and complete a claim form, as provided in WAC 315-06-120, and))~~ submit ~~((it with))~~ the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall ~~((complete a claim form, as provided in WAC 315-06-120, and))~~ submit ~~((it with))~~ the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than \$600.00, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 315-02-120      Depository defined.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-06-140      Lottery accounts and depositories.  
WAC 315-06-150      Assignment of depository.  
WAC 315-06-160      Lottery retailer's identification card.  
WAC 315-06-180      Stolen or lost tickets.

**WSR 94-03-021**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5022—Filed January 10, 1994, 8:50 a.m.]

Date of Adoption: December 6, 1993.

Purpose: Repeal the establishment of standards and container marking requirements for "gift grade" apples and pears.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 16-680-001, 16-680-010, and 16-680-015.  
Statutory Authority for Adoption: Chapter 15.17 RCW.  
Pursuant to notice filed as WSR 93-21-082 on October 20, 1993.

Effective Date of Rule: Thirty-one days after filing.  
December 6, 1993  
James M. Jesernig  
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-680-001      Promulgation.  
WAC 16-680-010      Definition.  
WAC 16-680-015      Container marking.

**WSR 94-03-022**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5023—Filed January 10, 1994, 8:51 a.m.]

Date of Adoption: December 6, 1993.

Purpose: Repeal the marking requirements for sweet cherry containers.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 16-678-001 and 16-678-010.  
Statutory Authority for Adoption: Chapter 15.17 RCW.  
Pursuant to notice filed as WSR 93-21-083 on October 20, 1993.  
Effective Date of Rule: Thirty-one days after filing.

December 6, 1993  
James M. Jesernig  
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-678-001      Promulgation.  
WAC 16-678-010      Marking containers.

**WSR 94-03-023**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5025—Filed January 10, 1994, 8:52 a.m.]

Date of Adoption: December 6, 1993.

Purpose: Repeal rule relating to registration, distribution and use of DDT and DDD. DDT and DDD no longer registered for use by the United States Environmental Protection Agency.

Citation of Existing Rules Affected by this Order:  
Repealing chapter 16-223 WAC.

Statutory Authority for Adoption: Chapter 15.58 RCW.  
Pursuant to notice filed as WSR 93-21-084 on October 20, 1993.

Effective Date of Rule: Thirty-one days after filing.  
December 6, 1993  
James M. Jesernig  
Director

REPEALER

The following sections of the Washington Administrative code are repealed:

WAC 16-223-001      Promulgation.  
WAC 16-223-002      Promulgation.  
WAC 16-223-004      Promulgation.  
WAC 16-223-005      Promulgation.  
WAC 16-223-010      Definition  
WAC 16-223-020      Declaration.  
WAC 16-223-030      Renewal of 1969 registrations.  
WAC 16-223-040      Registration requirements.  
WAC 16-223-050      Distribution requirements.  
WAC 16-223-060      Prohibiting use and application.  
WAC 16-223-070      Disposal of restricted use pesticides and their containers.

**WSR 94-03-024**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5027—Filed January 10, 1994, 8:53 a.m.]

Date of Adoption: December 6, 1993.

Purpose: Repeal rule relating to the registration of Lindane. Lindane products are no longer registered for use [by the United States Environmental Protection Agency] that the existing rule applies to (vaporization).

PERMANENT

Citation of Existing Rules Affected by this Order:  
Repealing chapter 16-221 WAC.

Statutory Authority for Adoption: Chapter 15.58 RCW.  
Pursuant to notice filed as WSR 93-21-085 on October 20, 1993.

Effective Date of Rule: Thirty-one days after filing.  
December 6, 1993  
James M. Jesernig  
Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-221-001 Promulgation.
- WAC 16-221-010 Definition.
- WAC 16-221-020 Declaration.
- WAC 16-221-030 Registration requirements.
- WAC 16-221-040 Distribution requirements.

**WSR 94-03-025**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5026—Filed January 10, 1994, 8:54 a.m.]

Date of Adoption: December 6, 1993.  
Purpose: Repeal rules to standards for nursery stock.  
Citation of Existing Rules Affected by this Order:

Repealing chapter 16-432 WAC.  
Statutory Authority for Adoption: Chapter 15.13 RCW.

Pursuant to notice filed as WSR 93-21-086 on October 20, 1993.

Effective Date of Rule: Thirty-one days after filing.  
December 6, 1993  
James M. Jesernig  
Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-432-010 General.
- WAC 16-432-020 Marking requirements.
- WAC 16-432-030 Tolerance.
- WAC 16-432-040 Container specifications.
- WAC 16-432-050 Terminology.
- WAC 16-432-060 Plant specifications.
- WAC 16-432-070 Young plants specifications.
- WAC 16-432-080 Deciduous flowering shrubs and shade trees.
- WAC 16-432-090 Coniferous evergreens.
- WAC 16-432-100 Broadleaf evergreen shrubs.
- WAC 16-432-110 Fruit trees.
- WAC 16-432-120 Understock for grafting and budding.
- WAC 16-432-130 Nursery stock standard for roses.

**WSR 94-03-026**

**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5024—Filed January 10, 1994, 8:55 a.m.]

Date of Adoption: December 6, 1993.  
Purpose: Repeal of holly, cut spray standards.

Citation of Existing Rules Affected by this Order:  
Repealing chapter 16-415 WAC.

Statutory Authority for Adoption: Chapter 15.13 RCW.  
Pursuant to notice filed as WSR 93-21-087 on October 20, 1993.

Effective Date of Rule: Thirty-one days after filing.  
December 6, 1993  
James M. Jesernig  
Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-415-010 Grades.
- WAC 16-415-020 Marking requirements.
- WAC 16-415-030 Definition of terms.
- WAC 16-415-040 Compliance with U.S. and state laws.

**WSR 94-03-027**

**PERMANENT RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**  
[Filed January 10, 1994, 9:11 a.m.]

Date of Adoption: January 6, 1994.  
Purpose: To amend an existing regulation, governing the air emissions, sale, and use of solid fuel burning devices.

Citation of Existing Rules Affected by this Order:  
Amending SCAPCA Regulation I, Article VIII.

Statutory Authority for Adoption: RCW 70.94.141.  
Pursuant to notice filed as WSR 93-24-081 on November 30, 1993.

Effective Date of Rule: Thirty-one days after filing.  
January 6, 1994  
Eric Skelton  
Director

**ARTICLE VIII**

**SOLID FUEL BURNING DEVICE STANDARDS**

ADOPTED: April 7, 1988

REVISED: January 6, 1994

EFFECTIVE:

**SECTION 8.01 PURPOSE**

This article establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to attain the National Ambient Air Quality Standards for fine particulate matter (PM10) and to further the policy of the authority as stated in Article I, Section 1.01 of this Regulation.

PERMANENT

## SECTION 8.02 APPLICABILITY

The provisions of this article apply to solid fuel burning devices in all areas of Spokane County.

## SECTION 8.03 DEFINITIONS

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

- A. Adequate Source of Heat means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to heat utilizing oil, natural gas, electricity, or propane and to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.
- B. Certified means:
1. a solid fuel burning device, other than a fireplace, has received certification or an exemption certificate from the United States Environmental Protection Agency pursuant to Title 40, Part 60, Subpart AAA of the Code of Federal Regulations, "Standards of Performance for New Residential Wood Heaters"; or
  2. a solid fuel burning device has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457.
- C. Coalstove means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking, which has substantially all the following characteristics:
1. An opening for loading coal which is located near the top or side of the appliance;
  2. An opening for emptying ash which is located near the bottom or the side of the appliance;
  3. A system which admits air primarily up and through the fuel bed;
  4. A grate or other similar device for shaking or disturbing the fuel bed; and
  5. Listing by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.
- D. Cookstove means an appliance designed with the primary function of cooking food and containing an integrally built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ashpan and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.
- E. Ecology means the Washington State Department of Ecology.
- F. Fireplace means a permanently installed masonry fireplace; or a factory-built solid fuel burning device designed to be used with an air-to-fuel ratio greater than or equal to thirty-five to one and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.
- G. Furnace means a device which is designed and installed to heat an entire multiple room structure by forcing heated air through permanently installed ducts or by forcing heated water or steam through pipes which result in convective or direct radiation of heat into the rooms.
- H. Seasoned Wood means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.
- I. Solid Fuel Burning Device (same as solid fuel heating device) means a device that is designed to burn wood, coal, or any other nongaseous or nonliquid fuels, and includes woodstoves, coalstoves, cookstoves and fireplaces, or any similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.
- J. Smoke Control Zone means the geographic area, impacted by solid fuel combustion smoke, surrounding the Spokane/Spokane Valley Metropolitan area and, after consideration of the contribution of noncertified solid fuel burning devices, population density and urbanization, and impact to the public health (RCW 70.94.477 (2)(a), (b) and (c)), is defined as follows:
- Sections 1 through 6, Township 24 N, Range 42 E; Townships 25 and 26 N, Range 42 E; Sections 1 through 24, Township 24 N, Range 43 N; Townships 25, 26 and 27 N, Range 43 E; Sections 19 through 36, Township 28 N, Range 43 E; Sections 1 through 24, Township 24 N, Range 44E; Township 25 N, Range 44 E; Sections 19 through 36, Township 26 N, Range 44 E; Township 25 N, Range 45 E; Sections 1 through 4, 9 through 16 and 19 through 36, Township 26 N, Range 45 E; Sections 33 through 36, Township 27 N, Range 45 E; Sections 6, 7, 18, 19, 30, and 31, Township 25 N, Range 46 E; Sections 6, 7, 18, 19, 30 and 31, Township 26 N, Range 46 E; Section 31, Township 27 N, Range 46 E.
- K. Substantially Remodeled means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period (RCW 70.94.455).
- L. Treated Wood means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, fungus or weathering.
- M. Woodstove means a wood fueled appliance other than a cookstove with a closed fire chamber which

maintains an air-to-fuel ratio of less than thirty-five to one during the burning of ninety percent or more of the fuel mass consumed at the minimum burn rate achievable. Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

**SECTION 8.04 EMISSION PERFORMANCE STANDARDS**

The Authority adopts section WAC 173-433-100 "Emission Performance Standards" and Title 40, Part 60, Subpart AAA of the Code of Federal Regulations "Standards of Performance for New Residential Wood Heaters" by reference.

**SECTION 8.05 OPACITY STANDARDS**

- A. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.
- B. Test method and procedures. EPA reference method 9 -Visual Determination of Opacity of Emissions from Stationary Sources - shall be used to determine compliance with Section 8.05.A.
- C. Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

**SECTION 8.06 PROHIBITED FUEL TYPES**

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

- A. Garbage;
- B. Treated wood;
- C. Plastic products;
- D. Rubber products;
- E. Animals;
- F. Asphaltic products;
- G. Waste petroleum products;
- H. Paints;
- I. Any substance, other than properly seasoned fuel wood, or coal with sulfur content less than 1.0% by weight burned in a coal stove, which normally emits dense smoke or obnoxious odors;
- J. Paper, other than an amount of non-colored paper necessary to start a fire.

**SECTION 8.07 CURTAILMENT**

- A. Except as provided in Section 8.08, no person shall operate a solid fuel burning device within a defined geographical area under any of the following conditions:

- 1. Whenever Ecology has declared curtailment under an air pollution episode for the geographical area pursuant to chapter 173-435 WAC and RCW 70.94.715.
- 2. Whenever Ecology or the Authority has declared curtailment under a first stage of impaired air quality for the Smoke Control Zone or other geographical area, and the solid fuel burning device is not a certified device.

A first stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of seventy five micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

- 3. Whenever Ecology or the Authority has declared curtailment under a second stage of impaired air quality for the Smoke Control Zone or other geographical area. A second stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of one hundred five micrograms per cubic meter of air by a method which has been determined by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.
- 4. After July 1, 1995, if the Authority exercises the limitation in RCW 70.94.477(2), following the procedure in Section 8.09, and Ecology or the Authority has declared curtailment under a single stage of impaired air quality for the Smoke Control Zone or other geographical area. A single stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of ninety micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.
- 5. After July 1, 1995, if the Authority exercises the limitation in RCW 70.94.477(2), following the procedure in Section 8.09, and the solid fuel burning device is not a certified device or a fireplace.

- B. In consideration of declaring curtailment under a stage of impaired air quality, the Authority shall consider the anticipated beneficial effect on ambient levels of particulates ten microns and smaller in diameter (PM10), taking into account meteorologi-

PERMANENT

cal factors, the contribution of emission sources other than solid fuel burning devices, and any other factors deemed to have an impact.

- C. Any person responsible for a solid fuel burning device which is subject to curtailment and is already in operation at the time curtailment is declared under an episode, or a stage of impaired air quality shall extinguish that device by withholding new solid fuel for the duration of the episode or impaired air quality. Smoke visible from a chimney, flue or exhaust duct after a time period of three hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.
- D. The Authority, Ecology, Spokane County Health District, fire departments, fire districts, Spokane County Sheriff's Department, or local police having jurisdiction in the area may enforce compliance with solid fuel burning device curtailment after a time period of three hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality.

#### SECTION 8.08 EXEMPTIONS

- A. The provisions of Section 8.07 shall not apply to any person who possesses a valid written exemption, issued by the Authority. The Authority may issue written exemptions to any person who demonstrates any of the following to the satisfaction of the Authority:
1. An economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the low income energy assistance program (L.I.E.A.P.)
  2. That his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions.
  3. That there is no adequate source of heat and the structure was constructed or substantially remodeled prior to July 1, 1992.
  4. That there is no adequate source of heat and the structure was constructed or substantially remodeled after July 1, 1992 and is outside an urban growth area, as defined in RCW 36.70A, and is outside an area designated nonattainment for particulates ten microns and smaller in diameter (PM10) in accordance with CFR Title 40, Part 50.6.
- B. Written exemptions shall be valid for a period determined by the Authority, which shall not exceed one (1) year from the date of issuance. Exemptions may be renewed, provided the appli-

cant meets the applicable requirements at the time of exemption renewal.

- C. The provisions of Section 8.07 and the requirement in Section 8.08.A. to obtain a written exemption shall not apply to any person who operates a furnace that is designed to burn wood, coal, or any other nongaseous or nonliquid fuels.

#### SECTION 8.09 PROCEDURE TO GEOGRAPHICALLY LIMIT SOLID FUEL BURNING DEVICES

- A. After July 1, 1995, if the Spokane PM10 Nonattainment Area, as defined in CFR Title 40, Part 81, exceeds a National Ambient Air Quality Standard for particulates ten microns and smaller in diameter (PM10), as defined in CFR title 40, Part 50.6, more than once in any calendar year during the months of January, February, March, October, November, and December, then within 90 days of the first such occurrence, the Board of the Authority shall hold a public hearing to consider geographically limiting the use of solid fuel burning devices not meeting the standards set forth in RCW 70.94.457, to areas outside the Smoke Control Zone and other geographical areas as appropriate. In consideration of this limitation, the Board shall consider the following factors:
1. The contribution of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457, to nonattainment of National Ambient Air Quality Standards.
  2. The population density of geographical areas within the Authority's jurisdiction, giving greater consideration to urbanized areas.
  3. The public health effects of use of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457.
- B. If the Board, in consultation with Ecology, determines that solid fuel burning devices cause or contribute significantly to exceedance of a National Ambient Air Quality Standard for particulates ten microns and smaller in diameter (PM10), then the Board shall establish, by regulation, a schedule for prohibition, within the Smoke Control Zone and other geographical areas as appropriate, of the use of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457.
- C. Nothing in Section 8.09 shall apply to the use of fireplaces or to persons who have obtained an exemption pursuant to Section 8.08.A.1.

#### SECTION 8.10 RESTRICTIONS ON INSTALLATION OF SOLID FUEL BURNING DEVICES

- A. After July 1, 1992, no person shall install a solid fuel burning device that is not a certified device in any new or existing building or structure unless the device is a cookstove, a fireplace, a furnace, or a device which has been rendered permanently inoperable.

PERMANENT

- B. After July 1, 1992, no person shall sell, offer for sale, advertise for sale, or otherwise transfer a solid fuel burning device, that is not a certified device to another person unless the device is a cookstove, a fireplace, a furnace, or a device which has been rendered permanently inoperable.
- C. After January 1, 1997, no person shall sell, offer for sale, advertise for sale, or otherwise transfer a fireplace to another person, except masonry fireplaces, unless such fireplace meets the 1990 United States environmental protection agency standards for wood stoves or equivalent standard that may be established by the state building code council by rule (RCW 70.94.457 (1)(b)).

### SECTION 8.11 REGULATORY ACTIONS AND PENALTIES

A person in violation of this article may be subject to the provisions of Article II, Section 2.11, Penalties.

**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 94-03-052**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3686—Filed January 12, 1994, 4:08 p.m.]

Date of Adoption: January 12, 1994.

Purpose: Reduce the need of prior authorization for all home health services, add definitions of services, and add criteria for home health nursing services for high risk obstetrical clients.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 388-86-045 Home health services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-01-147 on December 21, 1993.

Changes Other than Editing from Proposed to Adopted Version: None, added subsection (8).

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

January 12, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 1891, filed 10/13/82)

**WAC 388-86-045 Home health services.** The ~~((department shall provide))~~ department's home health services include:

- (a) Nursing ~~((and other))~~ services; ~~((furnished by))~~
- (b) Home health aide services;
- (c) Medical supplies, equipment, and appliances suitable for use in the home; and
- (d) Occupational therapy, physical therapy, speech therapy, and audiology services.

(2) A Title XVIII certified home health agency shall furnish medically necessary home health services to an eligible client.

(3) ~~((Fb))~~ A client may qualify for home health services when an otherwise eligible client meets the following criteria:

(a) The ~~((patient must))~~ client shall be in the care of an attending physician who has authorized the plan of treatment, which was developed for the individual ~~((patient. Approval by the office of the medical director is required for any care extending beyond the limits established by the division of))~~ client for services at the client's residence; and

(b) The client shall receive occupational therapy, physical therapy and speech pathology and audiology services, only when the client is homebound.

(c) The medical assistance administration shall require prior authorization for any care for the following services:

(i) For a child six years of age and under;

(ii) Twice-a-day skilled nursing intervention;

(iii) Infant phototherapy services;

(iv) Therapy only services;

(v) Daily nursing visits exceeding ten consecutive days;

and

(vi) For a client whose program eligibility is for emergency medical care only.

(4) For the purpose of this section, the following definitions apply:

(a) "Homebound" means that the status of the client's condition is such that normal ability to leave home does not exist, and leaving home would require a considerable and taxing effort.

(b) "High risk medical obstetrical client" means a pregnant client who has a medical condition that complicates pregnancy and may result in a poor outcome for the mother, unborn, or newborn.

(c) "Home health services" means comprehensive health care services provided in the client's residence on a part-time or intermittent basis by a Title XVIII home health provider.

(d) "Residence" means a client's home or place of living not including the hospital, skilled nursing facility, or intermediate care facility.

(e) "Skilled nursing intervention" means a service provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse.

(f) "Therapy-only services" means homebound physical, occupational, speech, and audiology services.

(5) The client shall receive medical supplies, equipment, and appliances as described under WAC 388-86-100.

(6) A client who receives emergency only services, as defined under WAC 388-80-005, shall be limited to two skilled nursing intervention visits within the eligibility coverage period.

(7) A high risk medical obstetrical client:

(a) May receive a maximum of three home health visits per pregnancy; and

(b) Shall receive home health visits by a registered nurse who has national perinatal certification or a minimum of one year of labor, delivery, and post-partum experience at a hospital in the last five years.

(8) The department shall consider additional skilled nursing intervention visits only on a case-by-case basis as an exception to policy.

**WSR 94-03-060**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed January 14, 1994, 9:20 a.m.]

Date of Adoption: January 5, 1994.

Purpose: The overall purpose of this filing is to bring various rules pertaining to the board's public records into compliance with statutory changes. Specifically, changes being made are: WAC 314-60-010, reflect the change from nine years to six years for terms for board members; WAC 314-60-020, include motion picture film, video recordings, diskettes, sound recordings and existing data compilations from which information may be obtained or translated as being public records by definition, delete punched cards and drums; WAC 314-60-030, more clearly define stores and agencies as being places where liquor is sold under the state's control; WAC 314-60-080, remove a designated person for maintenance of an index to give the board more flexibility in assigning this responsibility; WAC 314-60-105, make several changes to reflect current statute and existing board policy as to what constitutes an exempt record; and WAC 314-60-110, clarify when a decision shall be returned following a request for review of a denial of disclosing public records. Changes will improve and enhance the board's response to public records requests. Elimination of conflicting and/or archaic language will make it easier for people to understand the board's policy towards public records.

Citation of Existing Rules Affected by this Order: Amending WAC 314-60-010, 314-60-020, 314-60-030, 314-60-080, 314-60-105, and 314-60-110.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 93-24-077 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: See Purpose above.

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

January 11, 1994

Joseph L. McGavick  
Chairman

**AMENDATORY SECTION** (Amending Order 56, filed 5/31/77, effective 7/1/77)

**WAC 314-60-010 Purpose—Washington state liquor control board.** (1) The purpose of this chapter is to comply with the provisions of chapter 42.17 RCW dealing with public records.

(2) The "Washington state liquor control board," pursuant to RCW 66.08.012 and 66.08.014, consists of three members appointed by the governor with the consent of the senate, for terms of ~~((nine))~~ six years that are staggered so that an appointment or reappointment is made every ~~((three))~~ two years. The "Washington state liquor control board" shall sometimes hereinafter be referred to as the "board." Where appropriate, the term "board" also refers to the staff and employees of the Washington state liquor control board.

**AMENDATORY SECTION** (Amending Order 22, filed 4/17/73, effective 5/18/73)

**WAC 314-60-020 Definitions—Public records—Writing.** (1) "Public records" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds ~~((:))~~, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture film and video recordings, magnetic ~~((or punched))~~ cards, discs, ~~((drums))~~ diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

**AMENDATORY SECTION** (Amending Order 259, Resolution No. 268, filed 7/27/88)

**WAC 314-60-030 Description of central and field organization of Washington state liquor control board.** The board is an agency created to exercise the police power of the state in administering and enforcing all of the laws and regulations relating to alcoholic beverage control (Title 66 RCW).

(1) The board's major areas of activity are:

(a) Purchase, distribution and sale of liquor in the original package through its stores and agencies.

(i) All spirituous liquor in the original package is exclusively sold by the board.

(ii) Wines and malt beverages in the original package are sold by the board, and wines and beer can, under appropriate license, be sold by licensees.

(b) The licensing of the manufacture, distribution and sale of liquor. Licenses to retailers involve many different classifications and categories for the sale of liquor for on-premises and off-premises consumption. Licenses are also issued to manufacturers, breweries, wholesalers, importers, etc.

(c) The inspection of the activities and operations of liquor licensees and the enforcement of the liquor laws of the state of Washington and the rules and regulations of the board.

(2) The administrative offices of the Washington state liquor control board and its staff are located at:

(a) Main office, Capital Plaza Building, 1025 East Union Avenue, Olympia.

(b) Distribution center and stores and agencies division, 4401 East Marginal Way South, Seattle.

(c) Enforcement offices are maintained in major cities throughout the state.

(d) Stores and agencies where liquor is sold are maintained in cities, towns, and areas throughout the state.

AMENDATORY SECTION (Amending Order 56, filed 5/31/77, effective 7/1/77)

**WAC 314-60-080 Requests for public records.** In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be obtained by members of the public at the main office of the board upon compliance with the following procedures:

(1) A request (~~shall~~) may be made in writing. A form prescribed by the board shall be available at its main office. The written request or prescribed form shall be submitted or presented to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the main office of the board during customary office hours. The request shall include the following information:

(a) The name and address of the person requesting the record.

(b) The time of day and calendar date on which the request was received at the main office of the board.

(c) The nature of the request.

(d) If the matter requested is referenced within the current index maintained by the (~~records officer~~) board, a reference to the requested record as (~~it is~~) described (~~in such current index~~).

(e) If the requested matter is not identifiable by reference to the board's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 56, filed 5/31/77, effective 7/1/77)

**WAC 314-60-105 General guidelines—Exempt records.** The following general guidelines relate to the board's records, or portions thereof, that are, or may be, considered as exempt from public disclosure under the provisions of the Public Disclosure Law, chapter 42.17 RCW.

A general rule in connection with the application of any of the exemptions (~~hereinbelow~~) set forth below is that such exemptions shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption will be construed to permit the non-disclosure of statistical information which is not descriptive of any readily identifiable person or persons.

The list of records and material generally considered exempt from disclosure by the board includes, but is not limited to, the following:

(1) Personal information of the board members and its entire staff as may be contained in the personnel records of each member or employee, including all applications for public employment, resumes, and other materials submitted relating to the applicant, and residential addresses of members, employees or volunteers, with the exception that the

employee's name, job title, and rate of pay for said job title, will be furnished. (See RCW 42.17.310 (1)(b), (t) and (u).)

(2) Audits of, and investigation reports concerning, individual licensees, except when cited by the board as the basis for disciplinary action taken against the licensee. (See RCW 42.17.310 (1)(d).)

(3) Intelligence information and investigative data and reports pertaining to the enforcement of the liquor laws and the board's regulations, the non-disclosure of which is essential to law enforcement or to the protection of any person's right to privacy. (See RCW 42.17.310 (1)(d).)

(4) (~~Current personal and/or financial information furnished by or pertaining to licensees. The board may determine in particular cases that it intends to and will, if not restrained by court order, disclose requested information after having first given notice to affected parties and thereafter affording any such parties a reasonable time to seek a protective order pursuant to the provisions of RCW 42.17.330.~~)

(5) Special order requests and records of purchases by any person or persons, including class H licensees. (See RCW 66.16.090.)

(6) The board's records during the process of lease negotiations, when it would be both unfair and inequitable to disclose to contending parties what another party may have bid or offered. (See RCW 42.17.310 (1)(g).)

(7) The names of complainants in connection with alleged liquor violations, if disclosure would endanger any person's life, physical safety, or property except when the (protestor, endorser, or) complainant authorizes the release of his or her name at the time the (protest, endorsement, or) complaint is submitted. (See RCW 42.17.310 (1)(~~d~~) and) (e).)

(8) Computer program and research data of the board within five years of the request for disclosure when disclosure would produce private gain and public loss. (See RCW 42.17.310 (1)(h).)

(9) Preliminary drafts, notes, recommendations, and intraagency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by the board in connection with board action. (See RCW 42.17.310 (1)(i).)

AMENDATORY SECTION (Amending Order 22, filed 4/17/73, effective 5/18/73)

**WAC 314-60-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the board chairman, or in his absence, a member of the board. The board chairman or member, as the case may be, shall immediately consider the matter and either affirm or reverse such denial or call a special meeting



of the board as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the receipt of the request for review of the original denial.

(3) Administrative remedies shall not be considered exhausted until the board has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.

**WSR 94-03-061**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed January 14, 1994, 9:53 a.m.]

Date of Adoption: January 14, 1994.

Purpose: To adapt to changes in federal Regulation D and raise the dollar limitation of WAC 460-44A-504 to \$500,000 from \$250,000.

Citation of Existing Rules Affected by this Order: Amending WAC 460-44A-500 through 460-44A-506.

Statutory Authority for Adoption: RCW 21.20.450.

Pursuant to notice filed as WSR 93-23-064 on November 16, 1993.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds that this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

January 14, 1994

John L. Bley

Director

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

**WAC 460-44A-500 Preliminary notes.** (1) The rules of WAC 460-44A-501 through 460-44A-508 relate to transactions exempted from the registration requirements of the Federal Securities Act of 1933 and RCW 21.20.140. WAC 460-44A-504 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 504 or Rule 147. WAC 460-44A-505 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 505. WAC 460-44A-506 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 506. Such transactions are not exempt from the anti-fraud, civil liability, or other provisions of the federal and state securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under these rules, in light of the circumstances under which it is furnished, not misleading.

(2) Attempted compliance with the exemption of WAC 460-44A-504, 460-44A-505, or 460-44A-506 does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption.

(3) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(4) In any proceeding involving the rules in WAC 460-44A-501 through 460-44A-508, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(5) The effective date of the adoption of rules WAC 460-44A-501, 460-44A-502, 460-44A-503, and 460-44A-506 is May 25, 1982. Existing rules WAC 460-44A-010 through 460-44A-045 will be repealed on the adoption and effectiveness of the permanent rules WAC 460-44A-501, 460-44A-502, 460-44A-503, and 460-44A-506; no filings for exemption under rules WAC 460-44A-010 through 460-44A-045 will be accepted after repeal. For those offerings made in compliance with WAC 460-44A-010 through 460-44A-045 which commence or commenced prior to the date of repeal and which continue past the date of repeal, no registration is required if the offering terminates before June 30, 1983.

(6) For offerings commenced but not completed prior to the amendment of WAC 460-44A-501 through 460-44A-508, issuers may opt to follow the rules in effect at the date of filing notice of the offering.

(7) Securities offered and sold outside the United States in accordance with Securities and Exchange Commission Regulation S need not be registered under chapter 21.20 RCW. Regulation S may be relied upon for such offers and sales even if coincident offers and sales are made in accordance with Regulation D and WAC 460-44A-501 through 460-44A-508 inside the United States. Thus, for example, persons who are offered and sold securities in accordance with Regulation S would not be counted in the calculation of the number of purchasers under Regulation D and WAC 460-44A-501 through 460-44A-508. Similarly proceeds from such sales would not be included in the aggregate offering price. The provisions of this subsection, however, do not apply if the issuer elects to rely solely on Regulation D for offers or sales to persons made outside the United States.

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

**WAC 460-44A-501 Definitions and terms.** As used in rules WAC 460-44A-501 through 460-44A-508, the following terms shall have the meaning indicated:

(1) "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(a) Any bank as defined in section 3 (a)(2) of the Securities Act of 1933, or any savings and loan association or other institution as defined in section 3 (a)(5)(A) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(13) of the Securities Act of 1933; any investment company registered

under the Investment Company Act of 1940 or a business development company as defined in section 2 (a)(48) of that act; any small business investment company licensed by the U.S. Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of ((Title I of)) the Employee Retirement Income Security Act of 1974((;)) if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(b) Any private business development company as defined in section 202 (a)(22) of the Investment Advisers Act of 1940;

(c) Any organization described in section 501 (c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

(d) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(e) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;

(f) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(g) Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in 17 CFR Sec. 230.506 (b)(2)(ii); and

(h) Any entity in which all of the equity owners are accredited investors.

(2) "Affiliate" an "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified;

(3) "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration to be received by an issuer for issuance of its securities. Where securities are being offered for both cash and noncash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. Any portion of the aggregate offering price attributable to cash received in a foreign currency shall be translated into United States currency at the currency exchange rate in effect at a reasonable time prior to or on the date of the sale of the securities. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona.fide sales of that

consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Such valuations of noncash consideration must be reasonable at the time made;

(4) "Business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Securities Act of 1933 and any transaction involving the acquisition by one issuer, in exchange for all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition);

(5) "Calculation of number of purchasers." For purposes of calculating the number of purchasers under WAC 460-44A-504, 460-44A-505, and 460-44A-506 the following shall apply:

(a) The following purchasers shall be excluded:

(i) Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(ii) Any trust or estate in which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(iii) Any corporation or other organization of which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (ii) collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(iv) Any accredited investor.

(b) A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under WAC 460-44A-501 (1)(h), then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of WAC 460-44A-501 through 460-44A-508, except to the extent provided in (a) of this subsection.

(c) A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.

Note: The issuer must satisfy all the other provisions of WAC 460-44A-501 through 460-44A-506 for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker-dealer shall be considered the "purchasers" under WAC 460-44A-501 through 460-44A-506 regardless of the amount of discretion given to the investment adviser or broker-dealer to act on behalf of the client or customer.

(6) "Executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy making functions for the issuer.

(7) "Issuer" as defined in Section 2(4) of the Securities Act of 1933 or RCW 21.20.005(7) shall apply, except that in the case of a proceeding under the Federal Bankruptcy Code (11 U.S.C. 101 et seq.), the trustee or debtor in possession shall be considered the issuer in an offering under a plan or reorganization, if the securities are to be issued under the plan.

(8) "Purchaser representative" shall mean any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:

(a) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the purchaser is:

(i) A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;

(ii) A trust or estate in which the purchaser representative and any person related to him as specified in WAC 460-44A-501 (8)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or

(iii) A corporation or other organization of which the purchaser representative and any persons related to him as specified in WAC 460-44A-501 (8)(a)(i) or (ii) collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests;

(b) Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;

(c) Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and

(d) Discloses to the purchaser in writing a reasonable time prior to the sale of securities to that purchaser any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1: A person acting as a purchaser representative should consider the applicability of the registration and anti-fraud provisions relating to broker-dealers under chapter 21.20 RCW and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended) and relating to investment advisers under chapter 21.20 RCW and the Investment Advisers Act of 1940.

Note 2: The acknowledgment required by paragraph (8)(c) and the disclosure required by paragraph (8)(d) of this WAC 460-44A-501 must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements," is not sufficient.

Note 3: Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer or its affiliates does not relieve the purchaser representative of his obligation to act in the best interest of the purchaser.

**AMENDATORY SECTION** (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

**WAC 460-44A-502 General conditions to be met.** The following conditions shall be applicable to offers and sales made under WAC 460-44A-504, 460-44A-505, or 460-44A-506:

(1) "Integration." All sales that are part of the same offering under these rules must meet all of the terms and conditions of these rules. Offers and sales that are made more than six months before the start of an offering or are made more than six months after completion of an offering, will not be considered part of that offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under these rules, other than those offers or sales of securities under an employee benefit plan.

Note: The term "offering" is not defined in the securities acts. If the issuer offers or sells securities for which the safe harbor rule in WAC 460-44A-502(1) is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e. are considered "integrated") depends on the particular facts and circumstances. Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States in compliance with Securities and Exchange Commission Regulation S.

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under these rules:

(a) Whether the sales are part of a single plan of financing;

(b) Whether the sales involve issuance of the same class of securities;

(c) Whether the sales have been made at or about the same time;

(d) Whether the same type of consideration is received; and

(e) Whether the sales are made for the same general purpose.

See Securities and Exchange Commission Release No. 33-4552 (November 6, 1962).

(2) Information requirements.

(a) When information must be furnished.

If the issuer sells securities under WAC 460-44A-505 or 460-44A-506 to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in WAC 460-44A-502 (2)(b) to such purchaser a reasonable time prior to sale. The issuer is not required to furnish the specified information when it sells securities under WAC 460-44A-504, or to any accredited investor.

Note: When an issuer provides information to investors pursuant to WAC 460-44A-502 (2)(a), it should consider providing such information to accredited investors as well, in view of the anti-fraud provisions of the federal and state securities laws.

(b) Type of information to be furnished.

(i) If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the following information, to the extent material to an understanding of the issuer, its business, and the securities being offered:

~~((A)) Offerings up to \$2,000,000. The same kind of information as would be required in Part II of Form 1-A, 17 CFR Sec. 239.90, except that the issuer's balance sheet, which shall be dated within one hundred twenty days of the start of the offering, must be audited.~~

~~(B) Offerings up to \$7,500,000. The same kind of information as would be required in Part I of Form S-18 under the Securities Act of 1933, except that only the financial statements for the issuer's most recent fiscal year must be certified by an independent public or certified accountant. If Form S-18 is not available to an issuer, then the issuer shall furnish the same kind of information as would be required in Part I of a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use, except that only the financial statements for the most recent two fiscal years prepared in accordance with generally accepted accounting principles shall be furnished and only the financial statements for the issuer's most recent fiscal year shall be certified by an independent public or certified accountant.)~~ (A) Nonfinancial statement information. If the issuer is eligible to use Regulation A, the same kind of information as would be required in Part II of Form 1-A, 17 CFR Sec. 239.90. If the issuer is not eligible to use Regulation A, the same kind of information as required in Part I of a registration statement filed under the Securities Act on the form that the issuer would be entitled to use.

(B) Financial statement information.

(I) Offerings up to \$2,000,000. The information required in Item 310 of Regulation S-B, 17 CFR Sec. 228.310, except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.

(II) Offerings up to \$7,500,000. The financial statement information required in Form SB-2, 17 CFR Sec. 239.10. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

~~((C))~~ (III) Offerings over \$7,500,000. ((The same kind of information as would be required in Part I of a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use.)) The financial statement as would be required in a registration statement filed under the Act on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and

reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

~~((D))~~ (C) If the issuer is a foreign private issuer eligible to use Form 20-F, the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by (2)(b)(i)(B) ((or (C))) (I), (II) or (III) of this subsection, as appropriate.

(ii) If the issuer is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the information required by Securities and Exchange Commission Regulation D, Rule 502 (b)(2)(ii) as appropriate.

(iii) Exhibits required to be filed with the administrator of securities or the securities and exchange commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K and Form 10-KSB report, need not be furnished to each purchaser that is not an accredited investor if the contents of material exhibits are identified and such exhibits are made available to a purchaser, upon his written request, a reasonable time prior to his purchase.

(iv) At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under WAC 460-44A-505 or 460-44A-506, the issuer shall furnish to the purchaser a brief description in writing of any material written information concerning the offering that has been provided by the issuer to any accredited investor but not previously delivered to such unaccredited purchaser. The issuer shall furnish any portion or all of this information to the purchaser, upon his written request a reasonable time prior to his purchase.

(v) The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under WAC 460-44A-505 or 460-44A-506 the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under WAC 460-44A-502 (2)(b)(i) or (ii).

(vi) For business combinations or exchange offers, in addition to information required by Form S-4, 17 CFR Sec. 239.25, the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders. For purposes of this subsection, an issuer which is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 may satisfy the requirements of Part I.B. or C. of Form S-4 by compliance with (b)(i) of this subsection.

(vii) At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under WAC 460-44A-505 or 460-44A-506, the issuer shall advise the purchaser of the limitations on resale in the manner contained in subsection (4)(b) of this section.

Such disclosure may be contained in other materials required to be provided by this paragraph.

(3) Limitation on manner of offering. Neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:

(a) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and

(b) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(4) Limitations on resale. Securities acquired in a transaction under WAC 460-44A-501 through 460-44A-508 shall have the status of restricted securities acquired in a nonpublic offering transaction under section 4(2) of the Securities Act of 1933 and RCW 21.20.320(1) and cannot be resold without registration under the Securities Act of Washington or an exemption therefrom. The issuer shall exercise reasonable care to assure that the securities are restricted and that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Securities Act of 1933, which reasonable care may be demonstrated by the following:

(a) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

(b) Written disclosure to each purchaser prior to sale that the securities have not been registered under the Securities Act of 1933, and the Washington administrator of securities has not reviewed or recommended the offering or offering circular and the securities have not been registered under the Securities Act of Washington, chapter 21.20 RCW, and, therefore, cannot be resold unless they are registered under the Securities Act of 1933 and the Securities Act of Washington chapter 21.20 RCW or unless an exemption from registration is available; and

(c) Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Securities Act of 1933 and the Securities Act of Washington chapter 21.20 RCW and setting forth or referring to the restrictions on transferability and sale of the securities.

(d) A written disclosure or legend will be deemed to comply with the provisions of WAC 460-44A-502 (4)(b) or (c) if it complies with the North American Securities Administrators Association Uniform Disclosure Guidelines on Legends, NASAA Reports CCH Para. 1352 (1989).

While taking these actions will establish the requisite reasonable care, it is not the exclusive method to demonstrate such care. Other actions by the issuer may satisfy this provision. In addition, WAC 460-44A-502 (2)(b)(vii) requires the delivery of written disclosure of the limitations on resale to investors in certain instances.

**AMENDATORY SECTION** (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

**WAC 460-44A-504 Exemption for limited offers and sales of securities not exceeding ~~(\$250,000)~~ \$500,000 to not more than twenty purchasers.** (1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.504 and 230.508 as made effective in Release No. 33-

6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, ~~((and)) 33-6825, 33-6863, 33-6949, and 33-6996~~ or in compliance with the Securities Act of 1933, Rule 230.147 as made effective in Release No. 33-5450 that satisfy the conditions in subsections (2) and (3) of this section shall be exempt under RCW 21.20.320(9).

(2) General conditions to be met. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503 and 460-44A-508.

(3) Specific conditions to be met.

(a) Limitation on aggregate offering price. The aggregate offering price for an offering of securities under this section, as defined in WAC 460-44A-501(3), shall not exceed ~~(\$250,000)~~ \$500,000, within or without this state, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this section in reliance on any exemption under RCW 21.20.320(9) or sections 3(a) (11) or 3(b) of the Securities Act of 1933 or in violation of RCW 21.20.140 or section 5(a) of the Securities Act of 1933.

(b) No commissions. No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in the state of Washington.

(c) Limitation on number of purchasers. There are no more than or the issuer reasonably believes that there are no more than twenty purchasers of securities in this state from the issuer in any offering in reliance on this section.

(d) In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:

(i) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable; or

(ii) The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(e) Disqualifications. No exemption under this section shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule ~~((230.252, sections (e), (d), (e), or (f)))~~ 230.262 is disqualified for any of the reasons listed in WAC 460-44A-505 (2)(d) unless inapplicable or waived as set forth in WAC 460-44A-505 (2)(d)(vi) and (vii).

(f) Notice filing. The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

(g) Advice about the limitations on resale.

The issuer, at a reasonable time prior to the sale of securities, shall advise each purchaser of the limitations on resale in the manner contained in WAC 460-44A-502 (4)(b).

(4) Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.

Note 1: WAC 460-44A-504 is not the exclusive method by which issuers may make offerings under Securities and Exchange Commission Rules 504 and 147. For example, offers and sales of an issuer in compliance with Securities and Exchange Commission Rule 504 or Rule 147 may also be registered by qualification under chapter 21.20 RCW. An issuer that qualifies may elect to register an offering pursuant to the Uniform Limited Offering Registration as set out in chapter 460-17A WAC. An issuer may also elect to claim the corporate limited offering exemption as set out in chapter 460-46A WAC.

Note 2: Issuers are reminded that nothing in these rules alters their obligation under RCW 21.20.010. RCW 21.20.010(2) renders it unlawful "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . ." In addition, issuers must otherwise comply with the anti-fraud provisions of the federal and state securities laws. No format for disclosure is prescribed. However, issuers may wish to consider the question and answer disclosure format of Form ULOR-C of chapter 460-17A WAC, or the corporate limited offering exemption of chapter 460-46A WAC, in determining the disclosure they make. If either form is used, the issuer should indicate that the disclosure form is being used for an exempt offering under this section rather than in an offering under the chapters under which the form was adopted.

**AMENDATORY SECTION** (Amending Order SDO-122-89, filed 8/17/89, effective 9/17/89)

**WAC 460-44A-505 Uniform offering exemption for limited offers and sales of securities not exceeding \$5,000,000.** (1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.503; 230.505; and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, ~~((and))~~ 33-6825, 33-6863, 33-6949, and 33-6996 that satisfy the conditions in subsection (2) of this section shall be exempt transactions under RCW 21.20.320(17).

(2) Conditions to be met.

(a) General conditions. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503.

Note: In order to comply with this section the issuer must comply with the provisions of Rule 505 (17 CFR Sec. 230.505) of the Federal Securities and Exchange Commission.

(b) Specific conditions.

(i) No commission, fee, or other remuneration shall be paid or given directly or indirectly, to any person for soliciting any prospective purchaser that is not an accredited investor in the state of Washington unless such person is registered in this state as a broker-dealer or salesperson.

(ii) It is a defense to a violation of (b)(i) of this subsection if the issuer sustains the burden of proof to establish that he did not know and in the exercise of reasonable care could not have known that the person who offered or sold the security was not appropriately registered in this state.

(c) In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:

(i) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable; or

(ii) The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(d) No exemption under this rule shall be available for the securities of any issuer if any of the parties described in Securities Act of 1933, Regulation A, Rule ~~((230-252 sections (e), (d), (e), or (f)))~~ 230.262:

(i) Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to the Securities Act of Washington, chapter 21.20 RCW, or any other state's securities law, within five years prior to the filing of the notice required under this exemption.

(ii) Has been convicted within ten years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.

(iii) Is currently subject to any state administrative enforcement order or judgment entered by the Washington state administrator of securities or any other state's securities administrator within five years prior to the filing of the notice required under this section or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five years prior to the filing of the notice required under this exemption.

(iv) Is subject to an order or judgment of the Washington state administrator of securities or any other state's administrative enforcement order or judgment which prohibits, denies or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities.

(v) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining, such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any filing with this or any state entered within five years prior to the filing of the notice required under this exemption.

(vi) The prohibitions of (d)(i), (ii), (iii), and (v) of this subsection shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in this state and the Form B-D filed with this state discloses the order, conviction, judgment or decree relating to such person. No person disqualified under (d) of this subsection may act in a capacity other than that for which the person is licensed or registered.

(vii) Any disqualification caused by (d) of this subsection is automatically waived if the Washington state administrator of securities or the state securities administrator or other agency which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption of this section be denied.

(viii) It is a defense to a violation of this paragraph (d) if the issuer sustains the burden of proof to establish that the issuer did not know and in the exercise of reasonable care could not have known that a disqualification under this paragraph existed.

(e) The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

(3) Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.

(4) The Washington state administrator of securities may, by rule or order, waive the conditions of this section.

(5) The exemption authorized by this section shall be known and may be cited as the "Washington uniform limited offering exemption."

**AMENDATORY SECTION** (Amending Order SDO-122-89, filed 8/17/89, effective 9/17/89)

**WAC 460-44A-506 Exemption for nonpublic offers and sales without regard to dollar amount of offering.**

(1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.503; 230.506; and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, ((and)) 33-6825, 33-6863, 33-6949, and 33-6996 that satisfy the conditions in subsection (2) of this section shall be deemed to be exempt transactions within the meaning of RCW 21.20.320(1).

(2) Conditions to be met.

(a) General conditions. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503.

Note: In order to comply with this section the issuer must comply with the provisions of Rule 506 (17 CFR Sec. 230.506) of the Federal Securities and Exchange Commission.

(b) Specific conditions.

(i) No selling commission unless registered as a broker-dealer or salesperson.

(A) No commission, fee, or other remuneration shall be paid or given directly or indirectly, to any person for

soliciting any prospective purchaser that is not an accredited investor in the state of Washington unless such person is registered in this state as a broker-dealer or salesperson.

(B) It is a defense to a violation of (b)(i)(A) of this subsection if the issuer sustains the burden of proof to establish that he did not know and in the exercise of reasonable care could not have known that the person who received a commission, fee or other remuneration was not appropriately registered in this state.

(ii) Limitation on selling expenses.

(A) Selling expenses in any offering under this section shall not exceed fifteen percent of the aggregate offering price. For the purposes of this section, "selling expenses" means the total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys paid by the issuer) paid in connection with the offering plus all other expenses actually incurred by the issuer relating to printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositaries, and engineers and other experts, expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees, and any other expenses actually incurred by the issuer and directly related to the offering and sale of the securities, but excluding accountants' and the issuer's attorneys' fees and options to underwriters.

(B) The number of shares or units called for by options issuable to underwriters or other persons as compensation, in whole or in part, for the offer or sale of securities in reliance on this section shall not exceed ten percent of the number of shares or units actually sold in the offering.

(3) Offers or sales which are exempted under this section may not be combined in the same offering with offers or sales exempted under any other rule or section of chapter 21.20 RCW; however, nothing in this limitation shall act as an election. Should for any reason an offering fail to comply with all of the conditions for this section, the issuer may claim the availability of any other applicable exemption.

(4) The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

**WSR 94-03-068**  
**PERMANENT RULES**  
**OFFICE OF MINORITY AND**  
**WOMEN'S BUSINESS ENTERPRISES**  
[Filed January 14, 1994, 12:55 p.m.]

Date of Adoption: January 14, 1994.

Purpose: To establish goals for the participation of certified minority and women's business enterprises in state contracting and procurement.

Citation of Existing Rules Affected by this Order:  
Amending WAC 326-30-041.

Statutory Authority for Adoption: RCW 39.19.030(7).  
Pursuant to notice filed as WSR 93-24-070 on November 29, 1993.

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



January 14, 1994  
James A. Medina  
Director

AMENDATORY SECTION (Amending WSR 92-20-079,  
filed 10/6/92)

**WAC 326-30-041 Annual goals.** The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, ~~1992~~ 1993, through June 30, ~~1993~~ 1994,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

**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 94-03-072**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 93-19—Filed January 14, 1994, 3:54 p.m.]

Date of Adoption: January 12, 1994.

Purpose: Revise definitions, typographical errors and ASILs; add 42 toxic pollutants, consistent with FCAA Act.

Citation of Existing Rules Affected by this Order:  
Amending WAC 173-460-020, 173-460-030, 173-460-040, 173-460-050, 173-460-060, 173-460-080, 173-460-090, 173-460-100, 173-460-110, 173-460-150, and 173-460-160.

Statutory Authority for Adoption: Clean Air Act of Washington, chapter 70.94 RCW.

Pursuant to notice filed as WSR 93-22-102 on November 3, 1993.

Changes Other than Editing from Proposed to Adopted Version:

PERMANENT



ATTACHMENT  
Chapter 173-460 WAC

**Differences Between the Text of the Rule as Proposed and as Adopted**

A redline (~~example~~ or example) indicates language that has been added and a strikeout (~~example~~) indicates language that has been deleted. Following each of the changes or groups of changes is an explanation of Ecology's reasons for making the change.

Section 173-460-020 ((~~Mailstop PV 11~~)) P.O. Box 47600, Olympia, WA 98504-((~~8711~~))7600.

Section 173-460-020(8) (~~Revised~~) 40 CFR Part 51 Appendix W, ((450/2-78-027R as amended by Supplement B (September 1990)))

Section 173-460-020(12) "Inhalation Reference Concentration

Section 173-460-020(14) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any ((~~toxic~~)) air contaminant emitted by such source or that results in the emission of any ((~~toxic~~)) air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section. For purposes of this chapter, the term "air contaminant" shall mean "toxic air contaminant" or "toxic air pollutant" as defined in WAC 173-460-020(20).

Section 173-460-020(20) "Toxic air pollutant (TAP)" or "toxic air contaminant" means any Class A or Class B toxic air pollutant listed in WAC 173-460-150 and WAC 173-460-160. . . .

Section 173-460-040(2)(b) minor process change((~~to~~)) that does

Section 173-460-040(9) construction approval((~~to~~)) prior

Section 173-460-050(3) be used ((~~prior~~)) to demonstrate compliance with WAC 173-460-090.

Section 173-460-050(4)(a)(ii) and performing modeling for the total TAP emissions and compar((~~e~~))ing maximum

Section 173-460-060(5)(d)(i) be allowed to ((~~fully~~)) drain fully;

Section 173-460-080(2)(c) can be obtained through NTIS (703) 487-4650 or can be downloaded from the QAQPS Technology Transfer Network electronic bulletin board system).

Section 173-460-150 Table I Class A TAPs

53-96-3 2-Acetylaminofluorene

((~~56-55-3 Benz(a)anthracene~~)).

56-55-3 Benzo(a)anthracene

3547-04-4 DDE (p,p'-((~~Dichloroethylene~~)))

Dichlorodiphenyldichloroethylene

((~~58-89-9 Lindane~~))

PERMANENT

- 129-15-7 2-Methyl-1-nitroanthraquinone  
(~~(71856-48-9 Methyl azoxymethanol B-D glucosiduronic acid)~~)
- 592-62-1 Methyl azoxymeth(~~anol~~)yl acetate
- 139-91-3 5-(Morpholinomethyl)-3-(((~~4~~))5-nitrofurfurylidene(~~3~~))amino)- 2-oxazolidinone (furaltudone)
- C7440-02-0 Nickel and compounds (as nickel subsulfide or nickel refinery dust)  
(~~(924-16-3 N-Nitrosodi-n-butylamine)~~)
- 531-82-8 N-(4-(5-((~~Nitro~~))Nitro-2-furyl)-2-thiazolyl)acetamide  
(~~(759-73-9 N-Nitroso-n-ethylurea (NEU)~~)
- ~~621-64-7 N-Nitrosodi-n-propylamine~~
- ~~10595-95-6 N-Nitrosomethylethylamine~~
- ~~59-89-2 N-Nitrosomorpholine~~
- ~~86-30-6 N-Nitrosodiphenylamine~~
- ~~55-18-5 N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)~~
- ~~62-75-9 N-Nitrosodimethylamine))~~
- 924-16-3 N-Nitrosodi-n-butylamine
- 759-73-9 N-Nitroso-N-ethylurea (NEU)
- 615-53-2 N-Nitroso-((~~n~~))N-methylurethane
- 621-64-7 N-Nitrosodi-n-propylamine
- 10595-95-6 N-Nitrosomethylethylamine
- 59-89-2 N-Nitrosomorpholine
- 86-30-6 N-Nitrosodiphenylamine
- 55-18-5 N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)
- 62-75-9 N-Nitrosodimethylamine

Section 173-460-150 Table II Class A TAPs

- 108-43-0 ((~~Chlorophenols~~))Chlorophenols 0.1800000
- 764-41-0 1,4-Dichloro-2-butene 0.0003800
- 106-93-4 Ethylene dibromide (dibromethane) 0.0045000
- C7440-02-0 Nickel and compounds (as nickel subsulfide or nickel refinery dust) 0.0021000
- 1746-01-6 2,3,7,8-Tetrachlorodibenz(~~(±)~~)o-p-dioxin  
(2,3,7,8-TCDD) 0.00000003

Section 173-460-150 Table III Class A TAPs

- 126-99-8 ((~~B~~))b-Chloroprene 120 24 hour
- (~~(58-89-9 Lindane 1.7 24 hour)~~)
- 101-77-9 4,4-Methylene\_dianiline 2.7 24 hour

Section 173-460-160 Class B TAPs

- (~~(79-06-1 Acrylamide 0.10)~~)
- 7773-06-0 Ammonium ((~~sulfamate~~))sulfamate 33
- (~~(56-55-3 Benzo(a)anthracene~~))
- (~~(75-25-2 Bromoform 17)~~)
- 106-97-8 Butane ((~~---~~))6300.0
- 109-79-5 n-Butyl mercaptan 6.0
- 109-73-9 n-Butylamine 50.
- (~~(57321-68-8)~~)55720-99-5 Chlorinated diphenyl oxide (hexachlorophenyl ether) 1.7
- (~~(51-50-8)~~)

<del>51-12-5</del>	Cyanides, as CN	17	
<u>95-50-1</u>	<u>o-Dichlorobenzene (1,2-Dichlorobenzene)</u>	<u>1000</u>	
<del>((106-46-7</del>	<del>p-Dichlorobenzene</del>	<del>1500</del>	
<del>((25321-14-6</del>	<del>Dinitrotoluenes (mixed)</del>	<del>))</del>	
<del>121-14-2</del>	<del>2,4-Dinitrotoluene</del>	<del>5.0</del>	
<del>((106-89-8</del>	<del>Epichlorohydrin</del>	<del>1.0))</del>	
51-79-5	Ethyl carb((e))amate	---	
-	F((e))ibrous glass dust	33	
1309-37-1	Iron oxide fume, ((Fe203))Fe <sub>2</sub> O <sub>3</sub> , as Fe	((1-7))17	
26952-21-6	((Isocetyl))Isocetyl alcohol	890	
3687-31-8	Lead arsenate, as Pb((3-(As04)2)), (As <sub>2</sub> O <sub>5</sub> ) <sub>2</sub>	0.50	
150-76-5	4-Methoxyphenol	((1-7))17	
71-55-6	Methyl chloroform (1,1,1-Trichloroethane)	((6700))6400	
21087-64-9	Metribuzin	((1-7))17	
C7439-98-7	Molybdenum, as Mo soluble cpds	((1-7))17	
88-72-2	Nitrotoluene	((3-7))37	
8012-95-1	Oil mist, mineral	((1-7))17	
<del>((87-86-5</del>	<del>Pentachlorophenol</del>	<del>1.7))</del>	
106-50-3	p-Phenylen(e-diamine)ediamine	0.33	
626-17-5	m-Phthalodinitrile	((1-7))17	
142-64-3	Piperazine dihydrochloride	((1-7))17	
71-23-8	n-Propyl alcohol	1600	
<del>((75-56-9</del>	<del>Propylene oxide</del>	<del>30))</del>	
83-79-4	Rotenone	((1-7))17	
7803-62-5	((Sileon))Silicon tetrahydride	22	
C7440-22-4	Silver, soluble compounds as Ag	0.033	
7631-90-5	Sodium bisulfite	((1-7))17	
C7440-25-7	Tantalum, metal & oxide dusts	((1-7))17	
7722-88-5	Tetrasodium pyrophosphate	((1-7))17	
C7440-28-0	Thallium, soluble compounds, ((Tl))Tl	0.33	
<del>((C))7440-31-5</del>	<del>Tin, Metal</del>	<del>6.7</del>	
7440-31-5	Tin, oxide & inorganic except Sn((H4))H <sub>4</sub>	6.7	
<del>((71-55-6</del>	<del>1,1,1-Trichloroethane</del>	<del>6000))</del>	
1321-65-9	Trichloronaphthalene	((1-7))17	
603-34-9	Triphenyl amine	((1-7))17	
C7440-33-7	Tungsten, Insoluble compounds	((1-7))17	
1314-62-1	Vanadium, as ((V205))V <sub>2</sub> O <sub>5</sub>	0.17	
-	Welding fumes	((1-7))17	
1314-13-2	Zinc oxide, fume	((1-7))17	
C7440-67-7	Zirconium compounds, as Zr	((1-7))17	

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

January 12, 1994

Mary Riveland

Director

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-020 Definitions.** The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. In the event of a conflict between the definitions provided in chapter 173-400 WAC and the definitions provided in this section, the definitions in this section shall govern. Unless a different meaning is clearly required by context, the following words and phrases

as used in this chapter shall have the following meanings. Note: For copies of the above mentioned rule and any other rule cited in this chapter, contact the Department of Ecology, Records Section, ((Mailstop PV 11)) P.O. Box 47600, Olympia, WA 98504-((8711)) 7600.

(1) "Acceptable source impact analysis" means a procedure for demonstrating compliance with WAC 173-460-070 and 173-460-080, that compares maximum incremental ambient air impacts with applicable acceptable source impact levels (ASIL).

(2) "Acceptable source impact level (ASIL)" means a concentration of a toxic air pollutant in the outdoor atmosphere in any area which does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of accept-

able source impact levels: Risk-based, threshold-based, and special. Concentrations for these three types of ASILs are determined as provided in WAC 173-460-110. ASILs are listed in WAC 173-460-150 and 173-460-160.

(3) "Authority" means an air pollution control authority activated pursuant to chapter 70.94 RCW that has jurisdiction over the subject source. Ecology is the authority if an air pollution control authority has not been activated or if ecology has jurisdiction over the source pursuant to RCW 70.94.395.

(4) "Best available control technology for toxics (T-BACT)" applies to each toxic air pollutant (TAP) discharged or mixture of TAPs, taking in account the potency quantity and toxicity of each toxic air pollutant or mixture of TAPs discharged in addition to the meaning given in WAC 173-400-030(10).

(5) "Carcinogenic potency factor" means the upper 95th percentile confidence limit of the slope of the dose-response curve and is expressed in units of (mg/kg-day)-1.

(6) "Class A toxic air pollutant (Class A TAP)" means a substance or group of substances listed in WAC 173-460-150.

(7) "Class B toxic air pollutant (Class B TAP)" means any substance that is not a simple asphyxiant or nuisance particulate and that is listed in WAC 173-460-160.

(8) "EPA's Dispersion Modeling Guidelines" means the United States Environmental Protection Agency Guideline on Air Quality Models, EPA ((450/2-78-0277R)) (Revised) 40 CFR Part 51 Appendix W, and is hereby incorporated by reference.

(9) "EPA's Risk Assessment Guidelines" means the United States Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment, 51 FR 33992 (September 24, 1986) and is hereby incorporated by reference.

(10) "Increased cancer risk of one in one hundred thousand" means the 95th percent upper bound on the estimated risk of one additional cancer above the background cancer rate per one hundred thousand individuals continuously exposed to a Class A toxic air pollutant at a given average dose for a specified time.

(11) "Increased cancer risk of one in one million" means the 95th percent upper bound on the estimated risk of one additional cancer above the background cancer rate per one million individuals continually exposed to a Class A toxic air pollutant at a given average dose for a specified time.

(12) "Inhalation Reference ((Dose)) Concentration (Inhalation ((RfD)) RfC)" means a reference ((dose)) concentration published in the United States Environmental Protection Agency Integrated Risk Information System (IRIS).

(13) "Mixture" means a combination of two or more substances mixed in arbitrary proportions.

(14) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section. For purposes of this chapter, the term "air contaminant" shall mean "toxic air contaminant" or

"toxic air pollutant" as defined in subsection (20) of this section.

~~(15) "New toxic air pollutant source" means ((a source or emissions unit which may emit toxic air pollutants and which commenced construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, or any alteration of any process or air pollutant source which may increase emissions or ambient air concentrations of any regulated air pollutant, including toxic air pollutants, shall be construed as construction or installation or establishment of a new toxic source.~~

~~(15) "Reasonably available control technology for toxics (T-BACT)" applies to each toxic air pollutant (TAP) discharged or mixture of TAPs, taking into account the potency, quantity, and toxicity of each toxic air pollutant or mixture of TAPs discharged in addition to the meaning given in WAC 173-400-030(59));~~

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

(b) Any other project that constitutes a new source under section 112 of the Federal Clean Air Act.

(16) "Second Tier Analysis" means an optional procedure used after T-BACT and acceptable source impact analysis for demonstrating compliance with WAC 173-460-070. The second tier analysis uses a health impact assessment as provided in WAC 173-460-090, instead of an acceptable source impact level.

(17) "Simple asphyxiant" means a physiologically inert gas or vapor that acts primarily by diluting atmospheric oxygen below the level required to maintain proper levels of oxygen in the blood. Examples of simple asphyxiants are given in Appendix X of the TLV Booklet referred to in subsection (19) of this section and incorporated by reference.

(18) "Threshold limit value-time weighted average (TLV-TWA)" means a concentration limit recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) for a normal eight-hour workday and forty-hour workweek.

(19) "TLV Booklet" means "TLVs, Threshold Limit Values and Biological Exposure Indices for ((1987-88)) 1991-92," published by the American Conference of Governmental Industrial Hygienists and is hereby incorporated by reference.

(20) "Toxic air pollutant (TAP)" or "toxic air contaminant" means any Class A or Class B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(21) "Upper bound unit risk factor" means the 95 percent upper confidence limit of an estimate of the extra risk of cancer associated with a continuous 70 year exposure to 1 ug/m3 of a Class A toxic air pollutant.

AMENDATORY SECTION (Amending Order 90-62, filed 6/18/91, effective 9/18/91)**WAC 173-460-030 Requirements, applicability and exemptions.** (1) Applicability.

(a) The provisions of this chapter shall apply state-wide. The authority shall enforce WAC 173-460-010, 173-460-020, 173-460-030, 173-460-040, 173-460-050, 173-460-060, 173-460-070, 173-460-080, 173-460-130, 173-460-140, 173-460-150, and 173-460-160.

(b) Except as provided in this chapter, any new toxic air pollutant source listed in (b)(i), (ii), or (iii) of this subsection that may emit a Class A or Class B TAP into the ambient air is subject to these regulations:

(i) Standard industrial classifications:

(A) Major group 10-Metal mining.

(B) Major group 12-Bituminous coal and lignite mining.

(C) Major group 13-Oil and gas extraction.

(D) Manufacturing industries major groups 20-39.

(E) Major group 49-Electric, gas, and sanitary services except 4971 irrigation systems.

(F) Dry cleaning plants, 7216.

(G) General medical surgical hospitals, 8062.

(H) Specialty hospitals, 8069.

(I) National security, 9711.

(ii) Any source or source category listed in WAC 173-400-100, 173-400-115(2), or 173-490-030(1) except WAC 173-490-030 (1)(e) gasoline dispensing facilities.

(iii) Any of the following sources:

(A) Landfills.

(B) Sites subject to chapter 173-340 WAC Model Toxics Control Act—Cleanup regulation.

(2) Exempt sources.

(a) Containers such as tanks, barrels, drums, cans, and buckets are exempt from the requirements of this chapter unless equipped with a vent other than those required solely as safety pressure release devices.

(b) Nonprocess fugitive emissions of toxic air pollutants from stationary sources, such as construction sites, unpaved roads, coal piles, waste piles, and fuel and ash handling operations are exempt from WAC 173-460-060.

(c) The following sources are generally exempt from the requirements of WAC 173-460-050, 173-460-070, 173-460-080, and 173-460-090. However, the authority may on a case-by-case basis, require compliance with these sections if the authority determines that the amount of emissions, nature of pollutant, or source location indicate that the ambient impact should be evaluated.

(i) Perchloroethylene dry cleaners

(ii) Petroleum solvent dry cleaning systems

(iii) Solvent metal cleaners

(iv) ~~(Spray coating operations)~~ Chromic acid plating and anodizing

(v) Abrasive blasting

(d) Demolition and renovation projects involving asbestos removal and disposal are exempt from the requirements of this chapter.

(e) Process vents subject to 40 C.F.R. Parts 264 and 265, Subpart AA are exempt from the requirements of this chapter.

AMENDATORY SECTION (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-040 New source review.** (1) Applicability. This chapter supplements the new source review requirements of WAC 173-400-110 by adding additional new source review requirements for toxic air pollutant sources. If a notice of construction is required under both chapter 173-400 WAC and this chapter, the written applications shall be combined. A notice of construction is a written application to permit construction of a new source.

(a) The owner or operator of a new toxic air pollutant source listed in WAC 173-460-030~~((2))~~ (1) shall notify the authority prior to the construction, installation, or establishment of a new toxic air pollutant source and shall file a notice of construction application with the authority for the proposed emission unit(s). Notification and notice of construction are not required if the source is an exempt source listed in WAC 173-460-030~~((2))~~ (2) or subsection (2) of this section.

(b) The notice of construction and new source review applies only to the affected emission unit(s) and the contaminants emitted from the emission unit(s).

(c) New source review of a modification ~~((is))~~ shall be limited to the emission unit or units proposed to be modified and the ~~(emission unit or units whose emissions of TAPs may)~~ toxic air contaminants whose emissions would increase as a result of the modification.

(2) The owner or operator of a new toxic air pollutant source listed in WAC 173-460-030 ~~((2))~~ (1) is not required to notify or file a notice of construction with the authority if any of the following conditions are met:

(a) Routine maintenance or repair requires equivalent replacement of air pollution control equipment; or

(b) The new source is a minor process change~~((s))~~ that does not increase capacity and total toxic air pollutant emissions do not exceed the emission rates specified in small quantity emission rate tables in WAC 173-460-080; or

(c) The new source is the result of minor changes in raw material composition and the total toxic air pollutant emissions do not exceed the emission rates specified in the small quantity emission rate tables in WAC 173-460-080.

(3) Additional information. Within thirty days of receipt of a notice of construction, the authority may require the submission of additional plans, specifications, and other information necessary for the review of the proposed new or modified source.

(4) Requirements for new toxic air pollutant sources. The authority shall review notice(s) of construction, plans, specifications, and other associated information to determine that:

(a) The source will be in accord with applicable federal, state, and authority air pollution control rules and regulations;

(b) The source will use T-BACT for emissions control for the toxic air pollutants which are likely to increase; and

(c) ~~((The source will use T-RACT for emissions control for the toxic air pollutants which are likely to remain the same or decrease; and~~

~~(d))~~ Sources required to use T-BACT for emission control demonstrate compliance with WAC 173-460-070 by using the procedures established in WAC 173-460-080 or,

failing that, demonstrates compliance, by using the additional procedures in WAC 173-460-090 and/or 173-460-100.

~~((4))~~ (5) Preliminary determination. Within thirty days after receipt of all information required, the authority shall:

(a) Make preliminary determinations on the matters set forth in this section; and

(b) Initiate compliance with the provisions of WAC 173-400-171 relating to public notice and public comment, as applicable.

~~((5))~~ (6) Final determination. If, after review of all information received including public comment, the authority finds that all the conditions in this section are satisfied, the authority shall issue a regulatory order to approve the notice of construction for the proposed new source or modification. If the authority finds that the conditions in this section are not satisfied, the authority shall issue an order for the prevention of construction, installation, or establishment of the toxic air pollution source(s). Where ecology has jurisdiction, it will endeavor to make final determinations as promptly as possible.

~~((6))~~ (7) Appeal of decision. A final notice of construction decision may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW.

~~((7))~~ (8) Commencement of construction. The owner(s) or operator(s) of the new source shall not commence construction until the applicable notice of construction has been approved.

~~((8))~~ (9) Operation and maintenance plan. As a condition of notice of construction approval, prior to start up, the authority may require a plan for the operation and maintenance of all equipment and procedures to assure continuous compliance with this chapter.

(a) A copy of the plan shall be filed with the authority upon request.

(b) The plan shall reflect good industrial practice and may include operating parameters and maintenance procedures, and shall be updated to reflect any changes in good industrial practice.

(c) Submittal of all plans should coincide with the authorities reporting requirements where applicable.

~~((9))~~ (10) Jurisdiction. Emission of toxic air pollutants that exceed the acceptable source impact levels listed in WAC 173-460-150 and 173-460-160 requires ecology and, if applicable, authority approval as specified in WAC 173-460-090 and 173-460-100.

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-050 Requirement to quantify emissions.** (1) New sources.

(a) When applying for a notice of construction, an owner or operator of a new toxic air pollution source shall quantify those emissions of each TAP or combination of TAPs that:

(i) Will be used for the modeling procedures in WAC 173-460-080; and

(ii) That may be discharged after applying required control technology. The information shall be submitted to the authority.

(b) Emissions shall be quantified in sufficient detail to determine whether the source complies with the requirements of this chapter.

(2) Small quantity sources.

Sources that choose to use small quantity emission rate tables instead of using dispersion modeling shall quantify emissions as required under WAC 173-460-080, in sufficient detail to demonstrate to the satisfaction of the authority that the emissions are less than the applicable emission rates listed in WAC 173-460-080.

(3) Level of detail.

An acceptable source impact level analysis under WAC 173-460-080, may be based on a conservative estimate of emissions that represents good engineering judgment. If compliance with WAC 173-460-070 and 173-460-080 cannot be demonstrated, more precise emission estimates shall be used (~~(prior)~~) to demonstrate compliance with WAC 173-460-090.

(4) Mixtures of toxic air pollutants.

(a) An owner or operator of a source that may discharge more than one toxic air pollutant may demonstrate compliance with WAC 173-460-070 and 173-460-080 by:

(i) Quantifying emissions and performing modeling for each TAP individually; or

(ii) ~~((Calculate))~~ Calculating the sum of all TAP emissions and ~~((perform))~~ performing modeling for the total TAP emissions and ~~((compare))~~ comparing maximum ambient levels to the smallest ASIL; or

(iii) Equivalent procedures may be used if approved by ecology.

(b) Dioxin and furan emissions shall be considered together as one TAP and expressed as an equivalent emission of 2,3,7,8 TCDD based on the relative potency of the isomers in accordance with United States Environmental Protection Agency (EPA) guidelines.

Note: Copies of EPA "Interim procedures for estimating risks associated with exposures to mixtures of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs and CDFs). 1989 Update" are available by requesting EPA /625/3-89/016, March 1989 from ORD Publications (513) 684-7562.

(c) Polyaromatic hydrocarbon (PAH) emissions. The owner or operator of a source that may emit a mixture of polyaromatic hydrocarbon emissions shall quantify the following PAHs and shall consider them together as one TAP equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. The acceptable source impact analysis shall be conducted using the polyaromatic hydrocarbon emission ASIL contained in WAC 173-460-150(3).

(d) Uncontrolled roof vent emissions from primary aluminum smelters. The owner or operator of a primary aluminum smelter that may emit a mixture of polyaromatic hydrocarbons from uncontrolled roof vents shall quantify PAH emissions using either of the following methods:

(i) Quantify PAH emissions using the procedures in (c) of this subsection; or

(ii) Multiply the total particulate emission mass from the uncontrolled roof vents by the percent of the particulate that is extractable organic matter. The percent extractable organic matter shall be considered one percent of total particulate matter unless ecology determines that there is

compelling scientific data which demonstrates that the use of this value is inappropriate. The acceptable source impact analysis shall be conducted using the primary aluminum smelter uncontrolled roof vent PAH emission ASIL contained in WAC 173-460-150(3). Note: For example, 100 grams of particulate air emission mass times one percent yields one gram of PAH emissions.

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-060 Control technology requirements.**

Except as provided for in WAC 173-460-040, a person shall not establish, operate, or cause to be established or operated any new toxic air pollutant source which is likely to increase TAP emissions without installing and operating T-BACT. Satisfaction of the performance requirements listed below fulfill the T-BACT requirement for those particular sources. Local air pollution authorities may develop and require performance requirements in lieu of T-BACT provided that ecology approves the performance requirements as equivalent to T-BACT.

(1) Perchloroethylene dry cleaners. The entire dryer exhaust shall be vented through a control device which will reduce VOC emissions to 5 kg or less per 100 kg dry weight of cleaned articles.

(a) The control device shall meet one of the following conditions:

(i) The exhaust from a carbon adsorber shall contain less than 100 ppm perchloroethylene as measured over a period of one minute before dilution; or

(ii) The air temperature at the outlet of a refrigerated condenser shall reach seven degrees centigrade or less during the cool-down period. A temperature gauge with a minimum range from negative thirty-two to seventy-five degrees centigrade shall be installed and maintained on the condenser outlet duct; or

(iii) The demonstrated control efficiency for any other control device shall be ninety percent or greater by weight, prior to the discharge to the atmosphere measured over a complete control cycle.

(b) The operation of any perchloroethylene dry cleaner shall meet all of the following conditions:

(i) All leaking components shall be repaired immediately; and

(ii) All filtration cartridges shall be drained in the filter housing or other enclosed container before discarding the cartridges.

(2) Petroleum solvent dry cleaning systems. A petroleum solvent dry cleaning system shall include the following:

(a) All cleaned articles are dried in a solvent recovery dryer or the entire dryer exhaust is vented through a properly functioning control device which will reduce emissions to no more than 3.5 kg of VOC per 100 kg dry weight of cleaned articles; and

(b) All cartridge filtration systems are drained in their sealed housing or other enclosed container before discarding the cartridges; and

(c) All leaking components shall be repaired immediately.

(3) Chromic acid plating and anodizing. The facility-wide uncontrolled hexavalent chromium emissions from

plating or anodizing tanks shall be reduced by at least ninety-five percent using either of the following control techniques:

(a) An antimist additive or other equally effective control method approved by ecology or authority; or

(b) The tank is equipped with:

(i) A ~~((close))~~ capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

(ii) An emission control system which limits hexavalent chromium emissions to no more than 0.15 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-five percent.

(4) Chromic acid ~~((and))~~ plating and anodizing (greater than 1 kilogram). If the facility-wide hexavalent chromium emissions from chromic acid plating and anodizing are greater than 1 kilogram per year after the application of control techniques required by subsection (3) of this section, the facility-wide hexavalent chromium emissions shall be reduced by at least ninety-nine percent using either of the following control techniques:

(a) An antimist additive or other equally effective control method approved by ecology or authority; or

(b) The tank is equipped with:

(i) A ~~((close))~~ capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

(ii) An emissions control system which limits hexavalent chromium emissions to no more than 0.03 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-nine percent.

(5) Solvent metal cleaners.

(a) Any solvent metal cleaner shall include all of the following equipment:

(i) A cover for the solvent tank which shall be closed at all times except when processing work in the degreaser. However, the cover shall be closed to the maximum extent possible when parts are being degreased;

(ii) A facility for draining cleaned parts such that the drained solvent is returned to the solvent tank;

(iii) For cold solvent cleaners, a freeboard ratio greater than or equal to 0.75;

(iv) Vapor degreasers shall have:

(A) A high vapor cutoff thermostat with manual reset; and

(B) For degreasers with spray devices, a vapor-up thermostat which will allow spray operation only after the vapor zone has risen to the design level; and

(C) Either a freeboard ratio greater than or equal to ~~((0.75))~~ 1.00 or a refrigerated freeboard chiller; and

(v) Conveyorized vapor degreasers shall have:

(A) A drying tunnel or a rotating basket sufficient to prevent cleaned parts from carrying liquid solvent out of the degreaser; and

(B) A high vapor cutoff thermostat with manual reset; and

PERMANENT

(C) A vapor-up thermostat which will allow conveyor movement only after the vapor zone has risen to the design vapor level.

(b) The operation of any solvent metal cleaner shall meet the following requirements:

(i) Solvent shall not leak from any portion of the degreasing equipment;

(ii) Solvent, including waste solvent, shall be stored in closed containers and shall be disposed of in such a manner as to prevent its evaporation into the atmosphere;

(iii) For cold cleaners, cleaned parts shall be drained until dripping ceases; and

(iv) Degreasers shall be constructed to allow liquid solvent from cleaned parts to drain into a trough or equivalent device and return to the solvent tank.

(c) For open-top vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to ~~((fully))~~ drain fully;

(ii) The work load shall be degreased in the vapor zone until condensation ceases;

(iii) Spraying operations shall be done within the vapor layer;

(iv) When using a powered hoist, the vertical speed of parts in and out of the vapor zone shall be less than three meters per minute (ten feet per minute);

(v) When the cover is open, the lip of the degreaser shall not be exposed to steady drafts greater than 15.3 meters per minute (fifty feet per minute); and

(vi) When equipped with a lip exhaust, the fan shall be turned off when the cover is closed.

(d) For conveyORIZED vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to ~~((fully))~~ drain fully; and

(ii) Vertical conveyor speed shall be maintained at less than three meters per minute (ten feet per minute).

(6) Abrasive blasting.

(a) Abrasive blasting ~~((should))~~ shall be performed inside a booth or hangar designed to capture the blast grit or overspray.

(b) Outdoor blasting of structures or items too large to be reasonably handled indoors ~~((should))~~ shall employ control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps.

(c) Outdoor blasting ~~((should))~~ shall be performed with either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.

(d) All abrasive blasting with sand shall be performed inside a blasting booth or cabinet.

AMENDATORY SECTION (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-080 Demonstrating ambient impact compliance.** (1) When applying for a notice of construction under WAC 173-460-040, the owner or operator of a new toxic air pollutant source which is likely to increase TAP emissions shall complete an acceptable source impact level analysis for Class A and Class B TAPs. The authority may complete this analysis.

(2) Acceptable source impact analysis.

(a) Carcinogenic effects. The owner or operator shall use dispersion modeling to estimate the maximum incremental ambient impact of each Class A TAP from the source and compare the estimated incremental ambient values to the Class A acceptable source impact levels in WAC 173-460-150. If applicable, the source may use the small quantity emission rate tables in (e) of this subsection.

(b) Other toxic effects. The owner or operator shall use dispersion modeling to estimate the maximum incremental ambient impact of each Class B TAP from the source and compare the estimated ambient values to the Class B acceptable source impact levels in WAC 173-460-160. If applicable, the source may use the small quantity emission rate tables in (e) of this subsection.

(c) Dispersion modeling. The owner or operator shall use dispersion modeling techniques in accordance with EPA guidelines. If concentrations predicted by dispersion screening models exceed applicable acceptable source impact levels, more refined modeling and/or emission estimation techniques shall be used. Refined modeling techniques shall be approved by ecology and the authority. (Note: EPA's Guideline on Air Quality Models, EPA ((450/2-78-0277R)) 450/2-78-027R, can be obtained through NTIS (703) 487-4650 or can be downloaded from the OAQPS Technology Transfer Network electronic bulletin board system).

(d) Averaging times. The owner or operator shall use the averaging times in (d)(i), (ii), (iii) of this subsection unless alternate averaging times are approved by ecology. Ecology may allow the use of an alternate averaging time if it determines that the operating procedures of the source may cause a high concentration of a TAP for a short period and that consideration of potential health effects due to peak exposures may be warranted for the TAP.

(i) An annual average shall be used for Class A TAPs listed in WAC 173-460-150(2).

(ii) The averaging times specified in WAC 173-460-150(3) shall be used for Class A TAPs listed in WAC 173-460-150(3).

(iii) A twenty-four-hour averaging time shall be used for Class B TAPs listed in WAC 173-460-160.

(e) Small quantity emission rates. Instead of using dispersion modeling to show compliance with ambient impact demonstration requirements in WAC 173-460-080 and 173-460-090, a source may use the small quantity emission rate tables for all toxic air pollutants with acceptable source impact levels equal to or greater than 0.001 ug/m3. A source must first meet control technology and emission quantification requirements of WAC 173-460-050 and 173-460-060, then demonstrate that the source emission rate does not exceed the rates specified in the appropriate table below.

SMALL QUANTITY EMISSION RATES  
CLASS A TOXIC AIR POLLUTANTS

Acceptable Source Impact Level (Annual ug/m3)	TAP Emissions Pounds per Year (10 meter stack and downwash)
0.001 to 0.0099	0.5
0.01 to 0.06	10
0.07 to 0.12	20
0.13 to 0.99	50
1.0 to 10	500



SMALL QUANTITY EMISSION RATES  
CLASS B TOXIC AIR POLLUTANTS

Acceptable Source Impact Level (24 hour ug/m3)	TAP Emissions	
	Pounds per Year	Pounds per Hour
Less than 1	175	0.02
1 to 9.9	175	0.02
10 to 29.9	1,750	0.20
30 to 59.9	5,250	0.60
60 to 99.9	10,500	1.20
100 to 129.9	17,500	2.0
130 to 250	22,750	2.6
Greater than 250	43,748	5.0

(3) Criteria for compliance. Compliance with WAC 173-460-070 is demonstrated if the authority determines that, on the basis of the acceptable source impact analysis, the source's maximum incremental ambient air impact levels do not exceed the Class A or Class B acceptable source impact levels in WAC 173-460-150 and 173-460-160; or, if applicable, the source TAP emission rates do not exceed the rates specified in subsection (2)(e) of this section.

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-090 Second tier analysis.** (1) Applicability.

(a) The owner or operator who cannot demonstrate class A or class B TAP source compliance with WAC 173-460-070 and 173-460-080 using an acceptable source impact level analysis as provided in WAC 173-460-080(2), may submit a petition requesting ecology perform a second tier analysis evaluation to determine a means of compliance with WAC 173-460-070 and 173-460-080 by establishing allowable emissions for the source. Petitions for second tier analysis evaluation shall be submitted to the local authority or ecology if ecology has jurisdiction over the source. Petitions received by local authorities shall be submitted to ecology within ten days of receipt. A second tier analysis evaluation may be requested when a source wishes to more accurately characterize risks, to justify risks greater than acceptable source impact levels, or to otherwise modify assumptions to more accurately represent risks. Risks may be more accurately characterized by utilizing updated EPA unit risk factors, inhalation reference ~~((doses))~~ concentrations, or other EPA recognized or approved methods. Ecology shall specify the maximum allowable emissions of any class A or class B TAP source based on ecology's second tier analysis evaluation.

(b) Ecology shall evaluate a source's second tier analysis only if:

(i) The authority has advised ecology that other conditions for processing the notice of construction have been met; and

(ii) Emission controls contained in the conditional notice of construction represent at least T-BACT; and

(iii) Ambient concentrations exceed acceptable source impact levels after using more refined emission quantification and air dispersion modeling techniques.

(c) Ecology shall determine whether the conditions in (b)(i), (ii), and (iii) of this subsection for a second tier analysis have been satisfied within ten working days of receipt of all information needed to make the determination.

The matter shall be returned to the authority if ecology finds the conditions for a second tier analysis evaluation have not been met.

(2) Jurisdiction.

(a) Any second tier analysis application submitted by a source wishing to emit toxic air pollutants at levels greater than the acceptable source impact level contained in WAC 173-460-150 or 173-460-160 shall be approved or rejected by ecology.

(b) Any new emission limits approved by ecology as a result of the second tier analysis evaluation shall be enforced by the authority provided the authority approves the new emission limits.

(3) Approval criteria.

(a) Based on the second tier analysis, ecology may approve the emissions of TAPs from a source where ambient concentrations exceed acceptable source impact levels only if it determines that emission controls represent at least T-BACT and the source demonstrates that emissions of Class A TAPs are not likely to result in an increased cancer risk of more than one in one hundred thousand. The emission of Class A TAPs at levels likely to result in an increased cancer risk of more than one in one hundred thousand requires the approval of the director after complying with WAC 173-460-100.

(b) Ecology shall consider the second tier analysis and other information submitted by the applicant as well as department of health comments.

(i) Comments from other agencies and universities with appropriate expertise may also be considered in the decision to approve emissions that exceed acceptable source impact levels.

(ii) Public comments shall be considered if the source applies for a risk management decision under WAC 173-460-100.

(4) Contents of the second tier analysis.

(a) The second tier analysis consists of a health impact assessment. The applicant shall complete and submit a health impact assessment to ecology which includes the following information. Ecology may approve the submittal of less information if it determines that such information is sufficient to perform the second tier analysis evaluation. The health impact assessment shall be prepared in accordance with EPA's risk assessment guidelines as defined in WAC 173-460-020~~((+8))~~ (9).

(i) Demographics such as population size, growth, and sensitive subgroups;

(ii) Toxicological profiles of all toxic air pollutants that exceed the ASIL;

(iii) Characterization of existing pathways and total daily intake for toxic air pollutants that exceed the ASIL;

(iv) Contribution of the proposed source toward total daily intake for toxic air pollutants that exceed the ASIL;

(v) Using existing data, characterization of risk from current exposure to the toxic air pollutants that exceed the ASIL. This includes existing TAP sources in the area, and anticipated risk from the new source;

(vi) Additive cancer risk for all Class A toxic air pollutants which may be emitted by the source;

(vii) Other information requested by ecology and pertinent to ecology's decision to approve the second tier application;

PERMANENT

PERMANENT

- (viii) Uncertainty in the data; and
- (ix) Length of exposure and persistence in the environment.

(b) The health assessment shall utilize current scientific information. New scientific information on the toxicological characteristics of toxic air pollutants may be used to justify modifications of upper bound unit risk factors used to calculate ASILs in WAC 173-460-150 and/or absorption rates of individual toxic air pollutants if ecology determines there is compelling scientific data which demonstrates that the use of EPA recognized or approved methods are inappropriate.

(5) Additional information.

(a) If approved by ecology, newly discovered scientific information which was unavailable at the time of the original submission of the health assessment may be used to justify modifications of the original health assessment. Ecology may approve the additional information if the source exercised due diligence at the time of original submission.

(b) Within thirty days after receipt of the second tier analysis and all supporting data and documentation, ecology may require the submission of additional information needed to evaluate the second tier analysis.

(6) Determination.

(a) If the second tier analysis is approved by ecology, ecology will return the petition to the authority and the authority may approve the notice of construction.

(b) The authority shall specify allowable emissions consistent with ecology's second tier analysis evaluation determination expressed in weight of pollutant per unit time for each emissions unit involved in the application. The notice of construction shall also include all requirements necessary to assure that conditions of this chapter and chapter 173-400 WAC are satisfied.

(7) Public notification requirements.

Ecology decisions regarding second tier analysis or decisions under WAC 173-460-100 shall comply with public notification requirements contained in WAC 173-400-171.

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-100 Request for risk management decision.** (1) Applicability. The owner or operator of a source that emits Class A TAPs that are likely to result in an increased cancer risk of more than one in one hundred thousand may request that ecology establish allowable emissions for the source.

(2) Contents of the application.

The applicant shall meet the submittal requirements of WAC 173-460-090(1) and submit all materials required under WAC 173-460-090 (4) and (5). The applicant may submit the request for a risk management decision concurrently with the second tier analysis application. Prior denial of the second tier analysis application under WAC 173-460-090(6) is not required.

(3) Criteria for approval. Ecology may approve the emissions of TAPs from a source where ambient concentrations are likely to result in an increased cancer risk of more than one in one hundred thousand only if the source first demonstrates the following:

(a) Proposed emission controls represent all known available and reasonable technology; and

(b) Application of all known available toxic air pollution prevention methods to reduce, avoid, or eliminate toxic air pollutants prior to their generation including recycling, chemical substitution, and efforts to redesign processes; and

(c) The proposed changes will result in a greater benefit to the environment as a whole.

(4) Additional methods to reduce toxic air pollutants. In addition to the requirements in subsection (3) of this section, the owner or operator may propose and ecology may consider (~~innovative or established~~) measures that (~~are likely to~~) would reduce community exposure, especially exposure of that portion of the community subject to the greatest additional risk, to comparable toxic air pollutants provided that such measures are not already required. (~~Examples of innovative measures include but are not limited to:~~

~~(a) Reducing vehicle miles traveled to the facility through vanpool programs and transportation management plans;~~

~~(b) Permanent removal of woodstoves; and~~

~~(c) Purchasing used automobiles. Examples of established methods include, but are not limited to, emission bubbles and offsets.)~~

(5) Public involvement. Ecology will (~~endeavor to~~) initiate public notice and comment within thirty days of receipt of a completed risk management decision application. In addition to the public notice and comment requirements of WAC 173-400-171, the owner or operator shall hold a public hearing to:

(a) Present the results of the second tier analysis, the proposed emission controls, pollution prevention methods, additional proposed measures, and remaining risks; and

(b) Participate in discussions (~~with~~) and answer questions (~~from the affected community~~).

(6) Time limitation. The owner or operator shall commence construction within eighteen months of the director's approval.

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-110 Acceptable source impact levels.** There are three types of acceptable source impact levels: Risk-based, threshold-based, and special acceptable source impact levels. They are computed as follows:

(1) Risk-based acceptable source impact levels for Class A TAPs. Risk-based acceptable source impact levels means the annual average concentration, in micrograms per cubic meter, that may cause an increased cancer risk of one in one million. Ecology shall calculate the risk-based acceptable source impact levels for Class A TAPs in WAC 173-460-150(2) using the following equation:

$$\text{Risk based ASIL (ug/m3)} = \frac{\text{RISK}}{\text{URF}}$$

\*Where:  
 RISK = Cancer risk level (1 in 1,000,000)  
 URF = Upper bound unit risk factor as published in IRIS data base or other appropriate sources (ug/m3)-1.

(2) Threshold-based acceptable source impact levels for Class B TAPs. Threshold-based acceptable source impact levels in WAC 173-460-160 shall be determined as follows:

(a) If a Class B TAP has an Environmental Protection Agency Inhalation Reference ((~~Dose~~) Concentration, the inhalation reference ((~~dose~~) concentration and specified averaging time shall be used.

(b) Other Class B TAP acceptable source impact levels shall be determined by dividing the TLV-TWA by three hundred to calculate a twenty-four hour TWA acceptable source impact level.

(3) Special acceptable source impact levels.

(a) Ecology may establish special acceptable source impact levels for TAPs for which upper bound risk factors or TLVs have not been established, or for mixtures of compounds if it determines that the above acceptable source impact level methods are not appropriate, do not adequately protect human health or are overly stringent.

(b) The averaging times for special ASILs are listed in WAC 173-460-150(3).

**AMENDATORY SECTION** (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

**WAC 173-460-150 Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.**

(1) TABLE I  
CLASS A TOXIC AIR POLLUTANTS  
Known and Probable Carcinogens

CAS #	SUBSTANCE
75-07-0	Acetaldehyde
<u>53-96-3</u>	<u>2-Acetylaminofluorene</u>
<u>79-06-1</u>	<u>Acrylamide</u>
107-13-1	Acrylonitrile
309-00-2	Aldrin
—	Aluminum smelter polyaromatic hydrocarbon emissions
117-79-3	2-Aminoanthraquinone
97-56-3	o-Aminoazotoluene
92-67-1	4-Aminobiphenyl
61-82-5	Amitrole
62-53-3	Aniline
<u>90-04-0</u>	<u>o-Anisidine</u>
((—))	
<u>C7440-38-2</u>	<u>Arsenic and inorganic arsenic compounds</u>
1332-21-4	Asbestos
2465-27-2	Auramine (technical grade)
<del>((56-55-3))</del>	<del>Benz(a)anthracene</del>
71-43-2	Benzene
92-87-5	Benzidine and its salts
<u>56-55-3</u>	<u>Benzo(a)anthracene</u>
50-32-8	Benzo(a)pyrene
<del>((204-99-2))</del>	
<u>205-99-2</u>	<u>Benzo(b)fluoranthene</u>
205-82-3	Benzo(j)fluoranthene
<del>((205-08-9))</del>	
<u>207-08-9</u>	<u>Benzo(k)fluoranthene</u>
1694-09-3	Benzyl violet 4b
((—))	
<u>7440-41-7</u>	<u>Beryllium and compounds</u>
111-44-4	Bis(2-chloroethyl)ether
117-81-7	Bis(2-ethylhexyl)phthalate (DEHP)
542-88-1	Bis(chloromethyl)ether (( <del>and technical grade chloromethyl methyl ether</del> ))
75-25-2	Bromoform
106-99-0	1,3-Butadiene
3068-88-0	B-Butyrolactone

((—))	
<u>7440-43-9</u>	<u>Cadmium and compounds</u>
56-23-5	Carbon tetrachloride
57-74-9	Chlordane
<del>((74-87-3))</del>	<del>Chlorodibromoethane</del>
<u>510-15-6</u>	<u>Chlorobenzilate</u>
67-66-3	Chloroform
107-30-2	Chloromethyl methyl ether (technical-grade)
108-43-0	Chlorophenols
126-99-8	Chloroprene
((—))	
<u>C7440-47-3</u>	<u>Chromium, hexavalent metal and compounds</u>
—	Coke oven emissions
8001-58-9	Creosote
135-20-6	Cupferron
94-75-7	2,4-D and esters
<u>3547-04-4</u>	<u>DDE (p,p'-Dichlorodiphenyldichloroethylene)</u>
50-29-3	DDT (1,1,1 Trichloro-2,2-Bis(p-chlorophenyl)-ethane)
613-35-4	N,N-Diacetylbenzidine
101-80-4	4,4'-Diaminodiphenyl ether
226-36-8	Dibenz(a,h)acridine
53-70-3	Dibenz(a,h)anthracene
224-42-0	Dibenz(a,j)acridine
<u>132-64-9</u>	<u>Dibenzofurans</u>
189-64-0	Dibenzo(a,h)pyrene
191-30-0	Dibenzo(a,l)pyrene
189-55-9	<del>((1,2,7,8-Dibenzopyrene (dibenzo(a,i)pyrene)))</del>
—	<u>1,2,7,8-Dibenzopyrene (dibenzo(a,i)pyrene)</u>
192-65-4	Dibenzo(a,e)pyrene
<u>764-41-0</u>	<u>1,4-Dichloro-2-butene</u>
28434-86-8	3,3'-Dichloro-4,4'-diaminodiphenyl ether
106-46-7	1,4-Dichlorobenzene
91-94-1	3,3'-Dichlorobenzidine
107-06-2	1,2-Dichloroethane (ethylene chloride)
75-09-2	Dichloromethane (methylene chloride)
696-28-6	Dichlorophenylarsine (arsenic group)
78-87-5	1,2-Dichloropropane
60-57-1	Dieldrin
1615-80-1	1,2-Diethylhydrazine
101-90-6	Diglycidyl resorcinol ether
119-90-4	3,3'-Dimethoxybenzidine (ortol-dianisidine)
<u>119-93-7</u>	<u>3,3-Dimethyl benzidine</u>
77-78-1	Dimethyl sulfate
540-73-8	1,2-Dimethylhydrazine
<del>((25321-14-6))</del>	<del>Dinitrotoluenes (mixed))</del>
<del>((423-91-9))</del>	
<u>123-91-1</u>	<u>1,4-Dioxane</u>
—	Dioxins and furans
122-66-7	1,2-Diphenylhydrazine
<u>106-89-8</u>	<u>Epichlorohydrin</u>
<u>106-93-4</u>	<u>Ethylene ((<del>Dibromide</del>) dibromide (dibromethane))</u>
75-21-8	Ethylene oxide
<u>96-45-7</u>	<u>Ethylene thiourea</u>
50-00-0	Formaldehyde
<u>67-45-8</u>	<u>Furazolidone</u>
—	Furium (nitrofurans group)
765-34-4	Glyciadaldehyde
76-44-8	Heptachlor
118-74-1	Hexachlorobenzene
319-84-6	Hexachlorocyclohexane (Lindane) Alpha BHC
319-85-7	Hexachlorocyclohexane (Lindane) Beta BHC
<del>((580-89-9))</del>	
<u>58-89-9</u>	<u>Hexachlorocyclohexane (Lindane) Gamma BHC</u>
<del>((67-72-1))</del>	<del>Hexachloroethane</del>
680-31-9	Hexamethylphosphoramide
<u>302-01-2</u>	<u>Hydrazine</u>
193-39-5	Indeno(1,2,3-cd)pyrene
—	Isopropyl oils
—	Lead compounds
301-04-2	Lead acetate
7446-27-7	Lead phosphate
129-15-7	2-Methyl-1-nitroanthraquinone
592-62-1	<del>((Methylazoxymethanol &amp;))</del> Methyl azoxymethyl acetate
3697-24-3	5-Methylchrysene
101-14-4	4,4'-Methylenebis(2-chloroaniline) (MBOCA)
838-88-0	4,4'-Methylenebis(2-methylaniline)

PERMANENT

(2) TABLE II  
CLASS A TOXIC AIR POLLUTANTS  
WITH ESTABLISHED  
ACCEPTABLE SOURCE IMPACT LEVELS

101-77-9	((4,4-Methylenedianiline)) 4,4-Methylene dianiline
13552-44-8	4,4-Methylenedianiline dihydrochloride
64091-91-4	4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone
(---)	
2385-85-5	Mirex
139-91-3	5-(Morpholinomethyl)-3-(((5-nitrofurfurylidene))amino)- ((2-oxazolidinone)) 2-oxazolidinone (furaltudone)
(924-16-3	N-Nitrosodi-n-butylamine))
134-32-7	1-Naphthylamine
C7440-02-0	Nickel and compounds (as nickel subsulfide or nickel refinery dust)
531-82-8	N-(4-(5-((Nitro))Nitro-2-furyl)-2-thiazolyl)acetamide
((759-73-9	N-Nitroso-n-ethylurea (NEU)
621-64-7	N-Nitrosodi-n-propylamine
40595-95-6	N-Nitrosomethylethylamine
59-80-2	N-Nitrosomorpholine
86-30-6	N-Nitrosodiphenylamine
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)
62-75-9	N-Nitrosodimethylamine))
602-87-9	5-Nitroacenaphthene
1836-75-5	Nitrofen
	Nitrofurans ((Furazolidone))
59-87-0	Nitrofurazone
555-84-9	1-(5-Nitrofurfurylidene)amino)-2-imidazolidinone
126-85-2	Nitrogen mustard N-oxide
302-70-5	Nitrogen mustard N-oxide hydrochloride
79-46-9	2-Nitropropane
924-16-3	N-Nitrosodi-n-butylamine
759-73-9	N-Nitroso-N-ethylurea (NEU)
615-53-2	N-Nitroso-((n)) N-methylurethane
621-64-1	N-Nitrosodi-n-propylamine
10595-95-6	N-Nitrosomethylethylamine
59-89-2	N-Nitrosomorpholine
86-30-6	N-Nitrosodiphenylamine
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)
62-75-9	N-Nitrosodimethylamine
2646-17-5	Oil orange SS
794-93-4	Panfuran S (dihydroxymethylfurazizine)
87-86-5	Pentachlorophenol
127-18-4	Perchloroethylene (tetrachloroethylene)
63-92-3	Phenoxybenzamine hydrochloride
	N-Phenyl-2-naphthylamine
	Polyaromatic hydrocarbons (PAH)
1336-36-3	Polychlorinated biphenyls (PCBs)
3761-53-3	Ponceau MX
	P(p)(alpha, alpha, alpha)-Tetra-chlorotoluene
1120-71-4	1,3-Propane sultone
75-56-9	Propylene oxide
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)
139-65-1	4,4'-Thiodianiline
1314-20-1	Thorium dioxide
95-80-7	2,4-Toluene diamine
584-84-9	2,4-Toluene diisocyanate
95-53-4	o-Toluidine ((& its hydrochloride))
636-21-5	o-Toluidine hydrochloride
8001-35-2	Toxaphene
55738-54-0	Trans-2((Dimethylamino)methylimino)-5- (2-(5-nitro-2-furyl) vinyl)-1,3,4-oxadiazole
79-01-6	Trichloroethylene
((25167-82-2))	
88-06-2	2,4,6-Trichlorophenol ((mixed))
75-01-4	Vinyl chloride

CAS #	SUBSTANCE	10-6 RISK ASIL MICRO- GRAMS/M <sup>3</sup> ANNUAL AVERAGE
(75-07-0	Acetaldehyde	0.4500000
107-13-1	Acrylonitrile	0.0150000
309-00-2	Aldrin	0.0002000
	Arsenic and inorganic arsenic compounds	0.0002300
1332-21-4	Asbestos (Note: fibers/ml)	0.0000042
71-43-2	Benzene	0.1200000
92-87-5	Benzidine and its salts	0.0000150
50-32-8	Benzo(a)pyrene	0.0006000
	Beryllium and compounds	0.0004200
111-44-4	Bis(2-chloroethyl)ether	0.0030000
542-88-1	Bis(chloromethyl)ether and technical- grade chloromethyl methyl ether	0.0000160
	Cadmium and compounds	0.0005600
56-23-5	Carbon tetrachloride	0.0670000
57-74-9	Chlordane	0.0027000
67-66-3	Chloroform	0.0430000
108-43-0	Chlorophenols	0.1800000
	Chromium, hexavalent metal and compounds	0.0000830
	Coke oven emissions	0.0016000
50-29-3	DDT (1,1,1-Trichloro-2,2-Bis- (p-chlorophenyl) ethane)	0.0100000
	1,4-Dichloro-2-butene	0.0003800
107-06-2	1,2-Dichloroethane (ethylene chloride)	0.0400000
75-09-2	Dichloromethane (methylene chloride)	2.0000000
60-57-1	Dieldrin	0.0002000
122-66-7	1,2-Diphenylhydrazine	0.0045000
106-93-4	Ethylene Dibromide	0.0045000
75-21-8	Ethylene oxide	0.0100000
50-00-0	Formaldehyde	0.0770000
76-44-8	Heptachlor	0.0007700
118-74-1	Hexachlorobenzene	0.0020000
67-72-1	Hexachloroethane	0.2500000
127-18-4	Perchloroethylene (tetrachloroethylene)	1.1000000
1746-01-6	2,3,7,8-Tetrachlorodibenzi-p-dioxin (2,3,7,8-TCDD)	0.0000000
8001-35-2	Toxaphene	0.0030000
79-01-6	Trichloroethylene	0.8000000
25167-82-2	Trichlorophenol (mixed)	0.1800000
75-01-4	Vinyl Chloride	0.0020000
75-07-0	Acetaldehyde	0.4500000
79-06-1	Acrylamide	0.0007700
107-13-1	Acrylonitrile	0.0150000
309-00-2	Aldrin	0.0002000
62-53-3	Aniline	6.3000000
C7440-38-2	Arsenic and inorganic arsenic compounds	0.0002300
1332-21-4	Asbestos (Note: fibers/ml)	0.0000042
71-43-2	Benzene	0.1200000
92-87-5	Benzidine and its salts	0.0000150
50-32-8	Benzo(a)pyrene	0.0004800
7440-41-7	Beryllium and compounds	0.0004200
111-44-4	Bis(2-chloroethyl)ether	0.0030000
117-81-7	Bis(2-ethylhexyl)phthalate (DEHP)	2.5000000
542-88-1	Bis(chloromethyl)ether	0.0000160
75-25-2	Bromoform	0.9100000
106-99-0	1,3-Butadiene	0.0036000
7440-43-9	Cadmium and compounds	0.0005600
56-23-5	Carbon tetrachloride	0.0670000
57-74-9	Chlordane	0.0027000
510-15-6	Chlorobenzilate	0.2000000
67-66-3	Chloroform	0.0430000
108-43-0	Chlorophenols	0.1800000
C7440-47-3	Chromium, hexavalent metal and compounds	0.0000830
	Coke oven emissions	0.0016000
3547-04-4	DDE (p,p'-dichlorodiphenyldichloroethylene)	0.1000000

PERMANENT

50-29-3	DDT (1,1,1 Trichloro-2,2-Bis-(p-chlorophenyl)-ethane)	0.0100000
764-41-0	1,4-Dichloro-2-butene	0.0003800
106-46-7	1,4-Dichlorobenzene	1.5000000
91-94-1	3,3'-Dichlorobenzidine	0.0770000
107-06-2	1,2-Dichloroethane (ethylene chloride)	0.0380000
75-09-2	Dichloromethane (methylene chloride)	0.5600000
60-57-1	Dieldrin	0.0002200
119-93-7	3,3-Dimethyl benzidine	0.0038000
123-91-1	1,4-Dioxane	0.0320000
122-66-7	1,2-Diphenylhydrazine	0.0045000
106-89-8	Epichlorohydrin	0.8300000
106-93-4	Ethylene dibromide (dibromomethane)	0.0045000
75-21-8	Ethylene oxide	0.0100000
96-45-7	Ethylene thiourea	1.0000000
50-00-0	Formaldehyde	0.0770000
76-44-8	Heptachlor	0.0007700
118-74-1	Hexachlorobenzene	0.0022000
58-89-9	Hexachlorocyclohexane (Lindane) gamma BHC	0.0026000
302-01-2	Hydrazine	0.0002000
C7440-02-0	Nickel and compounds (as nickel subsulfide or nickel refinery dust)	0.0021000
924-16-3	N-Nitrosodi-n-butylamine	0.0006300
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine)(DEN)	0.0000230
62-75-9	N-Nitrosodimethylamine	0.0000710
79-46-9	2-Nitropropane	0.0003700
87-86-5	Pentachlorophenol	0.3300000
127-18-4	Perchloroethylene (tetrachloroethylene)	1.1000000
1336-36-3	Polychlorinated biphenyls (PCB)	0.0045000
75-56-9	Propylene oxide	0.2700000
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)	0.0000003
95-80-7	2,4-Toluene diamine	0.0110000
95-53-4	o-Toluidine	0.1400000
636-21-5	o-Toluidine hydrochloride	0.1400000
8001-35-2	Toxaphene	0.0031000
79-01-6	Trichloroethylene	0.5900000
88-06-2	2,4,6-Trichlorophenol	0.3200000
75-01-4	Vinyl chloride	0.0120000

(3) TABLE III  
CLASS A TOXIC AIR POLLUTANTS  
WITH SPECIAL ACCEPTABLE SOURCE  
IMPACT LEVELS

CAS #	SUBSTANCE	ASIL MICRO-GRAMS/M <sup>3</sup>	AVERAGING TIME
<del>(</del>	<del>Primary aluminum smelter uncontrolled roof vent polyaromatic hydrocarbon (PAH) emissions (Note: Quantify according to WAC 173-460-050 (4)(d))</del>	<del>0.0013</del>	<del>Annual</del>
61-82-5	Amitrole	0.6	24 hour
106-99-0	1,3-Butadiene	73.3	24 hour
126-99-8	B-Chloroprene	116.6	24 hour
94-75-7	2,4-D and esters	33.3	24 hour
106-46-7	1,4-Dichlorobenzene	1500	24 hour
78-87-5	1,2-Dichloropropane	1166.6	24 hour
77-78-1	Dimethyl sulfate	1.6	24 hour
540-73-8	1,2-Dimethylhydrazine	3.3	24 hour
123-91-9	1,4-Dioxane	300	24 hour
58-89-9	Lindane	1.6	24 hour
101-14-4	4,4'-Methylenebis (2-Chloroaniline) (MBOCA)	0.7	24 hour
101-77-9	4,4-Methylenedianiline	2.6	24 hour
7440-02-0	Nickel and compounds	3.3	24 hour
79-46-9	2-Nitropropane	116.6	24 hour
	Polyaromatic hydrocarbon (PAH) emissions (Note: Quantify according to WAC 173-460-050 (4)(d))	0.0006	Annual

<del>584-84-9</del>	<del>2,4-Toluene diisocyanate</del>	<del>0.1</del>	<del>24 hour</del>
<del>95-53-4</del>	<del>o-Toluidine</del>	<del>30</del>	<del>24 hour</del>
	Primary aluminum smelter uncontrolled roof vent polyaromatic hydrocarbon (PAH) emissions (Note: Quantify according to WAC 173-460-050 (4)(d))	0.0013	Annual
61-82-5	Amitrole	0.06	24 hour
90-04-0	o-Anisidine	1.7	24 hour
126-99-8	B-Chloroprene	120	24 hour
94-75-7	2,4-D and esters	33	24 hour
78-87-5	1,2-Dichloropropane	4.0	24 hour
77-78-1	Dimethyl sulfate	1.7	24 hour
540-73-8	1,2-Dimethylhydrazine	4.0	24 hour
319-84-6	Hexachlorocyclohexane (Lindane) alpha BHC	1.7	24 hour
319-85-7	Hexachlorocyclohexane (Lindane) beta BHC	1.7	24 hour
	Lead compounds	0.5	24 hour
101-14-4	4,4'-Methylenebis (2-Chloroaniline) (MBOCA)	0.7	24 hour
101-77-9	4,4-Methylene dianiline	2.7	24 hour
	Polyaromatic hydrocarbon (PAH) emissions (Note: Quantify according to WAC 173-460-050 (4)(d))	0.00048	Annual
584-84-9	2,4-Toluene diisocyanate	0.12	24 hour

AMENDATORY SECTION (Amending Order 90-62, filed 6/18/91, effective 9/18/91)

WAC 173-460-160 Class B toxic air pollutants and acceptable source impact levels. The following table lists Class B toxic air pollutants and acceptable source impact levels:

CLASS B TOXIC AIR POLLUTANTS AND ACCEPTABLE SOURCE IMPACT LEVELS

CAS#	SUBSTANCE	ASIL MICRO-GRAMS/M <sup>3</sup> TWENTY-FOUR-HOUR AVERAGE
<del>(86-88-4</del>	<del>ANTU</del>	<del>1.0</del>
<del>75-07-0</del>	<del>Acetic acid</del>	<del>83.3</del>
<del>108-24-7</del>	<del>Acetic anhydride</del>	<del>66.6</del>
<del>67-64-1</del>	<del>Acetone</del>	<del>5927.4</del>
<del>75-05-8</del>	<del>Acetonitrile</del>	<del>233.1</del>
<del>79-27-6</del>	<del>Acetylene tetrabromide</del>	<del>50.0</del>
<del>107-02-8</del>	<del>Aerolein</del>	<del>0.8</del>
<del>79-06-1</del>	<del>Acrylamide</del>	<del>0.1</del>
<del>79-10-7</del>	<del>Acrylic acid</del>	<del>99.9</del>
<del>107-18-6</del>	<del>Allyl alcohol</del>	<del>16.7</del>
<del>106-92-3</del>	<del>Allyl glycidyl ether (AGE)</del>	<del>73.3</del>
<del>2179-59-1</del>	<del>Allyl propyl disulfide</del>	<del>40.0</del>
<del>7429-90-5</del>	<del>Aluminum, Al alkyls</del>	<del>6.7</del>
<del>7429-90-5</del>	<del>Aluminum, as AL metal dust</del>	<del>33.3</del>
<del>7429-90-5</del>	<del>Aluminum, as AL pyro powders</del>	<del>16.7</del>
<del>7429-90-5</del>	<del>Aluminum, as Al soluble salts</del>	<del>6.7</del>
<del>7429-90-5</del>	<del>Aluminum, as Al welding fumes</del>	<del>16.7</del>
<del>504-29-0</del>	<del>2-Aminopyridine</del>	<del>6.7</del>
<del>7664-41-7</del>	<del>Ammonia</del>	<del>59.9</del>
<del>12125-02-9</del>	<del>Ammonium chloride fume</del>	<del>33.3</del>
<del>3825-26-1</del>	<del>Ammonium perfluorooctanoate</del>	<del>0.3</del>
<del>7773-06-0</del>	<del>Ammonium sulfamate</del>	<del>33.3</del>
<del>628-63-7</del>	<del>n-Amyl acetate</del>	<del>1764.9</del>
<del>626-38-0</del>	<del>sec-Amyl acetate</del>	<del>2214.5</del>
<del>62-53-3</del>	<del>Aniline &amp; homologues</del>	<del>33.3</del>
<del>29191-52-4</del>	<del>Anisidine (o-p isomers)</del>	<del>1.7</del>
<del>7440-36-0</del>	<del>Antimony &amp; compounds as Sb</del>	<del>1.7</del>
<del>1309-64-4</del>	<del>Antimony trioxide, as Sb</del>	<del>1.7</del>
<del>7784-42-1</del>	<del>Arsine</del>	<del>0.7</del>

PERMANENT

8052 42 4	Asphalt (petroleum) fumes	16.7	10210 68 1	Cobalt carbonyl as Co	0.3
1912 24 9	Atrazine	16.7	16842 03 8	Cobalt hydrocarbonyl	0.3
86 50 0	Azinphos methyl	0.7	7440 50 8	Copper, Dusts and mists, as Cu	3.3
7440 39 3	Barium, soluble compounds Ba	1.7	7440 50 8	Copper, Fume	0.7
17804 35 2	Benomyl	33.3		Cotton dust, raw	0.7
94 36 0	Benzoyl Peroxide	16.7	1319 77 3	Cresol, all isomers	73.3
100 44 7	Benzyl chloride	16.7	4170 30 3	Crotonaldehyde	20.0
92 52 4	Biphenyl	5.0	299 86 5	Cruformate	16.7
1304 82 1	Bismuth telluride	33.3	98 82 2	Cumene	815.9
1304 82 1	Bismuth telluride-Se doped	16.7	420 04 2	Cyanamide	6.7
1303 96 4	Borates, anhydrous	3.3	151 50 8	Cyanides, as CN	16.7
1303 96 4	Borates, decahydrate	16.7	460 19 5	Cyanogen	66.6
1303 96 4	Borates, pentahydrate	3.3	506 77 4	Cyanogen chloride	2.0
1303 86 2	Boron oxide	33.3	110 82 7	Cyclohexane	3496.5
10294 33 4	Boron tribromide	33.3	108 93 0	Cyclohexanol	666.0
7726 95 6	Boron trifluoride	10.0	108 94 1	Cyclohexanone	333.0
314 40 9	Bromacil	33.3	110 83 8	Cyclohexene	3380.0
7726 95 6	Bromine	2.3	108 91 8	Cyclohexylamine	133.2
7789 30 2	Bromine pentafluoride	2.3	121 82 4	Cyclonite	5.0
75 25 2	Bromoform	16.7	542 92 7	Cyclopentadiene	666.0
106 97 8	Butane	6327.0	287 92 3	Cyclopentane	5727.6
111 76 2	2 Butoxyethanol	399.6	13121 70 5	Cyhexatin	16.7
123 86 4	n Butyl acetate	2364.3	94 75 7	2,4-D	33.3
105 46 4	see Butyl acetate	3163.5	17702 41 9	Decaborane	1.0
540 88 5	tert Butyl acetate	3163.5	8065 48 3	Demeton	0.3
141 32 2	Butyl acrylate	183.2	117 81 7	Di(2-ethylhexyl)phthalate	16.7
71 36 3	n Butyl alcohol	499.5	123 42 2	Diacetone alcohol	799.2
78 92 2	see Butyl alcohol	1015.7	333 41 5	Diazinon	0.3
75 65 0	tert Butyl alcohol	999.0	334 88 3	Diazomethane	1.3
1189 85 1	tert Butyl chromate, as CrO3	0.3	19287 45 7	Diborane	0.3
2426 08 6	n Butyl glycidyl ether (BGE)	449.6	107 66 4	Dibutyl phosphate	16.7
138 22 7	n Butyl lactate	83.3	84 74 2	Dibutyl phthalate	16.7
109 79 5	Butyl mercaptan	5.0	102 81 8	2-N-Dibutylaminoethanol	46.6
109 73 9	Butylamine	50.0	594 72 9	1,1-Dichloro-1-nitroethane	33.3
89 72 5	o-see Butylphenol	99.9	118 52 5	1,3-Dichloro-5,5-Dimethylhydantoin	0.7
98 51 1	p-tert-Butyltoluene	199.8	7572 29 4	Dichloroacetylene	1.3
156 62 7	Calcium cyanamide	1.7	95 50 1	o-Dichlorobenzene	999.0
1305 62 0	Calcium hydroxide	16.7	106 46 7	p-Dichlorobenzene	1498.5
1305 78 8	Calcium oxide	6.7	75 71 8	Dichlorodifluoromethane	16483.5
76 22 2	Camphor, synthetic	40.0	75 34 3	1,1-Dichloroethane	2697.3
105 60 2	Caprolactam, dust	3.3	111 44 4	Dichloroethyl ether	99.9
105 60 2	Caprolactam, vapor	66.6	540 59 0	1,2-Dichloroethylene	2630.7
2425 06 1	Captafol	0.3	75 43 4	Dichlorofluoromethane	133.2
133 06 2	Captan	16.7	78 87 5	1,2-Dichloropropane	1165.5
63 25 2	Carbaryl	16.7	542 75 6	Dichloropropene	16.7
1563 66 2	Carbofuran	0.3	75 99 0	2,2-Dichloropropionic acid	20.0
1333 86 4	Carbon black	11.7	76 14 2	Dichlorotetrafluoroethane	23310.0
75 15 0	Carbon disulfide	99.9	62 73 7	Dichlorvas	3.3
558 13 4	Carbon tetrabromide	4.7	141 66 2	Dicrotophos	0.8
353 50 4	Carbonyl fluoride	16.7	77 73 6	Dicyclopentadiene	99.9
120 80 9	Catechol	66.6	102 54 5	Dicyclopentadienyl-iron	33.3
21351 79 1	Cesium hydroxide	6.7	60 57 1	Dieldrin	0.8
8001 35 2	Chlorinated camphene	1.7	111 42 2	Diethanolamine	50.0
	Chlorinated diphenyl oxide	1.7	96 22 0	Diethyl ketone	2347.7
7782 50 5	Chlorine	10.0	84 66 2	Diethyl phthalate	16.7
10049 04 4	Chlorine dioxide	1.0	109 89 7	Diethylamine	99.9
7790 91 2	Chlorine trifluoride	1.3	100 37 8	Diethylaminoethanol	166.5
600 25 9	1-Chloro-1-nitropropane	33.3	111 40 0	Diethylene triamine	13.3
107 20 0	Chloroacetaldehyde	10.0	75 61 6	Difluorodibromomethane	2863.8
532 27 4	a-Chloroacetophenone	1.0	2238 07 5	Diglycidyl ether	1.7
79 04 9	Chloroacetyl chloride	0.7	108 83 8	Diisobutyl ketone	499.5
2698 41 1	o-Chlorobenzylidene malonitrile	1.3	108 18 9	Diisopropylamine	66.6
108 90 7	Chlorobenzene	1165.5	127 19 5	Dimethyl acetamide	116.6
74 97 5	Chlorobromomethane	3496.5	124 40 3	Dimethylamine	59.9
75 45 6	Chlorodifluoromethane	11655.0	121 69 7	Dimethylaniline	83.3
76 15 3	Chloropentafluoroethane	21045.6	68 12 2	Dimethylformamide	99.9
76 06 2	Chloropicrin	2.3	57 14 7	1,1-Dimethylhydrazine	3.3
2039 87 4	o-Chlorostyrene	949.1	131 11 3	Dimethylphthalate	16.7
95 49 8	o-Chlorotoluene	832.5	148 01 6	Dinitolmide	16.7
2921 88 2	Chlorpyrifos	0.7	534 52 1	Dinitro o-cresol	0.7
7440 47 3	Chromium (II) compounds, as Cr	1.7	528 29 0	Dinitrobenzene, all isomers	3.3
7440 47 3	Chromium (III) compounds, Cr	1.7	78 34 2	Dioxathion	0.7
7440 47 3	Chromium (metal)	1.7	122 39 4	Diphenylamine	33.3
14977 61 8	Chromyl chloride	0.5	123 19 3	Dipropyl ketone	782.6
2971 90 6	Clopidol	33.3	34590 94 8	Dipropylene glycol methyl ether	1998.0
7440 48 4	Cobalt as Co-metal Dust and fu	0.2	85 00 7	Diquat	1.7

97 77 8	Disulfiram	6.7	13463 40 6	Iron pentacarbonyl, as Fe	2.7
298 04 4	Disulfuton	0.3		Iron salts, soluble as Fe	3.3
128 37 0	2,6-Ditert. butyl p-cresol	33.3	123 92 2	Isoamyl acetate	1748.3
330 54 1	Diuron	33.3	123 51 3	Isoamyl alcohol	1198.8
1321 74 0	Divinyl benzene	166.5	110 19 0	Isobutyl acetate	2331.0
2104 64 5	EPN	1.7	78 82 1	Isobutyl alcohol	499.5
115 29 7	Endosulfan	0.3	26952 21 6	Isocetyl alcohol	999.1
72 20 8	Endrin	0.3	78 59 1	Isophorone	83.3
13838 16 9	Enflurane	1914.8	4098 71 9	Isophorone diisocyanate	0.1
141 43 5	Ethanolamine	26.6	109 59 1	Isopropoxyethanol	349.7
563 12 2	Ethion	1.3	108 21 4	Isopropyl acetate	3163.5
110 80 5	2-Ethoxyethanol	63.3	67 63 0	Isopropyl alcohol	3263.4
111 15 9	2-Ethoxyethyl acetate	89.9	108 20 3	Isopropyl ether	2496.5
60 29 7	Ethyl Ether	3996.0	4016 14 2	Isopropyl glycidyl ether (IGE)	799.2
141 78 6	Ethyl acetate	4662.0	75 31 0	Isopropylamine	40.0
140 88 5	Ethyl acrylate	66.6	768 52 5	N-Isopropylaniline	33.3
64 17 5	Ethyl alcohol	6327.0	463 51 4	Ketene	3.0
541 85 5	Ethyl amyl ketone	432.9	2687 31 8	Lead arsenate, as Pb3 (AsO4)2	0.5
100 41 4	Ethyl benzene	1448.6	7758 97 6	Lead chromate, as Cr	0.2
74 96 4	Ethyl bromide	2963.7	68476 85 7	Liquified petroleum gas	5994.0
106 35 4	Ethyl butyl ketone	765.9	7580 67 8	Lithium hydride	0.1
75 00 3	Ethyl chloride	8658.0	1309 48 4	Magnesium oxide fume	33.3
109 94 4	Ethyl formate	999.0	121 75 5	Malathion	33.3
75 08 1	Ethyl mercaptan	3.3	108 31 6	Maleic anhydride	3.3
78 10 4	Ethyl silicate	283.1	7439 96 5	Manganese Dust & compounds	16.7
75 04 7	Ethylamine	59.9	7439 96 5	Manganese Fume	3.3
107 07 3	Ethylene chlorohydrin	10.0	12079 65 1	Manganese cyclopentadienyl tricarbonyl	0.3
107 21 1	Ethylene glycol	416.3	7439 97 6	Mercury, Aryl & inorganic empd	0.3
628 96 6	Ethylene glycol dinitrate	1.0	7439 97 6	Mercury, as Hg-Alkyl compounds	0.03
107 15 3	Ethylenediamine	83.3	7439 97 6	Mercury, vapors except alkyl	0.2
151 56 4	Ethylenimine	3.3	141 79 7	Mesityl oxide	199.8
16219 75 3	Ethylidene norbornene	83.3	79 41 4	Methacrylic acid	233.1
100 74 3	N-Ethylmorpholine	76.6	16752 77 5	Methomyl	8.3
22224 92 6	Fenamiphos	0.3	72 43 5	Methoxychlor	33.3
115 90 2	Fensulfothion	0.3	109 86 4	2-Methoxyethanol	53.3
55 38 9	Fenthion	0.7	110 49 6	2-Methoxyethyl acetate	79.9
14484 64 1	Ferbam	33.3	150 76 5	4-Methoxyphenol	16.7
12604 58 9	Ferrovandium dust	3.3	137 05 3	Methyl 2-cyanoacrylate	26.6
	Ferrous glass dust	33.3	79 20 9	Methyl acetate	2031.3
	Fluorides, as F	8.3	74 99 7	Methyl acetylene	5494.5
7782 41 4	Fluorine	6.7		Methyl acetylene propadiene mixture (MAPP)	5994.0
944 22 9	Fonofos	0.3	96 33 3	Methyl acrylate	116.6
75 12 7	Formamide	50.0	167 56 1	Methyl alcohol	865.8
64 18 6	Formic acid	30.0	100 61 8	N-Methyl aniline	6.7
98 01 1	Furfural	26.6	74 83 9	Methyl bromide	66.6
98 00 1	Furfuryl alcohol	133.2	74 87 3	Methyl chloride	349.7
7782 65 2	Germanium tetrahydride	2.0	71 55 6	Methyl chloroform	6327.0
111 30 8	Glutaraldehyde	2.3	8022 00 2	Methyl demeton	1.7
556 52 5	Glycidol	249.8	78 93 3	Methyl ethyl ketone (MEK)	1964.7
7440 58 6	Hafnium	1.7	1338 23 4	Methyl ethyl ketone peroxide	5.0
151 67 7	Halothane	1332.0	107 31 3	Methyl formate	832.5
142 82 5	Heptane (n-Heptane)	5328.0	60 34 4	Methyl hydrazine	1.2
87 68 3	Hexachlorobutadiene	0.8	74 88 4	Methyl iodide	33.3
77 47 4	Hexachlorocyclopentadiene	0.3	110 12 3	Methyl isoamyl ketone	799.2
1335 87 1	Hexachloronaphthalene	0.7	108 11 2	Methyl isobutyl carbinol	333.0
684 16 2	Hexafluoroacetone	2.3	108 10 1	Methyl isobutyl ketone (MIBK)	682.7
822 06 0	Hexamethylene diisocyanate	0.1	624 83 9	Methyl isocyanate	0.2
100 54 3	Hexane (n-Hexane)	599.4	563 80 4	Methyl isopropyl ketone	2347.7
	Hexane, other isomers	5994.0	74 93 1	Methyl mercaptan	3.3
591 78 6	2-Hexanone (MBK)	66.6	80 62 6	Methyl methacrylate	1365.3
108 84 9	see Hexyl acetate	999.0	110 43 0	Methyl n-amyl ketone	782.6
107 41 5	Hexylene glycol	416.3	591 78 6	Methyl n-butyl ketone	66.6
10035 10 6	Hydrogen bromide	33.3	298 00 0	Methyl parathion	0.7
7647 01 0	Hydrogen chloride	23.3	107 87 9	Methyl propyl ketone	2331.0
74 90 8	Hydrogen cyanide	33.3	681 84 5	Methyl silicate	20.0
7664 39 3	Hydrogen fluoride, as F	8.3	98 83 9	a-Methyl styrene	799.2
7722 84 1	Hydrogen peroxide	5.0	126 98 7	Methylacrylonitrile	10.0
7783 07 5	Hydrogen selenide, as Se	0.7	109 87 5	Methylal	10323.0
7783 06 4	Hydrogen sulfide	46.6	74 89 5	Methylamine	40.0
123 31 9	Hydroquinone	6.7	108 87 2	Methylecyclohexane	5328.0
999 61 1	2-Hydroxypropyl acrylate	10.0	25639 42 3	Methylecyclohexanol	782.6
95 13 6	Indene	149.9	583 60 8	o-Methylecyclohexanone	765.9
7440 74 6	Indium, & compounds as In	0.3	12108 13 3	Methylecyclopentadienyl manganese tricarbonyl	0.7
7553 56 2	Iodine	3.3	5124 30 1	Methylene bis (4-cyclohexylisocyanate)	0.2
75 47 8	Iodoform	33.3			
1309 37 1	Iron-oxide fume, Fe2O3 as Fe	16.7			

PERMANENT

PERMANENT

101-68-8	Methylene bisphenyl isocyanate	0.2	8003-34-7	Pyrethrum	16.7
101-77-9	4,4' Methylene dianiline	2.7	110-86-1	Pyridine	50.0
21087-64-9	Metribuzin	16.7	106-51-4	Quinone	1.3
7786-34-7	Mevinphos	0.3	108-46-3	Resoreinol	149.9
7439-98-7	Molybdenum, as Mo-soluble epds	16.7	7440-16-6	Rhodium Metal	3.3
7439-98-7	Molybdenum, insoluble epds	33.3	7440-16-6	Rhodium, Insoluble compounds	3.3
6923-22-4	Monocrotophos	0.8	7440-16-6	Rhodium, Soluble compounds	0.03
110-91-8	Morpholine	233.1	299-84-3	Ronnel	33.3
300-76-5	Naled	10.0	83-79-4	Rotenone	16.7
91-20-3	Napthalene	166.5		Rubber solvent (Naphtha)	5328.0
54-11-5	Nicotine	1.7	7782-49-2	Selenium compounds, as Se	0.7
1929-82-4	Nitrapyrin	33.3	7783-79-1	Selenium hexafluoride, as Se	0.7
7697-37-2	Nitric acid	16.7	136-78-7	Sesone	33.3
10102-43-9	Nitric oxide	99.9	7803-62-5	Silcon tetrahydride	23.3
100-01-6	p-Nitroaniline	10.0	7440-22-4	Silver, Metal	0.3
98-95-3	Nitrobenzene	16.7	7440-22-4	Silver, soluble compounds Ag	0.03
100-00-5	p-Nitrochlorobenzene	2.0	26628-22-8	Sodium azide	1.0
79-24-3	Nitroethane	1032.3	7631-90-5	Sodium bisulfite	16.7
7783-54-2	Nitrogen trifluoride	99.9	62-74-8	Sodium fluoroacetate	0.2
55-63-0	Nitroglycerin	1.7	1310-73-2	Sodium hydroxide	6.7
75-52-5	Nitromethane	832.5	7681-57-4	Sodium metabisulfite	16.7
108-03-2	1-Nitropropane	299.7	7803-52-3	Stibine	1.7
88-72-2	Nitrotoluene	36.6	57-24-9	Strychnine	0.5
111-84-2	Nonane	3496.5	100-42-5	Styrene	716.0
2234-13-1	Octachloronaphthalene	0.3	1395-21-7	Subtilisins	0.0
111-65-9	Octane	4828.5	3689-24-5	Sulfotep	0.7
8012-95-1	Oil mist, mineral	16.7	2551-62-4	Sulfur hexafluoride	19980.0
20816-12-0	Osmium tetroxide, as Os	0.007	10025-67-9	Sulfur monochloride	20.0
144-62-7	Oxalic acid	3.3	5714-22-7	Sulfur pentafluoride	0.3
7783-41-7	Oxygen difluoride	0.3	7783-60-0	Sulfur tetrafluoride	1.3
8002-74-2	Parafin wax fume	6.7	7664-93-9	Sulfuric acid	3.3
4685-14-7	Paraquat	0.3	2699-79-8	Sulfuryl fluoride	66.6
56-38-2	Parathion	0.3	35400-43-2	Sulprofos	3.3
19624-22-7	Pentaborane	0.0	93-76-5	2,4,5-T	33.3
1321-64-8	Pentachloronaphthalene	1.7	107-49-3	TEPP	0.2
87-86-5	Pentachlorophenol	1.7	7440-25-7	Tantalum, metal & oxide dusts	16.7
109-66-0	Pentane	5994.0	13494-80-9	Tellurium & compounds as Te	0.3
594-42-3	Perechloromethyl mereaptan	2.7	7783-80-4	Tellurium hexafluoride, as Te	0.7
7616-94-6	Perechloryl fluoride	46.6	3383-96-8	Temephos	33.3
108-95-2	Phenol	63.3	26140-60-3	Terphenyls	16.7
92-84-2	Phenothiazine	16.7	76-12-0	1,1,2,2-Tetrachloro 1,2-difluoroethane	13886.1
101-84-8	Phenyl ether	23.3	76-11-9	1,1,1,2-Tetrachloro 2,2-difluoroethane	13886.1
122-60-1	Phenyl glycidyl ether	20.0	79-34-5	1,1,2,2-Tetrachloroethane	23.3
108-98-5	Phenyl mereaptan	6.7	1325-88-2	Tetracloronaphthalene	6.7
106-50-3	p-Phenylene diamine	0.3	78-00-2	Tetraethyl lead, as Pb	0.3
100-63-0	Phenylhydrazine	66.6	109-99-9	Tetrahydrofuran	1964.7
628-21-1	Phenylphosphine	0.8	175-74-1	Tetramethyl lead, as Pb	0.5
298-02-2	Phorate	0.2	3323-52-6	Tetramethyl succinonitrile	10.0
75-44-5	Phosgene	1.3	509-14-8	Tetranitromethane	26.6
7803-51-2	Phosphine	1.3	7722-88-5	Tetrasodium pyrophosphate	16.7
7664-38-2	Phosphoric acid	3.3	479-45-8	Tetryl	5.0
7723-14-0	Phosphorus	0.3	7440-28-0	Thallium, soluble compounds, Tl	0.3
10025-87-3	Phosphorus oxychloride	2.0	96-69-5	4,4-Thiobis(6-tert-butyl-m-cresol)	33.3
10026-13-8	Phosphorus pentachloride	3.3	68-11-1	Thioglycolic acid	13.3
1314-80-3	Phosphorus pentasulfide	3.3	7719-09-7	Thionyl chloride	16.7
7719-12-2	Phosphorus trichloride	5.0	137-26-8	Thiuram	16.7
85-44-9	Phthalic anhydride	20.0	7440-31-5	Tin, Metal	6.7
626-17-5	m-Phthalodinitrile	16.7	7440-31-5	Tin, Organic compounds, as Sn	0.3
1918-02-1	Picloram	33.3	7440-31-5	Tin, oxide & inorganic except SnH4	6.7
88-89-1	Picric acid	0.3	108-88-3	Toluene	1248.8
83-26-1	Pindone	0.3	584-84-9	Toluene 2,4-diisocyanate, (TDI)	0.1
142-64-3	Piperazine dihydrochloride	16.7	108-44-1	m-Toluidine	30.0
7440-06-4	Platinum, Metal	3.3	106-49-0	p-Toluidine	30.0
7440-06-4	Platinum, Soluble salts as Pt	0.0	126-73-8	Tributyl phosphate	8.3
1310-58-3	Potassium hydroxide	6.7	76-13-1	1,1,2-Trichloro 1,2,2-trifluoroethane	25308.0
107-19-7	Propargyl alcohol	6.7	76-03-9	Trichloroacetic acid	23.3
57-57-8	B-Propiolactone	5.0	120-82-1	1,2,4-Trichlorobenzene	133.2
114-26-1	Propoxur	1.7	79-00-5	1,1,2-Trichloroethane	149.9
79-09-4	Propionic acid	99.9	71-55-6	1,1,1-Trichloroethane	6327.0
109-60-4	n-Propyl acetate	2797.2	75-69-4	Trichlorofluoromethane	18648.0
71-23-8	Propyl alcohol	1665.0	1321-65-9	Trichloronaphthalene	16.7
627-13-4	n-Propyl nitrate	349.7	96-18-4	1,2,3-Trichloropropane	199.8
78-87-5	Propylene dichloride	1165.5	121-44-8	Triethylamine	133.2
6423-43-4	Propylene glycol dinitrate	1.0	75-63-8	Trifluorobromomethane	20313.0
107-98-2	Propylene glycol mono-methyl ether	1198.8	552-30-7	Trimellitic anhydride	0.1
75-55-8	Propylene imine	16.7	2551-13-7	Trimethyl benzene	416.3



121-45-9	Trimethyl phosphite	33.3
75-50-3	Trimethylamine	79.9
118-96-7	2,4,6-Trinitrotoluene	1.7
78-30-8	Triorthoocresyl phosphate	0.3
603-34-9	Triphenyl amine	16.7
115-86-6	Triphenyl phosphate	10.0
7440-33-7	Tungsten, Insoluble compounds	16.7
7440-33-7	Tungsten, Soluble compounds	3.3
8006-64-2	Turpentine	1864.8
7440-61-1	Uranium, insoluble & soluble	0.7
8032-32-4	VM & P Naphtha	4495.5
110-62-3	n-Valeraldehyde	582.8
1314-62-1	Vanadium, as V2O5	0.2
108-05-4	Vinyl acetate	99.9
593-60-2	Vinyl bromide	66.6
106-87-6	Vinyl cyclohexene dioxide	199.8
75-35-4	Vinylidene chloride	66.6
25013-15-4	Vinyl toluene	799.2
81-81-2	Warfarin	0.3
	Welding fumes	16.7
1477-55-0	m-Xylene, o,a'-diamine	0.3
1330-20-7	Xylenes (m, o, p-isomers)	1448.6
1300-73-8	Xylidine	33.3
7440-65-5	Yttrium, metal and epds as Y	3.3
7646-85-7	Zinc chloride fume	3.3
13530-65-9	Zinc chromates	0.03
1314-13-2	Zinc oxide, fume	16.7
7440-67-2	Zirconium compounds, as Zr	(16.7))
86-88-4	ANTU	1.0
60-35-5	Acetamide	—
64-19-7	Acetic acid	83
108-24-7	Acetic anhydride	67
67-64-1	Acetone	5900
75-05-8	Acetonitrile	220
98-86-2	Acetophenone	—
79-27-6	Acetylene tetrabromide	47
107-02-8	Acrolein	0.02
79-10-7	Acrylic acid	0.30
107-18-6	Allyl alcohol	17
107-05-1	Allyl chloride	1.0
106-92-3	Allyl glycidyl ether (AGE)	77
2179-59-1	Allyl propyl disulfide	40.0
C7429-90-5	Aluminum, Al alkyls	6.7
7429-90-5	Aluminum, as AL metal dust	33
C7429-90-5	Aluminum, as AL pyro powders	17
C7429-90-5	Aluminum, as Al soluble salts	6.7
C7429-90-5	Aluminum, as Al welding fumes	17
504-29-0	2-Aminopyridine	6.3
7664-41-7	Ammonia	100
12125-02-9	Ammonium chloride fume	33
3825-26-1	Ammonium perfluorooctanoate	0.33
7773-06-0	Ammonium sulfamate	33
628-63-7	n-Amyl acetate	1800
626-38-0	sec-Amyl acetate	2200
62-53-3	Aniline & homologues	1.0
29191-52-4	Anisidine (o-,p- isomers)	1.7
C7440-36-0	Antimony & compounds as Sb	1.7
1309-64-4	Antimony trioxide, as Sb	1.7
7784-42-1	Arsine	0.53
8052-42-4	Asphalt (petroleum) fumes	17
1912-24-9	Atrazine	17
86-50-0	Azinphos-methyl	0.67
C7440-39-3	Barium, soluble compounds Ba	1.7
17804-35-2	Benomyl	33
98-07-7	Benzotrichloride	—
94-36-0	Benzoyl Peroxide	17
100-44-7	Benzyl chloride	17
92-52-4	Biphenyl	4.3
1304-82-1	Bismuth telluride	33
1304-82-1	Bismuth telluride Se doped	17
C1303-96-4	Borates, anhydrous	3.3
C1303-96-4	Borates, decahydrate	17
C1303-96-4	Borates, pentahydrate	3.3
1303-86-2	Boron oxide	33
10294-33-4	Boron tribromide	33
76737-07-2	Boron trifluoride	9.3

314-40-9	Bromacil	33
7726-95-6	Bromine	2.2
7789-30-2	Bromine pentafluoride	2.4
106-97-8	Butane	6300.0
111-76-2	2-Butoxyethanol	400
123-86-4	n-Butyl acetate	2400
105-46-4	sec-Butyl acetate	3200
540-88-5	tert-Butyl acetate	3200
141-32-2	Butyl acrylate	170
71-36-3	n-Butyl alcohol	500
78-92-2	sec-Butyl alcohol	1000
75-65-0	tert-Butyl alcohol	1000
1189-85-1	tert-Butyl chromate, as CrO3	0.33
2426-08-6	n-Butyl glycidyl ether (BGE)	440
138-22-7	n-Butyl lactate	83
109-79-5	n-Butyl mercaptan	6.0
109-73-9	n-Butylamine	50.0
89-72-5	o-sec-Butylphenol	100
98-51-1	p-tert-Butyltoluene	200
156-62-7	Calcium cyanamide	1.7
1305-62-0	Calcium hydroxide	17
1305-78-8	Calcium oxide	6.7
76-22-2	Camphor, synthetic	40
105-60-2	Caprolactam, dust	3.3
105-60-2	Caprolactam, vapor	67
2425-06-1	Captafol	0.33
133-06-2	Captan	17
63-25-2	Carbaryl	17
1563-66-2	Carbofuran	0.33
1333-86-4	Carbon black	12
75-15-0	Carbon disulfide	100
558-13-4	Carbon tetrabromide	4.7
353-50-4	Carbonyl fluoride	18
463-58-1	Carbonyl sulfide	—
120-80-9	Catechol	77
21351-79-1	Cesium hydroxide	6.7
133-90-4	Chloramben	—
55720-99-5	Chlorinated diphenyl oxide (hexachlorophenyl ether)	1.7
7782-50-5	Chlorine	5.0
10049-04-4	Chlorine dioxide	0.2
7790-91-2	Chlorine trifluoride	1.3
600-25-9	1-Chloro-1-nitropropane	33
107-20-0	Chloroacetaldehyde	11
79-11-8	Chloroacetic acid	—
532-27-4	a-Chloroacetophenone	1.1
79-04-9	Chloroacetyl chloride	0.67
2698-41-1	o-Chlorobenzylidene malonitrile	1.3
108-90-7	Chlorobenzene	150
74-97-5	Chlorobromomethane	3500
75-45-6	Chlorodifluoromethane	12000
76-15-3	Chloropentafluoroethane	21000
76-06-2	Chloropicrin	2.2
2039-87-4	o-Chlorostyrene	940
95-49-8	o-Chlorotoluene	860
2921-88-2	Chlorpyrifos	0.67
C7440-47-3	Chromium (II) compounds, as Cr	1.7
C7440-47-3	Chromium (III) compounds, Cr	1.7
7440-47-3	Chromium (metal)	1.7
14977-61-8	Chromyl chloride	0.53
2971-90-6	Clopidol	33
7440-48-4	Cobalt as Co metal Dust and fume	0.17
10210-68-1	Cobalt carbonyl as Co	0.33
16842-03-8	Cobalt hydrocarbonyl	0.33
C7440-50-8	Copper, Dusts and mists, as Cu	3.3
7440-50-8	Copper, Fume	0.67
—	Cotton dust, raw	0.67
1319-77-3	Cresol, all isomers	73
4170-30-3	Crotonaldehyde	20
299-86-5	Crufomate	17
98-82-2	Cumene	820
420-04-2	Cyanamide	6.7
51-12-5	Cyanides, as CN	17
460-19-5	Cyanogen	67
506-77-4	Cyanogen chloride	2.5
110-82-7	Cyclohexane	3400

PERMANENT

108-93-0	Cyclohexanol	690	141-78-6	Ethyl acetate	4800
108-94-1	Cyclohexanone	330	140-88-5	Ethyl acrylate	66
110-83-8	Cyclohexene	3400	64-17-5	Ethyl alcohol	6300
108-91-8	Cyclohexylamine	140	541-85-5	Ethyl amyl ketone	440
121-82-4	Cyclonite	5.0	100-41-4	Ethyl benzene	1000
542-92-7	Cyclopentadiene	680	74-96-4	Ethyl bromide	3000
287-92-3	Cyclopentane	5700	106-35-4	Ethyl butyl ketone	780
13121-70-5	Cyhexatin	17	51-79-5	Ethyl carbamate	—
17702-41-9	Decaborane	0.83	75-00-3	Ethyl chloride	10000
8065-48-3	Demeton	0.37	60-29-7	Ethyl ether	4000
123-42-2	Diacetone alcohol	790	109-94-4	Ethyl formate	1000
333-41-5	Diazinon	0.33	75-08-1	Ethyl mercaptan	4.3
334-88-3	Diazomethane	1.1	78-10-4	Ethyl silicate	280
19287-45-7	Diborane	0.37	75-04-7	Ethylamine	60
96-12-8	1,2-Dibromo-3-chloropropane	0.20	107-07-3	Ethylene chlorohydrin	11
107-66-4	Dibutyl phosphate	29	107-15-3	Ethylene diamine	83
84-74-2	Dibutyl phthalate	17	107-21-1	Ethylene glycol	420
102-81-8	2-N-Dibutylaminoethanol	47	628-96-6	Ethylene glycol dinitrate	1.0
594-72-9	1,1-Dichloro-1-nitroethane	40	151-56-4	Ethylenimine	2.9
118-52-5	1,3-Dichloro-5,5-Dimethyl hydantoin	0.67	16219-75-3	Ethylidene norbornene	83
7572-29-4	Dichloroacetylene	1.3	100-74-3	N-Ethylmorpholine	77
95-50-1	o-Dichlorobenzene (1,2-Dichlorobenzene)	1000	22224-92-6	Fenamiphos	0.33
75-71-8	Dichlorodifluoromethane	16000	115-90-2	Fensulfotion	0.33
75-34-3	1,1-Dichloroethane	2700	55-38-9	Fenthion	0.67
540-59-0	1,2-Dichloroethylene	2600	14484-64-1	Ferbam	33
75-43-4	Dichlorofluoromethane	130	12604-58-9	Ferrovanadium dust	3.3
542-75-6	Dichloropropene	20	—	Fibrous glass dust	33
75-99-0	2,2-Dichloropropionic acid	19	—	Fine mineral fibers	33
76-14-2	Dichlorotetrafluoroethane	23000	16984-48-8	Fluorides, as F	8.3
62-73-7	Dichlorvas	3.3	7782-41-4	Fluorine	5.3
141-66-2	Dicrotophos	0.83	944-22-9	Fonofos	0.33
77-73-6	Dicyclopentadiene	100	75-12-7	Formamide	60
102-54-5	Dicyclopentadienyl iron	33	64-18-6	Formic acid	31
111-42-2	Diethanolamine	43	98-01-1	Furfural	26
96-22-0	Diethyl ketone	2300	98-00-1	Furfuryl alcohol	130
84-66-2	Diethyl phthalate	17	7782-65-2	Germanium tetrahydride	2.1
64-67-5	Diethyl sulfate	—	111-30-8	Glutaraldehyde	2.5
109-89-7	Diethylamine	100	556-52-5	Glycidol	250
100-37-8	Diethylaminoethanol	170	—	Glycol ethers	—
111-40-0	Diethylene triamine	14	7440-58-6	Hafnium	1.7
75-61-6	Difluorodibromomethane	2900	151-67-7	Halothane	1300
2238-07-5	Diglycidyl ether	1.7	142-82-5	Heptane (n-Heptane)	5500
108-83-8	Diisobutyl ketone	480	87-68-3	Hexachlorobutadiene	0.70
108-18-9	Diisopropylamine	67	77-47-4	Hexachlorocyclopentadiene	0.33
127-19-5	Dimethyl acetamide	120	67-72-1	Hexachloroethane	32
60-11-7	Dimethyl aminoazobenzene	—	1335-87-1	Hexachloronaphthalene	0.67
79-44-7	Dimethyl carbamoyl chloride	—	684-16-2	Hexafluoroacetone	2.3
124-40-3	Dimethylamine	60	822-06-0	Hexamethylene diisocyanate	0.11
121-69-7	Dimethylamine	83	100-54-3	Hexane (n-Hexane)	200
68-12-2	Dimethylformamide	30	—	Hexane, other isomers	5900
57-14-7	1,1-Dimethylhydrazine	4.0	591-78-6	2-Hexanone (MBK)	67
131-11-3	Dimethylphthalate	17	108-84-9	sec-Hexyl acetate	980
148-01-6	Dinitolmide	17	107-41-5	Hexylene glycol	400
534-52-1	Dinitro-o-cresol	0.67	10035-10-6	Hydrogen bromide	33
528-29-0	Dinitrobenzene, all isomers	3.3	7647-01-0	Hydrogen chloride	7.0
51-28-5	2,4-Dinitrophenol	—	74-90-8	Hydrogen cyanide	37
121-14-2	2,4-Dinitrotoluene	5.0	7664-39-3	Hydrogen fluoride, as F	8.7
78-34-2	Dioxathion	0.67	7722-84-1	Hydrogen peroxide	4.7
122-39-4	Diphenylamine	33	7783-07-5	Hydrogen selenide, as Se	0.53
123-19-3	Dipropyl ketone	780	7783-06-4	Hydrogen sulfide	0.9
34590-94-8	Dipropylene glycol methyl ether	2000	123-31-9	Hydroquinone	6.7
85-00-7	Diquat	1.7	999-61-1	2-Hydroxypropyl acrylate	9.3
97-77-8	Disulfiram	6.7	95-13-6	Indene	160
298-04-4	Disulfuton	0.33	C7440-74-6	Indium, & compounds as In	0.33
128-37-0	2,6-Ditert. butyl-p-cresol	33	7553-56-2	Iodine	3.3
330-54-1	Diuron	33	75-47-8	Iodoform	33
1321-74-0	Divinyl benzene	180	1309-37-1	Iron oxide fume, Fe <sub>2</sub> O <sub>3</sub> as Fe	17
2104-64-5	EPN	1.7	13463-40-6	Iron pentacarbonyl, as Fe	0.83
115-29-7	Endosulfan	0.33	—	Iron salts, soluble as Fe	3.3
72-20-8	Endrin	0.33	123-92-2	Isoamyl acetate	1700
13838-16-9	Enflurane	1900	123-51-3	Isoamyl alcohol	1200
106-88-7	1,2-Epoxybutane	20	110-19-0	Isobutyl acetate	2400
141-43-5	Ethanolamine	25	78-83-1	Isobutyl alcohol	510
563-12-2	Ethion	1.3	26952-21-6	Isocetyl alcohol	890
110-80-5	2-Ethoxyethanol	200	78-59-1	Isophorone	93
111-15-9	2-Ethoxyethyl acetate	90	4098-71-9	Isophorone diisocyanate	0.15

109-59-1	<u>Isopropoxyethanol</u>	350	91-20-3	<u>Napthalene</u>	170
108-21-4	<u>Isopropyl acetate</u>	3500	54-11-5	<u>Nicotine</u>	1.7
67-63-0	<u>Isopropyl alcohol</u>	3300	1929-82-4	<u>Nitrapyrin</u>	33
108-20-3	<u>Isopropyl ether</u>	3500	7697-37-2	<u>Nitric acid</u>	17
4016-14-2	<u>Isopropyl glycidyl ether (IGE)</u>	790	10102-43-9	<u>Nitric oxide</u>	100
75-31-0	<u>Isopropylamine</u>	40	100-01-6	<u>p-Nitroaniline</u>	10
768-52-5	<u>N-Isopropylaniline</u>	37	98-95-3	<u>Nitrobenzene</u>	1.7
463-51-4	<u>Ketene</u>	2.9	100-00-5	<u>p-Nitrochlorobenzene</u>	2.0
3687-31-8	<u>Lead arsenate, as Pb<sub>3</sub>(As<sub>2</sub>O<sub>4</sub>)<sub>2</sub></u>	0.50	79-24-3	<u>Nitroethane</u>	1000
7758-97-6	<u>Lead chromate, as Cr</u>	0.040	7783-54-2	<u>Nitrogen trifluoride</u>	97
68476-85-7	<u>Liquified petroleum gas</u>	6000	92-93-3	<u>4-Nitrobiphenyl</u>	—
7580-67-8	<u>Lithium hydride</u>	0.080	55-63-0	<u>Nitroglycerin</u>	1.5
1309-48-4	<u>Magnesium oxide fume</u>	33	75-52-5	<u>Nitromethane</u>	830
121-75-5	<u>Malathion</u>	33	100-02-7	<u>4-Nitrophenol</u>	—
108-31-6	<u>Maleic anhydride</u>	3.3	108-03-2	<u>1-Nitropropane</u>	20
C7439-96-5	<u>Manganese dust &amp; compounds</u>	0.40	684-93-5	<u>N-Nitroso-N-methylurea</u>	—
C7439-96-5	<u>Manganese fume</u>	3.3	88-72-2	<u>Nitrotoluene</u>	37
12079-65-1	<u>Manganese cyclopentadienyl tricarbonyl</u>	0.33	111-84-2	<u>Nonane</u>	3500
C7439-97-6	<u>Mercury, Aryl &amp; inorganic compd</u>	0.33	2234-13-1	<u>Octachloronaphthalene</u>	0.33
C7439-97-6	<u>Mercury, as Hg Alkyl compounds</u>	0.33	111-65-9	<u>Octane</u>	4700
C7439-97-6	<u>Mercury, vapors except alkyl</u>	0.17	8012-95-1	<u>Oil mist, mineral</u>	17
141-79-7	<u>Mesityl oxide</u>	200	20816-12-0	<u>Osmium tetroxide, as Os</u>	0.0053
79-41-4	<u>Methacrylic acid</u>	230	144-62-7	<u>Oxalic acid</u>	3.3
16752-77-5	<u>Methomyl</u>	8.3	7783-41-7	<u>Oxygen difluoride</u>	0.37
72-43-5	<u>Methoxychlor</u>	33	8002-74-2	<u>Parafin wax fume</u>	6.7
109-86-4	<u>2-Methoxyethanol</u>	20	4685-14-7	<u>Paraquat</u>	4.5
110-49-6	<u>2-Methoxyethyl acetate</u>	80	56-38-2	<u>Parathion</u>	0.33
150-76-5	<u>4-Methoxyphenol</u>	17	19624-22-7	<u>Pentaborane</u>	0.043
137-05-3	<u>Methyl 2-cyanoacrylate</u>	30	1321-64-8	<u>Pentachloronaphthalene</u>	1.7
79-20-9	<u>Methyl acetate</u>	2000	82-68-8	<u>Pentachloronitrobenzene (quintobenzene)</u>	1.7
74-99-7	<u>Methyl acetylene</u>	5500	109-66-0	<u>Pentane</u>	6000
59355-75-8	<u>Methyl acetylene-propadiene mixture (MAPP)</u>	5500	594-42-3	<u>Perchloromethyl mercaptan</u>	2.5
96-33-3	<u>Methyl acrylate</u>	120	7616-94-6	<u>Perchloryl fluoride</u>	43
67-56-1	<u>Methyl alcohol</u>	870	108-95-2	<u>Phenol</u>	63
100-61-8	<u>N-Methyl aniline</u>	7.3	92-84-2	<u>Phenothiazine</u>	1.7
74-83-9	<u>Methyl bromide</u>	5.0	101-84-8	<u>Phenyl ether</u>	23
74-87-3	<u>Methyl chloride</u>	340	122-60-1	<u>Phenyl glycidyl ether</u>	2000
71-55-6	<u>Methyl chloroform (1,1,1-Trichloroethane)</u>	6400	108-98-5	<u>Phenyl mercaptan</u>	7.7
8022-00-2	<u>Methyl demeton</u>	1.7	106-50-3	<u>p-Phenylenediamine</u>	0.33
78-93-3	<u>Methyl ethyl ketone (MEK)</u>	1000	100-63-0	<u>Phenylhydrazine</u>	1.5
1338-23-4	<u>Methyl ethyl ketone peroxide</u>	5.0	638-21-1	<u>Phenylphosphine</u>	0.77
107-31-3	<u>Methyl formate</u>	820	298-02-2	<u>Phorate</u>	0.17
60-34-4	<u>Methyl hydrazine</u>	1.2	75-44-5	<u>Phosgene</u>	1.3
74-88-4	<u>Methyl iodide</u>	40	7803-51-2	<u>Phosphine</u>	1.3
110-12-3	<u>Methyl isoamyl ketone</u>	780	7664-38-2	<u>Phosphoric acid</u>	3.3
108-11-2	<u>Methyl isobutyl carbinol</u>	350	7723-14-0	<u>Phosphorus</u>	0.33
108-10-1	<u>Methyl isobutyl ketone (MIBK)</u>	680	10025-87-3	<u>Phosphorus oxychloride</u>	2.1
624-83-9	<u>Methyl isocyanate</u>	0.16	10026-13-8	<u>Phosphorus pentachloride</u>	2.8
563-80-4	<u>Methyl isopropyl ketone</u>	2300	1314-80-3	<u>Phosphorus pentasulfide</u>	3.3
74-93-1	<u>Methyl mercaptan</u>	3.3	7719-12-2	<u>Phosphorus trichloride</u>	3.7
80-62-6	<u>Methyl methacrylate</u>	1400	85-44-9	<u>Phthalic anhydride</u>	20
110-43-0	<u>Methyl n-amyl ketone</u>	780	626-17-5	<u>m-Phthalodinitrile</u>	17
591-78-6	<u>Methyl n-butyl ketone</u>	67	1918-02-1	<u>Picloram</u>	33
298-00-0	<u>Methyl parathion</u>	0.67	88-89-1	<u>Picric acid</u>	0.33
107-87-9	<u>Methyl propyl ketone</u>	2300	83-26-1	<u>Pindone</u>	0.033
681-84-5	<u>Methyl silicate</u>	20	142-64-3	<u>Piperazine dihydrochloride</u>	17
1634-04-4	<u>Methyl tert-butyl ether</u>	500	7440-06-4	<u>Platinum, Metal</u>	3.3
98-83-9	<u>a-Methyl styrene</u>	810	C7440-06-4	<u>Platinum, Soluble salts as Pt</u>	0.0067
126-98-7	<u>Methylacrylonitrile</u>	9.0	1310-58-3	<u>Potassium hydroxide</u>	6.7
109-87-5	<u>Methylal</u>	10000	107-19-7	<u>Propargyl alcohol</u>	7.7
74-89-5	<u>Methylamine</u>	43	57-57-8	<u>B-Propiolactone</u>	5.0
108-87-2	<u>Methylcyclohexane</u>	5400	123-38-6	<u>Propionaldehyde</u>	—
25639-42-3	<u>Methylcyclohexanol</u>	780	114-26-1	<u>Propoxur</u>	1.7
583-60-8	<u>o-Methylcyclohexanone</u>	760	79-09-4	<u>Propionic acid</u>	100
12108-13-3	<u>Methylcyclopentadienyl manganese tricarbonyl</u>	0.67	109-60-4	<u>n-Propyl acetate</u>	2800
5124-30-1	<u>Methylene bis (4-cyclo-hexylisocyanate)</u>	0.18	71-23-8	<u>n-Propyl alcohol</u>	1600
101-68-8	<u>Methylene bis(phenyl isocyanate)</u>	0.2	627-13-4	<u>n-Propyl nitrate</u>	360
21087-64-9	<u>Metribuzin</u>	17	6423-43-4	<u>Propylene glycol dinitrate</u>	1.1
7786-34-7	<u>Mevinphos</u>	0.33	107-98-2	<u>Propylene glycol monomethyl ether</u>	2000
C7439-98-7	<u>Molybdenum, as Mo soluble cpds</u>	17	75-55-8	<u>Propylene imine</u>	16
C7439-98-7	<u>Molybdenum, insoluble cpds</u>	33	8003-34-7	<u>Pyrethrum</u>	1.7
6923-22-4	<u>Monocrotophos</u>	0.83	110-86-1	<u>Pyridine</u>	53
110-91-8	<u>Morpholine</u>	240	91-22-5	<u>Quinoline</u>	—
300-76-5	<u>Naled</u>	10	106-51-4	<u>Quinone</u>	1.5
			108-46-3	<u>Resorcinol</u>	150
			7440-16-6	<u>Rhodium Metal</u>	3.3

PERMANENT

C7440-16-6	Rhodium, Insoluble compounds	3.3
C7440-16-6	Rhodium, Soluble compounds	0.033
299-84-3	Ronnel	33
83-79-4	Rotenone	17
—	Rubber solvent (Naphtha)	5300
C7782-49-2	Selenium compounds, as Se	0.67
7783-79-1	Selenium hexafluoride, as Se	0.53
136-78-7	Sesone	33
7803-62-5	Silicon tetrahydride	22
7440-22-4	Silver, Metal	0.33
C7440-22-4	Silver, soluble compounds as Ag	0.033
26628-22-8	Sodium azide	1.0
7631-90-5	Sodium bisulfite	17
62-74-8	Sodium fluoroacetate	0.17
1310-73-2	Sodium hydroxide	6.7
7681-57-4	Sodium metabisulfite	17
7803-52-3	Sibine	1.7
57-24-9	Strychnine	0.5
100-42-5	Styrene	1000
96-9-3	Styrene oxide	—
1395-21-7	Subtilisins	0.0002
3689-24-5	Sulfotep	0.67
2551-62-4	Sulfur hexafluoride	20000
10025-67-9	Sulfur monochloride	18
5714-22-7	Sulfur pentafluoride	0.33
7783-60-0	Sulfur tetrafluoride	1.5
7664-93-9	Sulfuric acid	3.3
2699-79-8	Sulfuryl fluoride	67
35400-43-2	Sulprofos	3.3
93-76-5	2,4,5-T	33
107-49-3	TEPP	0.16
C7440-25-7	Tantalum, metal & oxide dusts	17
C13494-80-9	Tellurium & compounds as Te	0.33
7783-80-4	Tellurium hexafluoride, as Te	0.33
3383-96-8	Temephos	33
26140-60-3	Terphenyls	16
76-12-0	1,1,2,2-Tetrachloro-1,2-difluoroethane	14000
76-11-9	1,1,1,2-Tetrachloro-2,2-difluoroethane	14000
79-34-5	1,1,2,2-Tetrachloroethane	23
1335-88-2	Tetrachloronaphthalene	6.7
78-00-2	Tetraethyl lead, as Pb	0.33
109-99-9	Tetrahydrofuran	2000
75-74-1	Tetramethyl lead, as Pb	0.5
3333-52-6	Tetramethyl succinonitrile	9.3
509-14-8	Tetranitromethane	27
7722-88-5	Tetrasodium pyrophosphate	17
479-45-8	Tetryl	5.0
C7440-28-0	Thallium, soluble compounds, Tl	0.33
96-69-5	4,4-Thiobis(6-tert, butyl-m-cresol)	33
68-11-1	Thioglycolic acid	13
7719-09-7	Thionyl chloride	16
137-26-8	Thiram	3.3
7440-31-5	Tin, Metal	6.7
C7440-31-5	Tin, Organic compounds, as Sn	0.33
7440-31-5	Tin, oxide & inorganic except SnH <sub>4</sub>	6.7
7550-45-0	Titanium tetrachloride	—
108-88-3	Toluene	400
108-44-1	m-Toluidine	29
106-49-0	p-Toluidine	29
126-73-8	Tributyl phosphate	7.3
76-13-1	1,1,2-Trichloro-1,2,2-trifluoroethane	27000
76-03-9	Trichloroacetic acid	22
120-82-1	1,2,4-Trichlorobenzene	120
79-00-5	1,1,2-Trichloroethane	180
75-69-4	Trichlorofluoromethane	19000
1321-65-9	Trichloronaphthalene	17
95-95-4	2,4,5-Trichlorophenol	—
96-18-4	1,2,3-Trichloropropane	200
121-44-8	Triethylamine	7.0
75-63-8	Trifluorobromomethane	20000
1582-09-8	Trifluralin	—
552-30-7	Trimellitic anhydride	0.13
2551-13-7	Trimethyl benzene	420
540-84-1	2,2,4-Trimethylpentane	—
121-45-9	Trimethyl phosphite	33
75-50-3	Trimethylamine	80

118-96-7	2,4,6-Trinitrotoluene	1.7
78-30-8	Triorthocresyl phosphate	0.33
603-34-9	Triphenyl amine	17
115-86-6	Triphenyl phosphate	10
C7440-33-7	Tungsten, Insoluble compounds	17
C7440-33-7	Tungsten, Soluble compounds	3.3
8006-64-2	Turpentine	1900
C7440-61-1	Uranium, insoluble & soluble	0.67
8032-32-4	VM & P Naphtha	4600
110-62-3	n-Valeraldehyde	590
1314-62-1	Vanadium, as V <sub>2</sub> O <sub>5</sub>	0.17
108-05-4	Vinyl acetate	200
593-60-2	Vinyl bromide	73
106-87-6	Vinyl cyclohexene dioxide	200
75-35-4	Vinylidene chloride	67
25013-15-4	Vinyl toluene	800
81-81-2	Warfarin	0.33
—	Welding fumes	17
1477-55-0	m-Xylene a,a'-diamine	0.33
1330-20-7	Xylenes (m-,o-,p-isomers)	1500
1300-73-8	Xylidine	8.3
C7440-65-5	Yttrium, metal and cpds as Y	3.3
7646-85-7	Zinc chloride fume	3.3
13530-65-9	Zinc chromates	0.033
1314-13-2	Zinc oxide, fume	17
C7440-67-7	Zirconium compounds, as Zr	17

**WSR 94-03-073  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed January 17, 1994, 8:50 a.m., effective March 1, 1994]

Date of Adoption: January 17, 1994.

Purpose: To clarify the rules relating to the evaluation of respiratory impairment.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-370, 296-20-380, and 296-20-680; and creating WAC 296-20-385.

Statutory Authority for Adoption: RCW 51.04.020(4), 51.04.030, and 51.32.080(2).

Pursuant to notice filed as WSR 93-21-074 on October 20, 1993.

Effective Date of Rule: March 1, 1994.

January 17, 1994

Mark O. Brown

Director

**AMENDATORY SECTION** (Amending Order 82-39, filed 11/29/82, effective 1/1/83)

**WAC 296-20-370 Respiratory impairments. (1)**  
Rules for evaluation of permanent respiratory impairments:

~~((a) All reports of physical examination of persons for respiratory impairment shall include: Date of examination; name, sex, address, birthdate, marital status, and occupation of the person being examined; height, weight, temperature, pulse rate, blood pressure and respiratory rate and physical findings on inspection, palpation, percussion, and auscultation, vital capacity tests including one second forced expiratory volume, forced vital capacity and maximum voluntary ventilation; all symptoms such as wheeze, cough, orthopnea, chest pain, paroxysmal nocturnal dyspnea, expectoration, hemoptysis, as to date of onset, course with descriptions, variation, whether influenced by bodily activity, emotional stress, posture, allergens, immediate environmental factors;~~

PERMANENT

medications, frequency and duration, and how they are affected by respiratory infections; the history of the particular exposure, a history of any previous chest x-rays, any allergies, cardiac symptoms or diagnosis, chest surgery or deformities, trauma, or other conditions such as pneumothorax, pulmonary infarct or chemical bronchitis; all pertinent personal history of habits such as smoking, weight gain or loss, fatigability, appetite; use of medications such as steroids, digitalis, antibiotics, bronchodilators, expectorants, etc., and occupational history.

(b) Categories 2 through 6 in WAC 296-20-380 include the presence of complaints of whatever degree.

(c) Dyspnea is the major complaint of respiratory impairment, and can usually be explained by the presence of abnormal lung ventilation, perfusion, or diffusion, measured either at rest or exercise. Since mechanisms of respiratory tract damage may differ widely, individual lung function tests may not wholly correspond to the following categories of impairment, but the examining physician should be able to categorize the vast majority of persons, using a "best fit" method for the following respiratory impairment Categories I-VI.

(d) Persisting variable respiratory impairment. Variable respiratory impairment due to allergic or irritative disorders of the respiratory tract, such as bronchial asthma or reactive airway disease, caused or substantially aggravated by factors in the work place, shall be evaluated by detailed narrative report, including rationale for the work relationship, relative importance of nonwork related cofactors, such as preexisting asthma, tobacco usage, or other personal habits, the need for regular medication to substantially improve or control the respiratory condition, and the prognosis. If tests of ventilatory function, done when the person is in clinical remission, are nearly normal (1 second forced expiratory volume 80 percent or greater of predicted), an appropriate provocative bronchial challenge test should be done to demonstrate the presence of unusual respiratory sensitivity. When the respiratory condition (asthma or reactive airway disease) is thought to be permanent, but the degree of respiratory impairment varies, then the examining physician shall give an estimate of percentage of total bodily impairment, as per Rule 15 or WAC 296-20-220.) (a) Definitions.

(i) "FEV1" means the forced expiratory volume in 1 second as measured by a spirometric test performed as described in the most current *American Thoracic Society Statement on Standardization of Spirometry*, and using equipment, methods of calibration, and techniques that meet American Thoracic Society (ATS) criteria including reproducibility. The measurement used must be taken from a spirogram which is technically acceptable and represents the patient's best effort. The measurement is to be expressed as both an absolute value and as a percentage of the predicted value. The predicted values are those listed in the most current edition of the *American Medical Association (AMA) Guidelines* for rating permanent respiratory impairment.

(ii) "FVC" means the forced vital capacity as measured by a spirometric test in accordance with criteria described in (a)(i) of this subsection.

(iii) "FEV1/FVC" is a ratio calculated based on the ATS Guides criteria as described in the most current *American Thoracic Society Statement on Standardization of Spirometry*.

(iv) "Significant improvement" means a fifteen percent or greater improvement in FEV1 (volume) after a post-bronchodilator pulmonary function test.

(v) "DLCO" means the diffusion capacity of carbon monoxide as measured by a test based on predicted values demonstrated to be appropriate to the techniques and equipment of the laboratory performing the test according to current ATS standards. DLCO may be considered for impairment rating only if accompanied by evidence of impaired gas exchange based on exercise testing.

(vi) "VO2 Max" means the directly measured oxygen consumption at maximum exercise capacity of an individual as measured by exercise testing and oxygen consumption expressed in ml/kilo/min corrected for lean bodyweight. Estimated values from treadmill or other exercise tests without direct measurement are not acceptable. The factor limiting the exercise must be identified.

(vii) "Preexisting impairment" shall be reported as described in WAC 296-20-220 (1)(h).

(viii) "Coexisting" is a disease or injury not due to or causally related to the work-related condition that impacts the overall respiratory disability.

(ix) "Apportionment" is an estimate of the degree of impairment due to the occupational injury/exposure when preexisting or coexisting conditions are present.

(x) "Dyspnea" is the subjective complaint of shortness of breath. Dyspnea alone must not be used to determine the level of respiratory impairment. Dyspnea unexplained by objective signs of impairment or spirometry requires more extensive testing (i.e., VO2 Max).

(xi) Copies of the *American Thoracic Society Statement on Standardization of Spirometry* and ATS standards for measuring  $D_{LCO}$  can be obtained by ordering *Pulmonary Function Testing* from The American Thoracic Society, 1740 Broadway, New York, NY 10019-4374, Attn: ATS Statements. Copies of this document are available for review in the section of the office of the medical director, department of labor and industries, Tumwater building.

These standards are also available through the following references: "American Thoracic Society Committee on Proficiency Standards for Pulmonary Function Laboratories: Standardization of spirometry-1987 update." *Am Rev Respir Dis* 1987; 136:1285-1298. "American Thoracic Society  $D_{LCO}$  Standardization Conference: Single breath carbon monoxide diffusing capacity (transfer factor): Recommendations for a standard technique." *Am Rev Respir Dis* 1987; 136:1299-1307.

(b) Evaluation procedures. Each report of examination must include the following, at a minimum:

(i) Identification data: Worker's name, claim number, gender, age, and race.

(ii) Detailed occupational history: Job titles of all jobs held since employment began. A detailed description of typical job duties, protective equipment worn, engineering controls present (e.g., ventilation) as well as the specific exposures and intensity (frequency and duration) of exposures. More detail is required for jobs involving potential exposure to known respiratory hazards.

(iii) History of the present illness: Chief complaint and description of all respiratory symptoms present (e.g., wheezing, cough, phlegm, chest pain, paroxysmal nocturnal dyspnea, dyspnea at rest and on exertion) as well as the

approximate date of onset, and duration of each symptom, and aggravating and relieving factors.

(iv) Past medical history: Past history of childhood or adult respiratory illness, hay fever, asthma, bronchitis, chest injury, chest surgery, respiratory infections, cardiac problems, hospitalizations for chest or breathing problems and current medications.

(v) Lifestyle and environmental exposures: Descriptive history of exposures clinically related to respiratory disease including, but not limited to, tobacco use with type and years smoked. Use of wood as a primary heat source at home or hobbies that involve potential exposure to known respiratory tract hazards, and other environmental exposures.

(vi) Family history: Family history of respiratory or cardiac disease.

(vii) Physical examination findings: Vital signs including a measured height without shoes, weight, and blood pressure. Chest exam shall include a description of the shape, breathing, breath sounds, cardiac exam, and condition of extremities (e.g., cyanosis, clubbing, or edema).

(viii) Diagnostic tests: A chest x-ray shall be obtained in all cases. When available, the x-ray should be obtained using International Labor Organization (ILO) standard techniques and interpreted using the ILO classification system. The presence or absence of pleural thickening or interstitial abnormalities shall be noted. Pulmonary function reports including a description of equipment used, method of calibration, and the predicted values used. A hard copy of all pulmonary function tracings must be available for review. The report must contain at a minimum FEV1 and FVC and a narrative summary of an interpretation of the test results and their validity.

(ix) The rating of respiratory impairment. The rating of respiratory impairment shall be based on the pulmonary function test most appropriate to the respiratory condition. A prebronchodilator and postbronchodilator test must be performed on and results reported for all patients with demonstrated airway obstruction. The largest FEV1 or FVC, on either the prebronchodilator or postbronchodilator trial must be used for rating the impairment. If the FEV1 and FEV1/FVC result in different categories of impairment, the value resulting in a higher category of impairment will be used.

(x) The rating of persisting variable respiratory impairment with abnormal baseline function. If resting FEV1 is "abnormal" (below eighty percent predicted) and shows significant bronchodilator improvement (a greater than or equal to fifteen percent improvement in FEV1) one category of impairment must be added to the given category rating, but only when the work-related disease being rated is obstructive in nature. If there is substantial variability from test to test (and good effort), the severity of impairment may be rated, using the best fit into the category system, as described in WAC 296-20-380.

(xi) The rating of persisting variable respiratory impairment with normal baseline spirometry. Variable respiratory impairment due to allergic or irritative disorder of the respiratory tract, such as bronchial asthma or reactive airway disease, caused or permanently aggravated by factors in the work place, shall be evaluated by detailed narrative report, including the casual relationship to work factors, a discussion of the relative importance of nonwork related cofactors, such

as preexisting asthma, tobacco usage, or other personal habits, the need for regular medication to substantially improve or control the respiratory condition, and the prognosis. When tests of ventilatory function, done when the patient is in clinical steady state, are normal (one second forced expiratory volume eighty percent or greater of predicted), an appropriate provocative bronchial challenge test (i.e., methacholine or histamine) shall be done to demonstrate the presence of unusual respiratory sensitivity.

(xii) At the time of the rating, the patient shall be off theophylline for at least twenty-four hours, beta agonists for at least twelve hours, and oral and/or inhaled steroids or cromolyn for at least two weeks, in order to determine severity of air-flow obstruction, unattenuated by therapy. If withdrawal of medication would produce a hazardous or life threatening condition, then the impairment cannot be rated at this time, and the physician must provide a statement describing the patient's condition and the effect of medication withdrawal.

(xiii) The method for standardizing provocative bronchial challenge testing, using either histamine or methacholine, shall be used. The test drug may be given either by continuous tidal volume inhalation of known concentrations, using an updraft nebulizer, for two minutes, or by the technique of intermittent deep breaths of increasing test drug strengths either via a Rosenthal dosimeter or updraft nebulizer, and the results shall be expressed either as the mg/ml concentration of test drug, or the cumulative breath units (1 breath of a 1 mg/ml solution equals one breath unit) which result in a prompt and sustained (at least three minute) fall in the FEV1, greater than twenty percent below baseline FEV1. Medications that can blunt the effect of bronchoprovocation testing shall be withheld prior to testing. Once testing is complete, the results shall be expressed in terms of normal, mild, moderate, or marked bronchial reactivity, as described in WAC 296-20-385.

If multiple bronchoprovocative inhalation challenge tests have been done, the examining physician shall select the one category (normal, mild, moderate, or marked) which most accurately indicates the overall degree of permanent impairment at the time of rating.

If the results of serial pulmonary function testing are extremely variable and the clinical course and use of medication also indicate major impairment, then the physician must make a statement in the formulation and medical evaluation containing, at a minimum: Diagnosis and whether work related or nonwork related; nature and frequency of treatment; stability of condition and work limitations; impairment.

(xiv) Further treatment needs. In all cases, the examining physician shall indicate whether further treatment is indicated and the nature, type, frequency, and duration of treatment recommended.

**AMENDATORY SECTION** (Amending Order 82-39, filed 11/29/82, effective 1/1/83)

**WAC 296-20-380 Categories of permanent respiratory impairments.** ~~((1) Tests of ventilatory functions are not less than 85 percent of predicted normal for the person's age, sex and height. Arterial oxygen saturation at rest and~~

after exercise is 93 percent or greater. Subjective complaints may be present or absent.

(2) Tests of ventilatory function range from 70 to 85 percent of predicted normal for the person's age, sex and height. Arterial oxygen saturation at rest and after exercise is 93 percent or greater. Dyspnea consistent with ventilatory function and arterial oxygen saturation.

(3) Tests of ventilatory function range from 60 to 70 percent of predicted normal for the person's age, sex and height and/or arterial oxygen saturation at rest is normal but after exercise is 88 to 93 percent. Dyspnea consistent with ventilatory function and arterial oxygen saturation.

(4) Tests of ventilatory function range from 50 to 60 percent of predicted normal for the person's age, sex and height. Arterial oxygen saturation at rest and after exercise is 88 to 93 percent. The single breath diffusing capacity (if performed) is greater than 50 percent predicted. Dyspnea consistent with ventilatory function and arterial oxygen saturation.

(5) Tests of ventilatory function range from 40 to 50 percent of predicted normal for the person's age, sex and height. Arterial oxygen saturation at rest and after exercise is less than 88 percent. The single breath diffusing capacity is greater than 40 percent predicted. Dyspnea consistent with ventilatory function and arterial oxygen saturation.

(6) Tests of ventilatory function are below 40 percent of predicted normal for the patient's age, sex and height. Arterial oxygen saturation at either rest or exercise is 83 percent or less. The single breath diffusing capacity is 40 percent or less of predicted. Grade III or IV dyspnea is present, measured on a scale of 0 to 4.) (1) The FVC and FEV1 are greater than or equal to eighty percent of predicted normal for the person's age, gender, and height. The FEV1/FVC ratio is greater than or equal to .70. Subjective complaints may be present or absent. If exercise testing is done, the maximum oxygen consumption is greater than 25cc/kilo/min.

(2) The FVC or FEV1 is from seventy to seventy-nine percent of predicted, and if obstruction is present, the FEV1/FVC ratio is .60 - .69. If exercise testing is done, the maximum oxygen consumption is 22.5-25cc/kilo/min.

(3) The FVC or FEV1 is from sixty to sixty-nine percent of predicted, and if obstruction is present, the FEV1/FVC ratio is .60 - .69. If exercise testing is done, the maximum oxygen consumption is 20-22.4cc/kilo/min.

(4) The FVC or FEV1 is from fifty-one to fifty-nine percent of predicted. The FEV1/FVC ratio is .51 - .59. If exercise testing is done, the maximum oxygen consumption is 17.5-19.9cc/kilo/min.

(5) FVC from fifty-one to fifty-nine percent of predicted, or the FEV1 from forty-one to fifty percent of predicted, and if obstruction is present, the FEV1/FVC ratio is .41 - .50. If exercise testing is done, the maximum oxygen consumption is 15-17.4cc/kilo/min.

(6) The FVC is equal to or less than fifty percent of predicted or the FEV1 is equal to or less than forty percent of predicted. The FEV1/FVC ratio is equal to or less than .40. If exercise testing is done, the maximum oxygen consumption is less than 15cc/kilo/min.

NEW SECTION

WAC 296-20-385 Categories of persisting variable respiratory impairment with normal baseline spirometry.

(1) "Normal" bronchial reactivity is demonstrated by an insignificant (less than twenty percent) fall from baseline FEV1 at test doses of histamine or methacholine, up to 16 mg/ml (continuous inhalation method) or up to 160 breath units (cumulative, repeated deep breath technique).

(2) "Mild" bronchial hyperactivity (BHR) is a significant (equal to or greater than twenty percent) fall in the FEV1 at test doses of 2.1-16 mg/ml, or 21-160 breath units.

(3) "Moderate" BHR is a significant (equal to or greater than twenty percent) fall in the FEV1 at test doses of 0.26-2 mg/ml, or 2.6-20 breath units.

(4) "Marked" BHR is a significant (equal to or greater than twenty percent) fall in the FEV1 at test doses equal to or less than .25 mg/ml, or 2.5 breath units.

AMENDATORY SECTION (Amending WSR 90-04-007, filed 1/26/90, effective 2/26/90)

WAC 296-20-680 Classification of disabilities in proportion to total bodily impairment.

(1) Permanent Cervical and Cervico-Dorsal Impairments

Category	1	0%
	2	10%
	3	20%
	4	25%
	5	35%

(2) Permanent Dorsal Region Impairments

Category	1	0%
	2	10%
	3	20%

(3) Permanent Dorso-Lumbar and Lumbosacral Impairments

Category	1	0%
	2	5%
	3	10%
	4	15%
	5	25%
	6	40%
	7	60%
	8	75%

(4) Permanent Impairments of the Pelvis

Category	1	0%
	2	2%
	3	5%
	4	5%
	5	5%
	6	5%
	7	10%
	8	10%
	9	15%

PERMANENT

(5) Permanent Convulsive Neurologic Impairments

Category	1	0%
	2	10%
	3	35%
	4	60%

4	20%
5	30%
6	35%

(6) Permanent Mental Health Impairments

Category	1	0%
	2	10%
	3	25%
	4	45%
	5	70%

(7) Permanent Cardiac Impairments

Category	1	0%
	2	10%
	3	20%
	4	35%
	5	50%
	6	65%

(8) Permanent Respiratory Impairments

Category	1	0%
	2	15%
	3	25%
	4	40%
	5	65%
	6	75%

(9) Permanent Variable Respiratory Impairment with Normal Baseline Spirometry

Category	1	0%
	2	5%
	3	10%
	4	15%

(10) Permanent Air Passage Impairments

Category	1	0%
	2	5%
	3	15%
	4	25%
	5	35%
	6	60%

((10)) (11) Permanent Air Passage Impairments Due to Nasal Septum Perforations

Category	1	0%
	2	2%

((11)) (12) Permanent Loss of Taste and Smell

Category	1	3%
	2	3%

((12)) (13) Permanent Speech Impairments

Category	1	0%
	2	5%
	3	10%

((13)) (14) Permanent Skin Impairments

Category	1	0%
	2	5%
	3	10%
	4	25%
	5	40%
	6	60%

((14)) (15) Permanent Impairments of Upper Digestive Tract, Stomach, Esophagus or Pancreas

Category	1	0%
	2	5%
	3	10%
	4	35%
	5	60%

((15)) (16) Permanent Impairments of Lower Digestive Tract

Category	1	0%
	2	5%
	3	15%
	4	30%

((16)) (17) Permanent Impairments of Anal Function

Category	1	0%
	2	5%
	3	15%
	4	25%

((17)) (18) Permanent Impairments of Liver and Biliary Tract

Category	1	0%
	2	5%
	3	20%
	4	40%
	5	60%

((18)) (19) Permanent Impairments of the Spleen, Loss of One Kidney, and Surgical Removal of Bladder with Urinary Diversion

Category	1	15%
	2	10%
	3	20%

((19)) (20) Permanent Impairments of Upper Urinary Tract

Category	1	0%
	2	10%
	3	25%
	4	45%
	5	65%

((20)) (21) Additional Permanent Impairments of Upper Urinary Tract Due to Surgical Diversion

Category	1	10%
	2	15%

PERMANENT



~~((21))~~ (22) Permanent Impairments of Bladder Function

Category	1	0%
	2	10%
	3	20%
	4	30%
	5	50%

~~((22))~~ (23) Permanent Anatomical or Functional Loss of Testes

Category	1	0%
	2	5%
	3	10%
	4	25%
	5	35%

**WSR 94-03-095**

**PERMANENT RULES**

**DEPARTMENT OF ECOLOGY**

[Order 93-28—Filed January 19, 1994, 10:36 a.m.]

Date of Adoption: January 18, 1994.

Purpose: Adoption of revised shoreline master program for Snohomish County into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-390 Snohomish County shoreline management master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Management Act of 1971.

Pursuant to notice filed as WSR 93-20-105 on October 5, 1993.

Effective Date of Rule: Thirty-one days after filing.  
 January 18, 1994  
 Mary Riveland  
 Director

AMENDATORY SECTION (Amending Order DE 88-55A, filed 3/14/90, effective 4/14/90)

**WAC 173-19-390 Snohomish County.** Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. ~~((Revision approved September 11, 1986.))~~ Revision approved February 11, 1987. Revision approved March 7, 1989. Revision approved July 5, 1989. Revision approved January 18, 1994.

**WSR 94-03-100**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Order 1-94—Filed January 19, 1994, 11:04 a.m., effective September 1, 1994]

Date of Adoption: November 19, 1993.

Purpose: To establish a new lower uniform conversion rate of .75 high school credit for each 5 quarter hours of course work on the college or university level, except for community college adult high school completion programs.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-050 High school credit—Definition. Statutory Authority for Adoption: RCW 28A.230.090. Pursuant to notice filed as WSR 93-20-128 on October 6, 1993.

Changes Other than Editing from Proposed to Adopted Version: The adopted definition for high school credit as it applies to college or university level course work applies to all college level course work not just running start, as proposed, except for community college adult high school completion programs. An exception to the new .75 conversion rate was adopted whereby eleventh and twelfth grade students enrolled in college level courses as of the 1993-94 school year may continue to earn high school credit at the former conversion rate of 1 high school credit for each 5 quarter hour of college level course work.

Effective Date of Rule: September 1, 1994.  
 January 18, 1994  
 Dr. Monica Schmidt  
 Executive Director/Secretary

AMENDATORY SECTION (Amending Order 12-85, filed 6/5/85)

**WAC 180-51-050 High school credit—Definition.** As used in this chapter the term "high school credit~~((:))~~" ~~((the equivalency of one year of study;))~~ shall mean:

(1) ~~((At the high school level, 180 (50 minute))~~) Grades nine through twelve high school programs. One hundred fifty hours of planned in-school instruction ((or 9,000 minutes (i.e., 150 hours equal one high school credit));

(2) ~~((At the adult education level, 180 (50 minute) hours of planned in-school instruction or 9,000 minutes or, in lieu thereof, 90 (50 minute) hours))~~ College and university course work. At the college or university level, except for community college adult high school completion programs, five quarter or ((more of planned in-school instruction with)) three semester hours ((of planned individual study (home-work) substituted for each 50 minute hour of in-school instruction less than 180 (i.e.)) shall equal ((one)) .75 high school credit((:)). *Provided*, That five quarter or three semester hours shall continue to equal one high school credit in the case of high school students who qualify as eleventh or twelfth grade students as of the 1993-94 school year and who commence college or university course work during such school year for the purpose in whole or part of earning high school credit; and

(3) ~~((At the))~~ Community college ((or university level,)) adult high school completion program. Five quarter or three semester hours ((credits (i.e.)) of community college work shall equal ((one)) 1.0 high school credit((:)) for students in the community college high school completion program.

**WSR 94-03-101**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Order 2-94—Filed January 19, 1994, 11:06 a.m.]

Date of Adoption: January 14, 1994.

Purpose: To limit State Board of Education GED test rule-making authority to the eligibility of 16 to 19 year olds

PERMANENT

who have a substantial and warranted reason for leaving the regular high school program, or who have been home schooled, and granted the balance of GED rule-making authority to the State Board for Community and Technical Colleges.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-96-015, 180-96-025, 180-96-030, 180-96-055, 180-96-060, 180-96-065, 180-96-070 and 180-96-075; and amending WAC 180-96-005, 180-96-010, 180-96-035, 180-96-045, and 180-96-050.

Pursuant to notice filed as WSR 93-24-112 on December 1, 1993.

Effective Date of Rule: Thirty-one days after filing.  
January 19, 1994

Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-96-005 Authority.** The authority for this chapter is RCW 28A.305.190 which authorizes the state board of education to adopt regulations governing the ~~((conditions by and under which a certificate of educational competence may be issued))~~ eligibility of a person sixteen years of age and under nineteen years of age to take the general educational development test if the child provides a substantial and warranted reason for leaving the regular high school education program, or if the child was home-schooled.

AMENDATORY SECTION (Amending Order 21-88, filed 12/14/88)

**WAC 180-96-010 Purpose.** ~~((The purpose of this chapter is to set forth policies and procedures governing the issuance of certificates of educational competence to persons who have not completed requirements for a regular high school diploma.))~~ Persons who are sixteen years of age and under nineteen years of age must have a substantial and warranted reason for leaving the regular high school program, or have completed a program of home-based instruction, as a condition to taking the general educational development test and receiving a certificate of educational competence. The purpose of these state board of education rules is to establish the process and criterion for determining whether a person within that age range has such a substantial and warranted reason or has completed a program of home-based instruction. Once such a person establishes that he or she has met either one of the two conditions, he or she is eligible to pursue taking the general educational development test in accordance with rules of the state board for community and technical colleges which are codified at chapter 131-48 WAC.

AMENDATORY SECTION (Amending Order 21-88, filed 12/14/88)

**WAC 180-96-035 Designated employee—Definition.** As used in this chapter "designated employee" means that individual or individuals empowered by the board of directors of ~~((the))~~ a school district to determine ~~((eligibility to take the GED test))~~ whether a person who is sixteen years

of age and under nineteen years of age has a substantial and warranted reason for leaving the regular high school program.

AMENDATORY SECTION (Amending Order 21-88, filed 12/14/88)

**WAC 180-96-045 Substantial and warranted reason for leaving the regular high school education program—Definition.** As used in this chapter, the term "substantial and warranted reason for leaving the regular high school education program" means one or more of the following:

(1) Personal problems which seriously impair the student's ability to make reasonable progress toward high school graduation.

(2) A financial crisis which directly affects the student and necessitates the student's employment during school hours.

(3) The lack of curriculum and instruction which constitutes appropriate learning experiences for the student.

(4) The inability or failure of the school of attendance to adjust its program for the individual or otherwise make arrangements for enrollment in an educational program in a manner which enables the student to advance toward graduation with reasonable progress and success.

(5) A determination by the designated employee that it is in the "best interest" of the student to drop the regular high school program for one of the following purposes:

(a) Enter a postsecondary institution.

(b) Enter the military.

(c) Engage in employment.

(6) *Provided*, That no person under eighteen years of age (i.e., minor), shall be adjudged to have a substantial and warranted reason for leaving ~~((school))~~ the regular high school education program unless the minor's parents, guardian, or legal custodian, if available, agrees that dropping school is in the best interest of the minor.

NEW SECTION

**WAC 180-96-048 Applications for a determination of substantial and warranted reason for leaving the regular high school program.** Application for a determination that the applicant has a substantial and warranted reason for leaving the regular high school education program shall be made to a designated employee of either the last Washington school district the applicant attended or the Washington school district in which the applicant currently resides. A designated employee of the school district shall evaluate the facts presented by the applicant and determine whether the applicant has a substantial and warranted reason for leaving the regular high school education program as defined at WAC 180-96-045. The determination of the designated employee shall be in writing and signed by the employee.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-96-050 Right to appeal.** The following shall govern the finality of decisions of the designated employee:

(1) If the decision of the designated employee is that the applicant has a substantial and warranted reason for leaving

the regular high school education program, the decision of such designated employee shall be final.

(2) If the decision of the designated employee is to deny the existence of a substantial and warranted reason for leaving the regular high school education program, the applicant shall have the right to appeal the decision to ~~((such))~~ the board of directors of the school district in accordance with procedures adopted by the board of directors. The board of directors shall issue a decision within thirty calendar days of receipt of any appeal.

(3) If a decision has been made by the board of directors of the district, such decision shall be final subject to an appeal to a court of law pursuant to RCW 28A.645.010.

NEW SECTION

**WAC 180-96-053 Certification of completion of a program of home-based instruction.** The parent(s) or legal guardian(s) who provided home-based instruction to a person who is sixteen years of age and under nineteen years of age is responsible for determining and certifying in writing that the person has completed a program of home-based instruction. The written certification shall be signed by the parent(s) or legal guardian(s) and the signature(s) shall be notarized by a Notary Public.

NEW SECTION

**WAC 180-96-058 Presentation of determinations of substantial and warranted reason and home schooling to official testing centers.** Written determinations made in accordance with this chapter that a person has a substantial and warranted reason for leaving the regular high school education program, or has completed a program of home-based instruction, shall be presented by the person to an official general educational development testing center as partial evidence of the person's eligibility to take the general educational development test.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 180-96-015 Certificate of educational competence—Definition.
- WAC 180-96-025 Minimum proficiency level—Definition.
- WAC 180-96-030 Official GED testing center—Definition.
- WAC 180-96-055 Eligibility to take GED test.
- WAC 180-96-060 Eligibility for award of certificate of educational competence.
- WAC 180-96-065 Identification necessary to take the GED exam.
- WAC 180-96-070 Application form for certificate of educational competence.
- WAC 180-96-075 Effect of certificate of educational competence.

**WSR 94-03-102**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Order 3-94—Filed January 19, 1994, 11:08 a.m.]

Date of Adoption: January 14, 1994.

Purpose: To prohibit the use of corporal punishment except under certain conditions.

Citation of Existing Rules Affected by this Order: Amending WAC 180-40-235.

Statutory Authority for Adoption: RCW 28A.410.010. Pursuant to notice filed as WSR 93-24-066 on November 29, 1993.

Effective Date of Rule: Thirty-one days after filing. January 19, 1994

Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 93-01-077, filed 12/14/92, effective 1/14/93)

**WAC 180-40-235 Discipline—Conditions and limitations.** Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-40-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 180-40-240:

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) A student's academic grade or credit in a particular subject or course may be adversely affected by reason of tardiness or absences only to the extent and upon the basis that:

(a) The student's attendance and/or participation is related to the instructional objectives or goals of the particular subject or course, and

(b) The student's attendance and/or participation has been identified by the teacher pursuant to policy of the school district as a basis for grading, in whole or in part, in the particular subject or course.

(3) Corporal punishment ~~((consisting of spanking or striking a student shall be administered only in an office or some other area outside the view of other students and only by an authorized employee in the presence of and witnessed by another school district employee. Such witness shall be informed beforehand and in the student's presence of the reason(s) for the infliction of the corporal punishment. For the purpose of this subsection the term "authorized employee" means either:~~

~~(a) The student's teacher who holds a valid Washington state teaching certificate and provides instruction to the student; or,~~

~~(b) Any other certificated employee who has been authorized in advance by the student's parent or guardian to inflict corporal punishment consisting of spanking or otherwise striking the student.~~

~~(4) No cruel and unusual form of corporal punishment shall be inflicted upon any student.~~

~~(5) Only reasonable and moderate force shall be applied to a student and no form of corporal punishment shall be inflicted upon the head of a student.~~

~~(6) Parents or guardians shall be notified of each instance of the infliction of corporal punishment within two school business days after the date the punishment was inflicted. Notice shall be provided either orally or by depositing written notice in the United States Mail, and shall include the name and phone number of the person who may be contacted for further information.~~

~~(7) Parents or guardians, upon their request, shall be provided a written explanation of the reason(s) for the infliction of corporal punishment consisting of spanking or otherwise striking a student and the name of the witness who was present at the time the corporal punishment was administered.~~

~~COMMENT: This section is not intended to authorize the use of any particular form of discipline or to authorize any particular person to impose discipline; that is the regulatory responsibility of each school district. What this section does consistent with the general purpose of this chapter is impose conditions upon the use of such disciplinary measures as are otherwise authorized or permitted by a school district's rules.~~

~~Note also that this section does not completely address the law governing the use or infliction of corporal punishment or physical discipline. For additional information your attention is invited to the following: The case of Simmons v. Vancouver School Dist., 41 Wn. App. 365, 704 P.2d 648 (1985) (the term "corporal punishment" is not limited to spanking a student; it includes any number of forms of physical or bodily punishment); RCW 9A.16.100 (only parents, guardians, and teachers, and such other persons as have been authorized in advance by a child's parent or guardian may lawfully inflict physical discipline upon a child for purposes of restraining or correcting the child; only reasonable and moderate discipline or force may be inflicted; and, certain specified actions are presumed unreasonable and thus unlawful including throwing, kicking, burning, cutting, striking with a closed fist, shaking a child under three, interfering with breathing, threatening with a deadly weapon, and causing greater than transient pain or minor temporary marks.)) which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited. This prohibition shall take effect in all school districts September 1, 1994.~~

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or

(d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

**WSR 94-03-103**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**  
[Order 4-94—Filed January 19, 1994, 11:09 a.m.]

Date of Adoption: January 14, 1994.

Purpose: to change the name of "educational clinic" to "education center."

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-105, 180-95-010, 180-95-020, 180-95-030, 180-95-040, 180-95-050, and 180-95-060.

Statutory Authority for Adoption: RCW 28A.410.010. Pursuant to notice filed as WSR 93-23-057 on November 15, 1993.

Effective Date of Rule: Thirty-one days after filing.  
January 19, 1994

Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-51-105 Exceptions to graduation requirements for former educational clinic students.** Pursuant to the provisions of RCW 28A.205.030 and chapter 392-184 WAC, the provisions of this chapter are modified in order to provide for the exemptions required by RCW 28A.205.030 for former ((educational clinic)) education center students.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-95-010 Definitions.** The following definitions shall apply to terms used in this chapter:

(1) ((("Educational clinic")) "Education center") shall mean a private educational institution certified by the state board of education which employs a clinical, client-centered approach and is devoted to (a) teaching the basic academic skills including specific attention to improvement of student motivation for achieving and (b) employment orientation: *Provided*, That no ((educational clinic)) education center certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050, or proprietary school under chapter 18.82 RCW.

(2) "Basic academic skills" shall mean the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and courses deemed nonessential to the accrediting of common schools or the approval of private schools under RCW 28A.305.130.

(3) "A clinical, client-centered basis" shall mean an approach to education which includes the individual diagnosis of the person's educational abilities, determining and setting of individual goals, prescribing and providing individual programs of instruction, and evaluating the individual student's progress in his or her educational program.

(4) "Individual diagnostic procedure" shall mean the individual assessment by a certified teacher, or when deemed necessary, by a psychologist, psychologist, and/or another

PERMANENT

professional who is appropriately certificated or licensed to conduct specific diagnostic evaluations and to prescribe an individual educational and instructional program in conjunction with the teacher, student, parents, and others as necessary.

(5) "General educational development (GED) tests" shall mean that battery of tests designed and published by the GED testing service of the American council on education to measure the major outcomes and concepts generally associated with four years of high school education. Each GED testing center must have a current contract with the American council on education and be authorized by the state superintendent of public instruction.

(6) "Educational gain" shall mean (a) measurable increases in the student's achievement, (b) increased motivation for achieving, and/or (c) increased knowledge and skills relevant to employment orientation as defined in (8) below: *Provided*, That consideration is given to the student's background in determining the extent of such gain.

(7) "Eligible common school dropout" shall be defined as set forth in WAC 392-185-010(2).

(8) "Employment orientation" shall normally include, but not be restricted to instruction and practical experience in the following areas: Job applications, interview techniques, expectations for attendance and production, learning to translate skills and abilities in terms of job needs, examination by the student of job descriptions and exploration of the student's ability to fulfill the job needs.

**AMENDATORY SECTION** (Amending Order 2-78, filed 2/8/78)

**WAC 180-95-020 Criteria for certification of ~~((educational-clinics))~~ education centers.** To be certified as an ~~((educational-clinic))~~ education center, a private educational institution must apply to the state board of education and provide evidence that it:

(1) Qualifies under the definition set forth in WAC 180-95-010(1).

(2) Offers instruction in the basic academic skills as defined in WAC 180-95-010(2) and employment orientation as defined in WAC 180-95-010(8).

(3) Employs, for purposes of diagnosing and instructing students, professionally trained personnel who meet requirements for certification set forth in chapters 180-80 and/or 180-84 WAC: *Provided*, That for specific diagnostic evaluations, a professional who is otherwise appropriately licensed does not have to meet certification requirements.

(4) Operates on a clinical, client-centered basis as defined in WAC 180-95-010(3).

(5) Conducts individualized diagnosis and instruction which includes as a minimum:

(a) Consideration by qualified personnel of the student's achievement, abilities, interests, and aptitudes;

(b) Delineation of individual learning objectives and education and/or employment goals;

(c) Development and implementation of curriculum and instruction appropriate to diagnosed needs and specified objectives and goals;

(d) Provision for evaluation of the student's progress toward and attainment of learning objectives and education and/or employment goals.

(6) Produces educational gains in students which relate directly to the individual learning objectives and educational and/or employment goals established for the student.

(7) Maintains accurate and complete financial and personnel records.

(8) Is financially sound and capable of fulfilling its educational commitment, i.e., that it has definite and certain resources to meet its current obligations.

**AMENDATORY SECTION** (Amending Order 2-78, filed 2/8/78)

**WAC 180-95-030 Application procedures for certification as an ~~((educational-clinic))~~ education center.** A private educational institution shall apply for certification to the state board of education on a form provided by the state board of education. The state board of education or its designee(s) shall determine by on-site visitation and documentary evidence submitted by the applicant whether all criteria set forth in WAC 180-95-020 are satisfied. The state board of education shall notify the applicant institution of its certification status within ten weeks after the date state board of education receives a completed application.

**AMENDATORY SECTION** (Amending Order 2-78, filed 2/8/78)

**WAC 180-95-040 Length of certification.** A private educational institution shall be certified as an ~~((educational-clinic))~~ education center by the state board of education for no more than three years and shall report annually any changes relevant to certification criteria set forth in WAC 180-95-020 to the state board of education on a form provided by the state board of education.

**AMENDATORY SECTION** (Amending Order 2-78, filed 2/8/78)

**WAC 180-95-050 Withdrawal of certification as an ~~((educational-clinic))~~ education center.** The state board of education may withdraw certification if the board finds that a clinic fails:

(1) To provide adequate instruction in basic academic skills which shall mean:

(a) The clinic does not offer or make provision for instruction in all the basic skills defined in WAC 180-95-010(2), or

(b) Evidence/data do not verify educational gains which relate directly to the individual learning objectives and the educational and/or employment goals established, or

(c) The ~~((clinic))~~ center does not provide opportunities for employment orientation.

(2) To meet any of the criteria for certification of ~~((educational-clinics))~~ education centers as established in WAC 180-95-020.

**AMENDATORY SECTION** (Amending Order 2-78, filed 2/8/78)

**WAC 180-95-060 Fee revision—Appeal procedure.** The state board of education shall either grant or deny proposed fee revisions no later than its second regularly scheduled meeting after receipt of notification of such appeal and shall conduct such an appeal as follows:

(1) The time and place for filing an appeal from the decision of the superintendent of public instruction to deny a requested fee revision shall be as stated in WAC 392-185-080.

(2) The decision on appeal will be based solely on the record. The record will consist of (a) the documentation in support of the increase submitted by the certified (~~educational clinic~~) education center to the superintendent of public instruction, (b) a statement by the superintendent of public instruction setting forth the reasons the fee revision was denied, (c) any other information or documentation the state board of education may request, and (d) the additional documentation (if any) that the certified (~~educational clinic~~) education center may submit in rebuttal of the superintendent of public instruction's statement.

(3) The decision of the state board of education shall be final. The decision of the state board of education may not be appealed to superior court.

**WSR 94-03-104**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**  
[Order 5-94—Filed January 19, 1994, 11:10 a.m.]

Date of Adoption: January 14, 1994.

Purpose: Makes clear that languages other than English must be offered and may include American Indian languages and that Washington state history may include information on American Indian people.

Citation of Existing Rules Affected by this Order: Amending WAC 180-16-200, 180-50-115, 180-50-120, and 180-51-075.

Statutory Authority for Adoption: RCW 28A.410.010. Pursuant to notice filed as WSR 93-23-058 on November 15, 1993.

Effective Date of Rule: Thirty-one days after filing.  
January 19, 1994  
Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 92-17-053, filed 8/17/92, effective 9/17/92)

**WAC 180-16-200 Total program hour offering—Basic skills and work skills requirements—Waiver. (1) Total program hour offering—Definition.**

(a) Each school district shall make available to students enrolled at least a total program hour offering as set forth in subsections (2) through (6) of this section. For the purpose of this section, "total program hour offering" shall mean those hours of sixty minutes each, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for purposes of discussing students' educational needs or progress—exclusive of time actually spent for eating lunchtime meals—when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district.

For special education/handicapped programs operating in separate facilities in a school district, do not exclude the

time actually spent for eating lunchtime meals if that time is specifically identified and utilized as instructional meal training for each student in the program.

(b) Adjustments of program hour offerings between grade level groupings. Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in subsections (2) through (6) of this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction.

(c) Each school district shall make available to students enrolled at least an instructional hour offering as set forth in subsections (3) through (6) of this section. For the purpose of this section, "instructional hour offering" shall mean those hours of sixty minutes each—exclusive of recess time, passing time, total lunch intermission time, and noncountable release time on early dismissal days—when students are provided the opportunity to engage in the basic skills and/or work skills offered by and under the direction of school district staff, as directed by the administration and board of directors of the district.

(d) A school district has "provided the opportunity to engage in" the basic skills and work skills activities required by this section when the district actually conducts basic skills and work skills instruction for students. If a district is not actually conducting the percentage(s) of basic skills and/or work skills required by this section, such district nevertheless shall be deemed to be in compliance with such requirements if such district's instructional time offered to students in basic skills and work skills instruction equals or exceeds the minimum instructional hour requirements in each grade level grouping as specified in subsections (3) through (6) of this section. A school district that makes a reasonable and good faith effort through the first day of the school term to provide students the opportunity to take the section(s) or course(s) necessary to comply with the basic skills and work skills percentages, as specified in subsections (3) through (6) of this section and no student enrolled in such section(s) or course(s), may count that section(s) or course(s) toward the total basic skills and work skills percentages offered to students that term. Each of the basic skills areas specified in subsections (2) through (6) of this section for a particular grade level grouping must be offered each school year to students at one or more of the grade levels within the particular grade level grouping. Instruction in at least one of the following work skills must be offered each school year to students at one or more of the grade levels within each of the grade level groupings specified in subsections (5) and (6) of this section: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(e) Five percent variation—Basic skills and work skills requirements. A school district may establish minimum course mix percentages that deviate within any grade level grouping by up to five percentage points above or below the minimums established by subsections (3) through (6) of this

section, provided the total program hour offering requirement for the grade level grouping is met.

(2) **Kindergarten.** Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours each school year. The program shall include reading, arithmetic, language skills and such other subjects and activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program.

(3) **Grades 1 through 3.** Each school district shall make available to students in grades one through three at least a total program hour offering of two thousand seven hundred hours each school year. A minimum of ninety-five percent (ninety percent with the five percent variation included, or 2,430 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language arts (which may include (~~foreign languages~~) a language other than English), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(4) **Grades 4 through 6.** Each school district shall make available to students in grades four through six at least a total program offering of two thousand nine hundred seventy hours each school year. A minimum of ninety percent (eighty-five percent with the five percent variation included, or 2,524.5 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language arts (which may include (~~foreign languages~~) a language other than English), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(5) **Grades 7 through 8.** Each school district shall make available to students in grades seven through eight at least a total program hour offering of one thousand nine hundred eighty hours each school year. A minimum of eighty-five percent (eighty percent with the five percent variation included, or 1,584 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language arts (which may include (~~foreign languages~~) a language other than English), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent (five percent with the five percent variation included, or 99 instructional hours) of the total program offerings shall be in the instruction of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(6) **Grades 9 through 12.**

(a) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours each school year. A minimum of sixty percent (fifty-five percent with the five percent variation included, or 2,376 instruction-

al hours) of such total program hour offerings shall be in the instruction of the basic skills areas of language arts, (~~foreign language~~) a language other than English, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent (fifteen percent with the five percent variation included, or 648 instructional hours) of the total program hour offerings shall be in the instruction of work skills. The remainder of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades: *Provided*, That, whether or not the five percent deviations in course mix percentages allowed by subsection (2)(d) of this section are applied, not less than four hundred and thirty-two instructional hours (*i.e.*, ten percent of the total program hour requirement) of such remaining instructional hours shall consist of basic skills and/or work skills: *Provided*, That any program hours and/or instructional hours not achieved due to the implementation of WAC 180-16-215(4) relating to students graduating from high school, shall not be deducted from the total program hours calculated.

(b) **Grade nine option.** Each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours. Each school district shall state which option is in use when providing compliance documentation to the superintendent of public instruction.

(7) **Basis and means for determining compliance with basic skills and work skills percentage requirements.**

(a) Each school district shall adopt a written policy and procedure for establishing the basis and means for determining and monitoring compliance with the basic skills and work skills percentages, the course requirements and instructional hour minimums as established by this section. Written documentation of such annual determinations and monitoring activities shall be maintained on file by each school district.

(b) Handicapped education programs, vocational-technical institute programs, state institution, state residential school programs and alternative education programs where students are provided access to the basic skills/work skills offered in the regular program, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) **Waiver option.**

(a) A district, desiring to implement a local plan to provide an effective educational system to enhance the educational program for all students, may apply for a waiver from the provisions of subsections (2) through (6) of this section, pertaining to the total program hour offerings requirement and the basic skills/work skills percentages/instructional hours requirement. The state board of education shall grant said waiver. Approval of district waivers



shall occur at a state board of education meeting prior to implementation. A district's application for a waiver shall be in the form of a resolution adopted by the district board of directors which includes a request for the waiver, and a plan for restructuring the educational program of one or more schools consisting of at least the following information:

- (i) Identification of the requirements to be waived;
- (ii) Specific standards for increased student learning that the district expects to achieve;
- (iii) How the district plans to achieve the higher standards, including timelines for implementation;
- (iv) How the district plans to determine if the higher standards are met;
- (v) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan; and
- (vi) Evidence that opportunities were provided for parents and citizens to be involved in the development of the plan.

(b) Application procedure.

The application for a waiver and all supporting documentation must be received by the superintendent of public instruction at least thirty days prior to the state board of education meeting where consideration of the waiver shall occur. The superintendent of public instruction shall review all applications and supporting documentation to insure the accuracy of the information. In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.

(c) Renewal procedure.

Waivers granted by the state board of education under this section shall be renewed every three years upon the state board of education receiving a renewal request from the school district board of directors. The school district shall conduct at least one public meeting to evaluate the educational programs that were implemented as a result of the waivers before filing the request. The request to the state board of education shall include information regarding the activities and programs implemented as a result of the waivers, whether higher standards for students are being achieved, and a summary of the comments received at the public meeting or meetings.

(d) Minimum instructional hour offerings. If a school district intends to waive total program hour offerings requirements under this subsection, it shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours, and to students enrolled in grades one through twelve at least a district-wide annual average total instructional hour offering of one thousand hours.

**AMENDATORY SECTION** (Amending WSR 91-01-067, filed 12/14/90, effective 1/14/91)

**WAC 180-50-115 Mandatory areas of study in the common school.** (1) Pursuant to RCW 28A.230.020 all school districts shall provide instruction in reading, penmanship, spelling, mathematics, geography, English grammar, physiology, hygiene, and history of the United States.

(2) Pursuant to RCW 28A.230.030, unless instruction in a language other than English will aid the educational

advancement of the student, all students shall be taught in English.

(3) Pursuant to RCW 28A.230.130, after July 1, 1986, each school district offering a high school program shall provide a course of study which includes the preparation for uniform college and university entrance requirements as published by the council of postsecondary education.

(4) In addition to the requirements in the above subsections, each such school district shall offer all required courses for a high school diploma as provided in chapter 180-51 WAC and shall provide an opportunity for high school students to take at least one course in the following areas of study:

- (a) Art;
- (b) Career education;
- (c) Computer education;
- (d) Consumer education;
- (e) Economics;
- (f) ~~((Foreign language))~~ A language other than English which may include American Indian languages;
- (g) Health education;
- (h) Home and family life;
- (i) Music;
- (j) Remedial education, including at least, remedial education in reading, language arts, and mathematics.

(5) Districts shall make available to all high school students enrolled therein the areas of study enumerated above either within the district or by alternative means which shall include equivalent education programs set forth in this chapter, interdistrict cooperative programs as permitted by RCW 28A.225.220, and/or the full-time or part-time release of such students to attend nonresident districts pursuant to chapter 392-137 WAC.

(6) Pursuant to RCW 28A.230.020 instruction about conservation, natural resources, and the environment shall be provided at all grade levels in an interdisciplinary manner through science, the social studies, the humanities, and other appropriate areas with an emphasis on solving the problems of human adaptation to the environment.

**AMENDATORY SECTION** (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-50-120 Washington state history and government requirements.** (1) Grades 1-6. A one semester course—i.e., 90 (50 minute) hours of instruction—or its equivalent in Washington state history and government shall be required in the common schools in grades one through six.

(2) Grades 7-12. A one semester course—i.e., 90 (50 minute) hours of instruction—or its equivalent in Washington state history and government shall be required in the common schools in grades seven through twelve. Such course shall include a study of the Washington state Constitution and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state. Pursuant to RCW 28A.230.170, 28A.230.060, and 28A.230.090 this course also shall be required for high school graduation unless waived pursuant to WAC 180-51-075.



**AMENDATORY SECTION** (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-51-075 Social studies requirement—Mandatory courses—Equivalencies.** The social studies requirement in WAC 180-51-060 shall consist of the following mandatory courses or equivalencies:

(1) Pursuant to the provisions of RCW 28A.230.170, 28A.230.060, and 28A.230.090, one credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement;

(2) Pursuant to the provisions of RCW 28A.230.170, 28A.230.060, and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state. The provisions of WAC 180-51-030 notwithstanding, the Washington state history and government course requirement may be fulfilled by students in grades seven or eight or both. Credits earned in grades seven or eight shall not be applied toward the minimum number of credits required for high school graduation. For students who transfer from without the state, northwest history and government may serve as an equivalent course for Washington state history and government in grades seven through twelve if such course included the study of the Constitution of the state of Washington pursuant to RCW 28A.230.170 or if this statutory requirement is fulfilled through an alternative learning experience. The Washington state history and government requirement for twelfth grade students who transfer from without the state who have or will have earned two credits in social studies at graduation but who will not be able to make normal progress toward graduation with their class without an exception may have this requirement waived by their principal;

(3) Pursuant to the provision of chapter 28A.230 RCW, one credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.



**WSR 94-03-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Institutions)

[Order 3693—Filed January 5, 1994, 4:23 p.m., effective January 6, 1994]

Date of Adoption: January 5, 1994.

Purpose: To set forth the procedure for the restoration of the right to possess firearms for former involuntarily committed persons. WAC 275-55-221 Restoration procedure for a former involuntarily committed person's right to firearm possession and 275-59-072 Restoration procedure for a former involuntarily committed person's right to firearm possession.

Statutory Authority for Adoption: RCW 9.41.040(6).

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: Restoration procedure for a former involuntarily committed person's right to possess firearms for former involuntarily committed persons.

Effective Date of Rule: January 6, 1994.

January 5, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**NEW SECTION**

**WAC 275-55-221 Restoration procedure for a former involuntarily committed person's right to firearm possession.** (1) The department and mental health professionals implementing Chapter 71.05 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and 71.05.240 and who wishes to exercise this right, may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;
- (c) A certified copy of the most recent order of commitment with the findings of fact and conclusions of law.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

**NEW SECTION**

**WAC 275-59-072 Restoration procedure for a former involuntarily committed person's right to firearm possession.** (1) The department and mental health professionals implementing Chapter 10.77 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and who wishes to exercise this right, may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;
- (c) A certified copy of the order of final discharge entered by the committing court.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

**WSR 94-03-038**  
**EMERGENCY RULES**  
**WILDLIFE COMMISSION**

[Order 622—Filed January 10, 1994, 4:45 p.m., effective January 11, 1994]

Date of Adoption: January 10, 1994.

Purpose: Emergency changes to the 1994 winter steelhead fishing regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Item 1: To protect the depressed wild winter steelhead stock in the Skookumchuck River.

The wild run size of steelhead for the Chehalis system in 1993/94 is predicted to be 9,689. This leaves only 1,089 wild steelhead for harvest. The Quinault Tribe and the Department of Wildlife (WDW) recognize that average

harvest rates in both fisheries will likely overharvest the wild run. The tribe has reduced its impact by dropping 2.2 days from their schedule and only adding 168 summer steelhead to their winter share out of an allocation of 320. With this proposal, WDW will be protecting approximately 80 wild steelhead (average harvest, 1986/87 - 1992/93) from harvest in the Skookumchuck.

The wild winter steelhead stock in the Skookumchuck River has been identified as depressed in the SASSI report. The Wildlife Commission adopted a permanent regulation on October 1, 1993, placing the Skookumchuck on wild steelhead release. It will become effective in April of 1994. The Skookumchuck is stocked with hatchery winter steelhead annually. There will be a targeted hatchery steelhead fishery in 1994.

Item 2: To protect an underescaped wild steelhead stock. The wild steelhead escapement from 1988-1993 has been below the 2,800 goal each year.

1988 - 1,466
1989 - 1,890
1990 - 2,399
1991 - 2,203
1992 - 2,136
1993 - 1,765

The wild runsize of steelhead for the Chehalis system in 1993/94 is predicted to be 9,689. This leaves only 1,089 wild steelhead for harvest. The Quinault Tribe and WDW recognize that average harvest rates in both fisheries will overharvest the wild run returning to the Satsop River. The tribe has reduced its impact by dropping 2.2 days from their schedule and only adding 168 summer steelhead to their winter share out of an allocation of 320. With this proposal, WDW will be protecting approximately 250 wild steelhead (average harvest, 1986/87 - 1992/93) from harvest in the Satsop.

There were no hatchery steelhead smolts stocked into the Satsop River in 1991 or 1992, therefore no hatchery winter steelhead fishery exists.

The wild winter steelhead stock in the Satsop River has been identified as depressed in the SASSI report. The Wildlife Commission adopted a permanent regulation on October 1, 1993, placing the Satsop on wild steelhead release. It will become effective in April of 1994. Hatchery steelhead smolts were stocked into the Satsop in 1993. There will be a targeted hatchery winter steelhead fishery in the 1994/95 season.

Effective Date of Rule: January 11, 1994.

January 10, 1994  
 Patricia McLain  
 Interim Director  
 for John McGlenn  
 Chair, Wildlife Commission

**NEW SECTION**

**WAC 232-28-61944 1992-94 and 1994-95 Washington game fish seasons and catch limits—Skookumchuck River and Satsop River.** Notwithstanding the provisions of WAC 232-28-619, the following regulations apply:

Item 1: SKOOKUMCHUCK RIVER From mouth to 400' below the outlet of the

PP&L/WDW steelhead rearing pond located at the base of the Skookumchuck Dam: January 11 - April 30 season. TROUT - catch limit - 2, min. lgth. 12". Wild steelhead release and wild cut-throat release, see page 6.

Item 2: SATSOP RIVER

From mouth to bridge at Schafer Park: Closed season January 11, 1994 - March 31, 1994.

Turnow Branch, from mouth to posted dead-line at bridge on Matlock Grisdale Road: Closed season January 11, 1994 - January 31, 1994.

West fork, from mouth to bridge on Matlock Grisdale Road: Closed season January 11, 1994 - January 31.

This amends and supersedes certain provisions of the corresponding information shown in the 1993-94 and 1994-95 Washington Game Fish Regulations pamphlet editions for these waters. All other provisions of WAC 232-28-619 relating to the above waters remain in effect and unchanged.

**WSR 94-03-063  
 EMERGENCY RULES  
 DEPARTMENT OF FISHERIES**

[Order 94-01—Filed January 14, 1994, 11:27 a.m.]

Date of Adoption: January 13, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300R.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of green sea urchins has been taken. Closures at Neah and Makah bays provide a reserve of stock for future harvest.

Effective Date of Rule: Immediately.

EMERGENCY

January 13, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

### NEW SECTION

**WAC 220-52-07300S Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea urchin district 5 is open and will close when the district quota is taken. It is unlawful to harvest red sea urchins greater or smaller in size than the following (size is diameter exclusive of the spines):

(a) 3.25 to 4.5 inches

(b) FISHING PERIODS:

Effective immediately until the district quota is taken, fishing is open on Monday and Tuesday of each week.

(2) In addition to the closed areas shown in WAC 220-52-073, the following areas are closed to the commercial harvest of sea urchins at all times.

(a) Waters of Neah Bay west and south of a line from Klachopis Point to the northern tip of Waadah Island thence westerly to landfall one-quarter mile due south of Koitlah Point.

(b) Waters of Makah Bay east of a line from Waatch Point to Portage Head.

(c) All provisions of WAC 220-52-073 not inconsistent with the provisions of this section remain in effect.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300R Sea urchins. (93-143)

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

### **WSR 94-03-069**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF PERSONNEL**

[Filed January 14, 1994, 1:17 p.m., effective January 18, 1994]

Date of Adoption: January 14, 1994.

Citation of Existing Rules Affected by this Order:  
Amending WAC 356-56-015 and 356-56-230.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.500.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The emergency adoption of WAC 356-56-015 is necessary to accommodate the Depart-

ment of Transportation's need for additional time to adequately prepare for the implementation of the Washington management service. Given the size of the agency and the number of employees who are affected by these rules, the agency is not sufficiently prepared to implement chapter 356-56 WAC as a phase-in agency in January 1994. Implementation of the Washington management service rules by the Department of Transportation, at this time, would be detrimental to the employees involved as well as the operation of the agency, and would not be in the best interest of the state. The emergency adoption of WAC 356-56-230 is necessary to correct the inadvertent omission of the word "vacant" in subsection (6)(b) of the section. This correction will avoid confusion if reversion should occur at the phase-in agencies, and will help prevent circumstances which may otherwise negatively impact employees in the Washington general service.

Effective Date of Rule: January 18, 1994.

January 14, 1994

Dennis Karras

Director

AMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93)

**WAC 356-56-015 Phase in agencies-Application of rules.** Chapter 356-56 WAC adopted by the director of personnel and effective January 1994 will apply only to the department of personnel, department of revenue, (~~department of transportation,~~) and office of minority and women's business enterprises. Chapter 356-56 WAC will apply to the department of transportation effective March 15, 1994. After the phase-in period, the director will adopt rules that apply to all agencies.

**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 94-01-126, filed 12-17-93)

**WAC 356-56-230 Reversion.** (1) During the review period, the appointing authority may separate or revert the employee from the position with written notification of the effective date.

(2) If a Washington management service permanent employee is appointed to a position within an agency or to another agency and reverted during the review period, the hiring agency will place the employee in a vacant funded position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last Washington management service appointment.

(3) Within the first six months of any review period, an employee may voluntarily revert to the position, if vacant and funded, held prior to the employee's first Washington management service appointment or to a similar funded vacant position at the same salary range. If no funded vacancies are available, the employee may request to be placed on the reversion registers for the Washington general service class in which the employee held status prior to the first Washington management service appointment.

EMERGENCY

(4) Nothing in this section shall preclude agencies and the reverted employee from reaching mutual agreement on placement of a reverted employee within the Washington management service or within the Washington general service if permitted by the respective rules.

(5) If reversion of a permanent employee appointed to or within the Washington management service results in fewer funded positions than employees entitled to the positions, and the agency consequently conducts a reduction in force, the provisions of WAC 356-56-550 will apply.

(6) Reversion of employees appointed from the Washington general service will be carried out as provided in WAC 356-30-320.

(a) A permanent employee who is appointed from the Washington general service to a Washington management service position with the same agency will retain reversion rights to the class in which the employee held permanent status prior to the appointment.

(b) A permanent employee who is appointed from the Washington general service to a Washington management service position in another agency and is reverted retains the right to return to a funded vacant position in the class and agency in which the employee held permanent status prior to the appointment to the Washington management service. If no vacant funded position is available, the employee may request to be placed on the reversion register as per WAC 356-26-030 (3) and (5) and 356-30-320.

(7) An appointee to a Washington management service position from outside state service who is separated prior to completion of the review period will not attain permanent status, nor have reversion rights to any position within the Washington management service or within the Washington general service.

(8) Employees may not appeal reversion or separation from the review period.

**WSR 94-03-084  
EMERGENCY RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**

[Order R 94-3—Filed January 18, 1994, 1:42 p.m.]

Date of Adoption: January 18, 1994.

Purpose: To implement short-term health insurance reforms.

Statutory Authority for Adoption: RCW 48.01.200, 48.02.060 (3)(a), 48.20.540, 48.21.340, 48.30.300, 48.44.490, 48.46.550, and 48.46.560.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The Washington Health Services Act, adopted by the legislature in 1993, amended various provisions of the insurance code to provide the public with short-term relief from insurance practices that

restricted public access to needed health care benefits. At least one of these needed reforms - requiring portability of health insurance benefits - took effect January 1, 1994. The Insurance Commissioner recently filed and held a hearing on rules to implement this statutory requirement (WSR 93-23-073). In response to publication of the rules, many disability insurance companies expressed an intention to withdraw from the health insurance market in Washington state by discontinuing the sale of new policies and cancelling existing policies. In addition, many written comments received by the commissioner raised technical, statutory implementation problems not foreseen when the statute was adopted by the legislature.

As a consequence of these complaints and observations, the Insurance Commissioner made substantive changes to the original rules that should address insurance company concerns sufficient to prevent public harm arising from insurer reaction to rule adoption. However, these rules must be implemented immediately to prevent mass cancellation of insurance policies; to give other insurers, health care service contractors, and health maintenance organizations guidance as to the disposition of hundreds of pending applications for health care coverage; and to advise the public of their new rights under a statute that took effect January 1, 1994.

Effective Date of Rule: Immediately.

January 18, 1994

Deborah Senn

Insurance Commissioner

**Chapter 284-10 WAC  
SHORT-TERM HEALTH INSURANCE REFORM**

**NEW SECTION**

**WAC 284-10-010 Purpose, intent, and authority.**

The purpose of this chapter is to effectuate the short-term health insurance reforms enacted as part of the Health Care Reform Act (sections 280 through 291, chapter 492, Laws of 1993). These rules are intended to improve individual and group access to needed health care benefits during the transition to a fully reformed health services system by limiting the use of preexisting condition limitations and exclusions; and by requiring guaranteed renewability of health plans.

**NEW SECTION**

**WAC 284-10-015 Scope and applicability.** The rules contained in this chapter shall apply to all health carriers and all health plans, as defined in this chapter, according to the following effective dates:

(1) WAC 284-10-030 (portability) shall apply to all individual and group health plans issued or renewed on or after January 1, 1994 and to all individual and group health plans in-force as to the addition of new persons to such plans on or after January 1, 1994.

(2) WAC 284-10-060 (guaranteed renewability) shall apply to all individual and group health plans issued or renewed on or after July 1, 1994.

NEW SECTION

**WAC 284-10-020 Definitions.** Unless otherwise specifically provided, the definitions contained in this section apply throughout this chapter.

"Health carrier" or "carrier" means a disability insurer, health care service contractor, or health maintenance organization authorized to do business in this state.

"Health plan," or "plan" means an individual or group: Disability insurance policy providing coverage against loss arising from medical, surgical, hospital, or emergency care services; health care service contract; or health maintenance agreement. "Health plan" or "plan" does not mean or include: Hospital confinement indemnity coverage governed by WAC 284-50-345; Disability income protection coverage governed by WAC 284-50-355; Accident only coverage governed by WAC 284-50-360; Specified disease and specified accident coverage governed by WAC 284-50-365; Limited benefit health insurance coverage governed by WAC 284-50-370; Long-term care benefits governed by chapter 48.84 RCW; Medicare supplemental health insurance governed by chapter 48.66 RCW; or limited health care coverage such as dental only, vision only, or chiropractic only.

"Covered person" means a person covered by a health plan including an enrollee, subscriber, policyholder, or in the case of group plans, beneficiaries of the group plan.

"Preexisting condition" means any medical condition, illness, or injury for which, in the three-month period before the effective date of health insurance coverage: The covered person received treatment; the covered person received medical advice; or a prudent person would have sought medical aid or advice.

NEW SECTION

**WAC 284-10-030 Portability of health insurance benefits.** (1) Except as otherwise provided in this chapter, every health carrier shall waive any preexisting condition exclusion or limitation for persons who had similar health coverage under a different health plan in the three-month period immediately preceding the effective date of coverage under the new health plan to the extent that such person satisfied a waiting period under the immediately preceding health plan. If the person was continuously covered for at least twelve months under the immediately preceding health plan, the carrier may not impose a waiting period for coverage of preexisting conditions unless the plan is dissimilar to the immediately preceding plan as determined in accordance with subsection (4) of this section. If the person was continuously covered for less than twelve months under the immediately preceding health plan, the carrier may not impose a waiting period for a preexisting condition that exceeds the difference between the number of months the person was continuously covered under the immediately preceding health plan and any preexisting condition waiting period under the new health plan. For example:

If both the preceding and new plans impose a waiting period of six months for preexisting conditions and the covered person satisfied three months of the preceding six-month waiting period, the new health plan may not impose a waiting period for preexisting conditions longer than three months.

If the immediately preceding health plan did not impose a waiting period for preexisting conditions and the covered person was continuously covered for nine months under such plan, the new health plan may not impose a waiting period for preexisting conditions for a period more than three months assuming the new health plan contains a twelve month waiting period for preexisting conditions.

(2) A health carrier may not avoid the portability requirements of this section by denying an application for a new health plan based upon health conditions that were covered under the immediately preceding health plan. If the person applies for a health plan within the three-month period immediately following the termination of coverage under the immediately preceding health plan, the carrier shall issue a health plan irrespective of the health status of the person seeking coverage except for those health conditions excluded under the immediately preceding health plan. However, if a health condition was subject to a rider under the preceding health plan that excluded, limited, or reduced coverage or benefits for a specifically named or described condition, the new plan shall credit the period satisfied by the covered person under the preceding plan so that such rider may be cancelled in accordance with the procedures described in RCW 48.20.510, 48.21.290, 48.44.430 and 48.46.500. For example:

A health carrier may not refuse to issue a health plan or exclude coverage for a diabetic condition if the immediately preceding health plan covered such diabetic condition.

If the immediately preceding health plan contained a rider for a particular cancer and the covered person was covered under such preceding health plan for a continuous period of four years, the new health plan must permit the covered person to seek a cancellation of a similar rider, if contained in the new plan, according to the procedures described in RCW 48.20.510, 48.21.290, 48.44.430, or 48.46.500 at the expiration of a one-year period under the new plan.

A health carrier covering a group may not refuse to extend group coverage or exclude coverage for health conditions covered under an immediately preceding group or individual health plan for a person newly eligible for coverage under an existing group health plan.

When an employer providing group health coverage to his or her employees imposes a probationary period or similar delay in eligibility for health plan coverage of new employees, the health carrier shall count the day of first employment with the new employer as the first day of coverage for purposes of applying the portability of benefit provisions of this section. Thus, a new employee to a group health plan is entitled to the protection of this rule if employment occurred within the three-month period immediately following termination of coverage under the preceding health plan despite the fact that the new employee is not entitled to receive benefits for some time after employment.

(3) An insurer may not avoid the portability requirements of this section by taking into consideration, for rating purposes, the health condition or health experience of a person applying for an individual health plan or of a person being added to an existing group plan. For example, a person being added to a group or applying for an individual health plan who is availing himself or herself of the portability provisions of this section may not be rated based upon

health conditions or past health experience. However, a group switching to another carrier is not subject to this subsection's restriction on the use of health conditions or past health experience for rating purposes. The new group carrier must comply with other provisions of this chapter but remains free to rate the new group in accordance with approved rating practices.

(4) For purposes of this section only, a new health plan is similar to the immediately preceding health plan if the actuarial value of the benefits under the new health plan as a whole are not more than twenty-five percent greater than the benefits provided under the immediately preceding health plan when all cost-sharing and other benefit limitations are taken into consideration.

Whenever a comparison between the preceding and new health plans is made, the carrier shall determine whether the plans are roughly equivalent rather than whether the plans are exactly the same or nearly the same. A health carrier asserting that the new health plan is dissimilar to the immediately preceding health plan of a person applying for coverage must provide such person with a written statement describing the basis for the carrier's determination.

(5) Nothing contained in this section requires a health carrier to amend a health plan to provide new benefits in its existing health plans. For example, if a person was provided maternity benefits under the immediately preceding health plan, the new health plan need not amend its plans to provide such benefits if the carrier offers no current plan that includes maternity benefits. In addition, nothing in this section requires a carrier to waive benefit limitations not related to an individual or group's preexisting conditions or health history. For example, this rule does not apply to a one year waiting period for use of a particular benefit (eg. organ transplants) imposed equally upon all covered persons without regard to health condition.

(6) Carriers who have filed a certification with the commissioner, withdrawing from the market as provided in WAC 284-10-070 of this chapter, must comply with the portability of benefits provisions of this section as such provisions relate to an individual being added to an existing group health plan. While a carrier withdrawing from the market need not write new group business, such carrier, in servicing existing health plans, must allow new employees or other beneficiaries of the group plan to be added to the plan consistent with the provisions of this section.

(7) For purposes of carrier compliance with this section, health plan includes policies issued by the high risk health pool governed by chapter 48.41 RCW and the uniform medical plan of the state health care authority governed by chapter 41.05 RCW.

**NEW SECTION**

**WAC 284-10-060 Guaranteed renewability—Health insurance. Purpose, intent, and authority** (1) Except as provided in subsection (5) of this section, all health plans issued or renewed on or after July 1, 1994, shall guarantee, by endorsement, the continuity of coverage of the plan.

(2) For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date after June 30, 1994, upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premi-

um. In the case of group plans, the carrier may consider the group's anniversary date as the renewal date for purposes of complying with the provisions of this section.

(3) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from cancelling or nonrenewing a health plan, without the prior approval of the insurance commissioner for:

- (a) Nonpayment of premium;
- (b) Violation of published policies of the carrier that have been approved by the insurance commissioner;
- (c) Covered persons entitled to become eligible for Medicare benefits who fail to apply for a Medicare supplement plan or Medicare Cost, Risk, or HCPP plan offered by the carrier pursuant to federal laws and regulations;
- (d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;
- (e) Covered persons committing fraudulent acts as to the carrier; or
- (f) Covered persons who materially breach the health plan.

(4)(a) The guarantee of continuity of coverage of health plans shall not prevent a carrier from cancelling or nonrenewing a health plan, with the prior written approval of the insurance commissioner, because of a change in the covered person's physical or mental condition or health.

(b) The insurance commissioner may approve the cancellation or nonrenewal of a health plan because of a change in the covered person's physical or mental condition or health only when the carrier has obtained for the covered person comparable coverage with another carrier.

(5) The provisions of this section do not apply to:

- (a) Health plans containing an endorsement approved by the insurance commissioner that permits the carrier to continue coverage only until the carrier is no longer permitted by provisions of chapter 43.72 RCW (health care reform) to offer or provide such coverage; or
- (b) Health plans deemed by the commissioner to be for a unique, limited or short-term purpose after a written request for such classification by the carrier and subsequent written approval by the commissioner.

**NEW SECTION**

**WAC 284-10-070 Certification of withdrawal from the market and exemption from short term reform rules.** Except as otherwise provided by title 48 RCW and WAC 284-10-030 a carrier filing the certification contained in this section may continue to service existing carrier health plans in force or renewed in this state without complying with the provisions of this chapter.

**STATE OF WASHINGTON  
CERTIFICATION**

**Withdrawal from Insurance Market**

Company Name: \_\_\_\_\_  
Form number(s) and generic description of form(s) to which this certification applies: \_\_\_\_\_

"I hereby certify that effective January 31, 1994 (company name) will write no new individual or group health plans for persons in Washington state and that (company name) has no

EMERGENCY



present intention of becoming certified as a certified health plan or of offering a uniform benefit plan as described and governed by chapter 43.72 RCW."

I confirm that all covered persons shall be notified of our decision to stop accepting new business and of our intention to nonrenew all health plans in Washington state whenever chapter 43.72 RCW (Washington state health care reform law) prohibits the continuation or sale of forms inconsistent with Washington state health care reform laws.

I confirm that existing group health plans will be notified that (company name) will comply with the portability of benefit provisions of WAC 284-10-030 as to the addition of covered persons to the group."

---

Chief Executive Officer

#### NEW SECTION

**WAC 284-10-090 Severability provision.** If any section or portion of a section of this chapter, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.



**WSR 94-03-007**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC EMPLOYEES BENEFITS BOARD**  
 [Memorandum—January 3, 1994]

Shown below is a revised meeting schedule for 1994. The March 8 meeting has been moved to March 22. There will be no meeting on March 8.

-Revised-  
 Public Employees Benefits Board  
 1994 Meeting Schedule

- January 11
- February 8
- \*March 22
- April 12
- May 10
- June 14
- July 12
- August 9
- September 13
- October 11
- November 8
- December 13

All meetings will begin at 1:00 p.m. and will be held at the following address:

DSHS Office of the Attorney General  
 4224 Sixth Avenue S.E., Building 1  
 Lacey, WA 98504

\*There will be no meeting on March 8. The March 8 PEBB meeting has been moved to March 22.

**WSR 94-03-011**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLEVUE COMMUNITY COLLEGE**  
 [Memorandum—January 5, 1994]

Meetings of the board of trustees of Community College District VIII for 1994 will be held on the following dates:

- January 27
- February 15
- March 15
- April 21
- May 17
- June 21
- July 19
- August 16
- September 13
- October 11
- November 8
- December 13

The meetings will begin with a study session at 1:00 p.m. in the Board Room, Bellevue Campus, Bellevue, Washington, followed by a business session at 2:00 p.m. In the event the board of trustees is unable to meet on the scheduled meeting date, a meeting may be scheduled and held as soon as possible, thereafter, or as otherwise announced. In the event the board of trustees is unable to meet, the chair of the board

may order that no scheduled meeting of the board of trustees be held that month.

**WSR 94-03-012**  
**NOTICE OF PUBLIC MEETINGS**  
**SHORELINE COMMUNITY COLLEGE**  
 [Memorandum—January 5, 1994]

Listed below is the regular meeting schedule of the board of trustees of Shoreline Community College, District Number Seven for 1993.

All regular meetings of the board are held on the third Friday of the month and commence at 8:00 a.m. in the Board Room of the Administration Building on the college campus, 16101 Greenwood Avenue North.

- Friday, January 21, 1994
- Friday, February 18, 1994
- Friday, March 18, 1994
- Friday, April 15, 1994
- Friday, May 20, 1994
- Friday, June 17, 1994
- Friday, September 16, 1994
- Friday, October 21, 1993 [1994]
- Friday, November 18, 1994
- Friday, December 16, 1994

**WSR 94-03-013**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—December 30, 1993]

Pursuant to RCW 42.30.075, the Bellingham Technical College board of trustees' regular meetings during 1994 will be held on the third Thursday of each month except July. Meetings will be held at 9 a.m. in the Building G Conference Center, Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225.

**WSR 94-03-014**  
**NOTICE OF PUBLIC MEETINGS**  
**CENTRALIA COLLEGE**  
 [Memorandum—January 6, 1994]

The board of trustees for Washington Community College District Twelve, at their meeting on December 13, 1993, adopted the following regular meeting schedule for the 1994 calendar year.

Meeting Schedule  
 1994

DATE	TIME	LOCATION
Thursday, January 13, 1994	4:30 p.m.	College Boardroom
Thursday, February 10, 1994	4:30 p.m.	College Boardroom
Thursday, March 10, 1994	4:30 p.m.	College Boardroom
Thursday, April 14, 1994	4:30 p.m.	East County Center Morton, WA
Thursday, May 12, 1994	4:30 p.m.	College Boardroom
Thursday, June 9, 1994	4:30 p.m.	College Boardroom
Thursday, July 14, 1994	4:30 p.m.	College Boardroom
Thursday, August 11, 1994	4:30 p.m.	College Boardroom

Thursday, September 8, 1994 4:30 p.m. College Boardroom  
 Thursday, October 13, 1994 4:30 p.m. Location to be determined  
 Thursday, November 17, 1994 4:30 p.m. College Boardroom  
 Thursday, December 8, 1994 4:30 p.m. College Boardroom

February 16, 1994 Shelton Mason County PUD #3  
 311 Cota  
 P.O. Box 49  
 Shelton

March 16, 1994 Olympia Department of Ecology  
 Auditorium  
 300 Desmond Drive  
 Olympia

April 12 and 20, 1994 Steilacoom Steilacoom Town Hall  
 1717 Lafayette Street  
 Steilacoom

May 18, 1994 Federal Way Federal Way Regional  
 Library  
 34200 1st Way South  
 Federal Way

June 29, 1994 Port Townsend Port Townsend Public  
 Library  
 1220 Lawrence Street  
 Port Townsend

July 20, 1994 Everett Everett Public Library  
 Auditorium  
 2702 Hoyt  
 Everett

September 21, 1994 Bellingham City of Bellingham  
 Council Chambers  
 City Hall, 2nd Floor  
 210 Lottie Street  
 Bellingham

October 19, 1994 Port Orchard Manchester Environmental  
 Laboratory Library  
 7411 Beach Drive East  
 Port Orchard

November 16, 1994 Olympia Department of Ecology  
 Auditorium  
 300 Desmond Drive  
 Olympia

**WSR 94-03-015**  
**NOTICE OF PUBLIC MEETINGS**  
**RENTON TECHNICAL COLLEGE**  
 [Memorandum—January 5, 1994]

Pursuant to RCW 42.30.975 the following is a listing of Renton Technical College's regularly scheduled trustee meetings for 1994. Meetings are held on the college campus at 3000 Northeast Fourth Street, Renton, WA, Building I, Administrative Conference Room at 9 a.m.

January 11, 1994  
 February 8, 1994  
 March 8, 1994  
 April 12, 1994  
 May 10, 1994  
 June 14, 1994  
 September 13, 1994  
 October 11, 1994  
 November 8, 1994  
 December 13, 1994

**WSR 94-03-016**  
**NOTICE OF PUBLIC MEETINGS**  
**LAKE WASHINGTON**  
**TECHNICAL COLLEGE**  
 [Memorandum—January 5, 1994]

The regular meetings of this college's board of trustees during 1994 will be held the second Wednesday of each month, at 7:30 a.m. on even-numbered months; and at 6:30 p.m. on odd-numbered months, at Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034, in the Board Room W305.

**WSR 94-03-017**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
 [Memorandum—January 6, 1994]

Listed below are the dates and geographical locations for the regular monthly meetings of the Puget Sound Water Quality Authority through December 1994.

The meetings generally start at 9:30 a.m.; any variation from this starting time will be announced in advance. Persons interested in more information about the meetings are invited to call Duane Fagergren at (206) 407-7303 (in Lacey) or 1-800-54SOUND.

January 19, 1994	Seattle	Port of Seattle Commission Chambers 2711 Alaskan Way, Pier 69 Seattle
------------------	---------	--

**WSR 94-03-028**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 5, 1994]

Following are the 1994 meeting schedules for regular meetings to be held by the University of Washington's Animal Care Committee; School of Art Faculty; Faculty Senate; Neurological Surgery Faculty; Jackson School of International Studies Russian and East European Studies Faculty; and the School of Nursing Faculty.

**Animal Care Committee**  
**1994 Meeting Schedule**

Below are the dates for the 1994 Animal Care Committee meetings. All of the meetings will be at 2:30 p.m., in Room 316R, South Campus Center.

The meeting dates are (all Thursdays):

January 13, 1994  
 March 17, 1994  
 May 26, 1994  
 July 28, 1994

MISCELLANEOUS

September 29, 1994  
December 1, 1994

To request disability accommodations, contact the Office of the ADA Coordinator, at least ten days in advance of the event: 543-6450 (voice), 543-6452 (TDD), 685-3885 (FAX), access@u.washington.edu (e-mail).

School of Art  
Art History Faculty

Meeting Dates	Location	Time
every second and 8th week of the quarter on Tuesdays	312 Art	2:30

Faculty Senate  
Executive Committee

Meeting Dates	Location	Time
October 4	142 Admin	2:30 p.m.
November 8	142 Admin	2:30 p.m.
January 10	142 Admin	2:30 p.m.
February 14	142 Admin	2:30 p.m.
March 28	142 Admin	2:30 p.m.
April 18	142 Admin	2:30 p.m.
May 2	142 Admin	2:30 p.m.

Faculty Senate

Meeting Dates	Location	Time
October 21	Gowen Hall	2:30 p.m.
December 2	Gowen Hall	2:30 p.m.
January 27	Gowen Hall	2:30 p.m.
March 3	Gowen Hall	2:30 p.m.
April 14	Gowen Hall	2:30 p.m.
May 26	Gowen Hall	2:30 p.m.

Neurological Surgery  
Neurosurgery Faculty Meeting

Meeting Dates	Location	Time
January 10, 1994	HMC 1C-30	5:00 p.m.
March 7, 1994	HMC Dining Room B	5:00 p.m.
June 6, 1994	HMC Dining Room B	5:00 p.m.
September 12, 1994	HMC Dining Room B	5:00 p.m.
December 5, 1994	HMC Dining Room B	5:00 p.m.

Henry Jackson School  
of International Studies  
REECAS

Meeting Dates	Location	Time
January 10, 1994	Tho 317	2:00
February 7, 1994	Tho 317	12:30
March 7, 1994	Tho 317	12:30
April 4, 1994	Tho 317	12:30
May 2, 1994	Tho 317	12:30
June 6, 1994	Tho 317	12:30

School of Nursing  
Governing Council

Meeting Dates	Location	Time
Weekly meetings on Wednesdays starting January 5, 1994 - December 21, 1994	T-305	12:00-1:00 p.m.

School of Nursing  
Deans and Chairs Meeting

Meeting Dates	Location	Time
2nd and 4th Mondays starting January 10, 1994 - December 12, 1994	T-305	8:30 a.m.-10:30 a.m.

School of Nursing  
Department Meetings

Meeting Dates	Location	Time
1st and 3rd Mondays starting January 3, 1994 - December 18, 1994	Departments	12:30 p.m.-2:15 p.m.

School of Nursing  
Curriculum Committee

Meeting Dates	Time
2nd Monday each month	12:30 p.m.-2:15 p.m.

School of Nursing  
Research Committee

Meeting Dates	Location	Time
1st Monday of every month	T-643	2:30 p.m.-4:30 p.m.

School of Nursing  
BSN Curriculum Committee

Meeting Dates	Location	Time
1st Monday of every month	T-404	2:30 p.m.-4:30 p.m.

School of Nursing  
Masters Coordinating Committee

Meeting Dates	Location	Time
1st Monday of every month	T-421	2:30 p.m.-4:30 p.m.

School of Nursing  
Ph.D. Coordinating Committee

Meeting Dates	Location	Time
1st Monday of every month	T-408	2:30 p.m.-4:30 p.m.

MISCELLANEOUS

School of Nursing  
SON Faculty Meeting

Meeting Dates	Time
4th Monday each month	12:30 p.m. 2:15 p.m.

School of Nursing  
Faculty Executive Council

Meeting Dates	Location	Time
1st and 3rd Monday every month	T-305	2:30 p.m. 4:30 p.m.

School of Nursing  
Department Chairs Meeting

Meeting Dates	Location	Time
1st and 3rd Monday every month	T-431	2:30 p.m. 4:30 p.m.

School of Nursing  
APT Committee

Meeting Dates	Location	Time
2nd Monday of every month	T-612	2:30 p.m. 4:30 p.m.

**WSR 94-03-029**  
NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON  
[Memorandum—January 6, 1994]

Following are the 1994 meeting schedules for regular meetings to be held by the University of Washington's Board of Health Sciences Deans and ASUW Board of Control.

The 1994 Board of Health Sciences Deans will meet in D-310 from 10:00 a.m. - 12:00 noon on the following dates:

- January 12
- February 9
- March 9
- April 13
- May 11
- June 15
- July 13
- August 10
- September 14
- October 12
- November 9
- December 14

Student Activities and Union Facilities  
ASUW  
Board of Control

Meeting Dates	Location
Every Thursday at 3:30 p.m. January 6, 1994, to December 29, 1994	HUB 204M

**WSR 94-03-030**

NOTICE OF PUBLIC MEETINGS  
TRANSPORTATION IMPROVEMENT BOARD  
[Memorandum—January 7, 1994]

MEETING NOTICE FOR JANUARY 1994  
TRANSPORTATION IMPROVEMENT BOARD  
OLYMPIA, WASHINGTON 98504-0901

Work session, 6:00 p.m., Thursday, January 27, 1994, in Tumwater at the Best Western Tumwater Inn, 5188 Capitol Boulevard.

Board meeting, 9:00 a.m., Friday, January 28, 1994, in Olympia at the Transportation Building, Commission Board Room.

Special needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (206) 753-7198 by January 14, 1994.

The next scheduled meeting is April 22, 1994, in Vancouver. A notice with further detail of the April meeting will be mailed April 1, 1994.

**WSR 94-03-031**

NOTICE OF PUBLIC MEETINGS  
BOARD FOR  
VOLUNTEER FIREFIGHTERS  
[Memorandum—January 7, 1994]

The January 1994 meeting of the State Board for Volunteer Firefighters has been rescheduled. The meeting will take place at 9:00 a.m. on January 31, 1994, in Suite 112 of the Olympia Forum Building, 601 11th Avenue S.E., not on January 24 as had been originally scheduled.

**WSR 94-03-032**

NOTICE OF PUBLIC MEETINGS  
SOUTH PUGET SOUND  
COMMUNITY COLLEGE  
[Memorandum—January 6, 1994]

The board of trustees of Community College District 24 will hold a "special" meeting of the board on Tuesday, February 8, 1994, 7:30 a.m., Boardroom, Building 25.

**WSR 94-03-033**

NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE  
[Memorandum—January 10, 1994]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 20, 1994, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

**WSR 94-03-039**  
**NOTICE OF PUBLIC MEETINGS**  
**HARDWOODS COMMISSION**  
 [Memorandum—January 10, 1994]

There will be a meeting of the Washington State Hardwoods Commission on January 20, 1994, at 9:00 a.m. until completed at the Beehive Cafe in Montesano, Washington.

**WSR 94-03-040**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
 [Memorandum—January 10, 1994]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, January 12, 1994, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

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

**WSR 94-03-049**  
**NOTICE OF PUBLIC MEETINGS**  
**HIGHER EDUCATION COORDINATING BOARD**  
 [Memorandum—January 13, 1994]

The Higher Education Coordinating Board has cancelled its meeting on February 17, 1994, which was scheduled in Olympia at the Tye.

**WSR 94-03-054**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Board of Nursing Home Administrators)  
 [Memorandum—January 10, 1994]

The following are the 1994 meeting dates for the Board of Nursing Home Administrators.

February 18 (9-5), 1994	Wesley Homes Health Center 1122 South 216th Street Des Moines, WA 98198 (206) 824-3663
May 19 (1-5) - 20 (9-5), 1994	Cavanaugh's River Inn North 700 Division Street Spokane, WA 99202 (509) 326-5577
August 25 (1-5) - 26 (9-5), 1994	The Care Center at Kelsey Creek 2210 132nd Avenue S.E. Bellevue, WA 98005 (206) 957-2400
November 14 (9-5) - 15 (9-1), 1994	WestCoast SeaTac Cascade Room 18220 Pacific Highway South Seattle, WA 98188 (206) 246-5535

**WSR 94-03-058**  
**RULES COORDINATOR COMMITTEE FOR DEFERRED COMPENSATION**  
 [Filed January 13, 1994, 1:18 p.m.]

Anne Holdren is the new rules coordinator for the Committee for Deferred Compensation. The telephone number should be (206) 753-1829/SCAN 234-1829.

Anne Holdren  
 Program Manager

**WSR 94-03-059**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY COLLEGES**  
 [Memorandum—January 10, 1994]

The Seattle Community College District board of trustees will hold a work session, to begin at 4:00 p.m., prior to their scheduled meeting at 6:00 p.m., on Tuesday, January 11, 1994. This meeting will be held at Seattle Central Community College, in the Broadway Performance Hall, 1701 Broadway, Seattle, WA 98122.

**WSR 94-03-062**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
 (Affordable Housing Advisory Board)  
 [Memorandum—January 14, 1994]

The first meeting of the Affordable Housing Advisory Board is scheduled for February 16, 1994, from 9:00 a.m. to 4:00 p.m. The meeting will be held in the Governor's Conference Room, Legislative Building, Olympia, Washington 98504.

Questions regarding the board meeting should be directed to Michael C. Piper, Assistant Director, Housing Division, at (206) 753-2570.

**AFFORDABLE HOUSING ADVISORY BOARD MEETINGS FOR 1994**

February 16	9:00 a.m. to 4:00 p.m.	Governor's Conference Room
April 20		
June 15		
August 17		
October 19		
December 7		

The February 16, 1994, meeting will be held in the Governor's Conference Room, Legislative Building, Olympia, Washington. Future meeting locations and times will be announced after the February 16th meeting.

MISCELLANEOUS

**WSR 94-03-064**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**  
 (Fire Protection Policy Board)  
 [Memorandum—January 14, 1994]

**FIRE PROTECTION POLICY BOARD**  
**MEETINGS AND WORK SESSIONS FOR 1994**

January 26	Work Session	1 p.m. to 4 p.m.	Olympia
January 27	Full Board Meeting	9 a.m. to 3 p.m.	Lacey
March 16	Work Session	1 p.m. to 4 p.m.	Lacey
March 17	Full Board Meeting	9 a.m. to 3 p.m.	Lacey
May 25	Work Session	1 p.m. to 4 p.m.	Wenatchee
May 26	Full Board Meeting	9 a.m. to 3 p.m.	Wenatchee
July 20	Work Session	1 p.m. to 4 p.m.	Lacey
July 21	Full Board Meeting	9 a.m. to 3 p.m.	Lacey
September 14	Work Session	1 p.m. to 4 p.m.	Lacey
September 15	Full Board Meeting	9 a.m. to 3 p.m.	Lacey
November 16	Work Session	1 p.m. to 4 p.m.	Lacey
November 17	Full Board Meeting	9 a.m. to 3 p.m.	Lacey

The work session on January 26, 1994, will be held at the Olympia Westwater Inn. The board meeting for January 27, 1994, will be held at the Lacey Fire Training Station #34, 8407 Steilacoom Road, Lacey.

The March meetings will be held at the Lacey Fire Training Station #34, 8407 Steilacoom Road, Lacey.

The May meetings will be held at the Wenatchee Conference Center.

The July, September and November meetings will be held at the Lacey Fire Training Station #34, 8407 Steilacoom Road, Lacey.

**WSR 94-03-065**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF ECOLOGY**  
 [Memorandum—January 12, 1994]

The Washington State Department of Ecology will be conducting a public hearing on February 17, 1994, at Ecology's Northwest Regional Office, 3190 160th Avenue S.E., Room 1A, Bellevue, WA, at 7:00 p.m. Ecology is conducting the public hearing to solicit comment on proposed requests for conditional approval of plans to attain the particulate matter (PM<sub>10</sub>) standard in the Seattle Duwamish Valley and Tacoma Tidelands.

Interested persons will be allowed to provide oral comments at the hearings. Written comments are encouraged and will be considered if postmarked no later than February 18, 1994. Comments should be addressed to Doug Schneider, Department of Ecology, P.O. Box 47600, Olympia, WA 98054-7600. For more information on the contents of this SIP submittal prior to the hearings, please contact Doug Schneider at (206) 407-6874.

Ecology is an equal opportunity and affirmative action employer. If you have special accommodation needs, please call Lydia Blalock, (206) 407-6860 (voice) or (206) 407-6206 (TDD).

**WSR 94-03-066**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Fryer Commission)  
 [Memorandum—January 12, 1994]

The purpose of this letter is to inform you of the Washington Fryer Commission's schedule of quarterly meetings for 1994. The following is a list of currently scheduled commission meetings.

**COMMISSION MEETING SCHEDULE**  
 1994

DAY	DATE	TIME	LOCATION
Thursday	February 10, 1994	10:00 a.m.	2003 Maple Valley Highway
Wednesday	May 11, 1994	10:00 a.m.	2003 Maple Valley Highway
Thursday	August 11, 1994	10:00 a.m.	2003 Maple Valley Highway
Wednesday	November 9, 1994	10:00 a.m.	2003 Maple Valley Highway

Should any of these meeting dates be changed or moved, we will send notification at least 20 days prior to you.

**WSR 94-03-067**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Strawberry Commission)  
 [Memorandum—January 12, 1994]

The Washington Strawberry Commission meets the first Thursday in January (annual meeting), during the Strawberry Field Day in late June and during the first week of December (annual research meeting).

**WSR 94-03-070**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
 (Natural Heritage Advisory Council)  
 [Memorandum—January 14, 1994]

**NOTICE OF MEETING**  
**FOR THE**  
**NATURAL HERITAGE ADVISORY COUNCIL**  
 1994

The Natural Heritage Advisory Council will meet on the following date: March 16, 1994, 9:30 a.m. to 5:00 p.m., Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA.

Regular council business includes consideration of natural area preserve recommendations, site recommendations for the registry program and NAP management activities.

For further information contact: Department of Natural Resources, Washington Natural Heritage Program, Division of Land and Water Conservation, 1111 Washington Street S.E., P.O. Box 47047, Olympia, WA 98504-7047, (206) 902-1688.

MISCELLANEOUS



**WSR 94-03-074**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Beef Commission)  
 [Memorandum—January 13, 1994]

The previously scheduled Washington State Beef Commission strategic planning meeting scheduled for February 3-4, 1994, has been changed to February 24-25, 1994. The meeting will be held in Richland, Washington.

April 21	HSB D-751	12:30 p.m.
May 19	HSB D-751	12:30 p.m.
June 16	HSB D-751	12:30 p.m.
July 21	HSB D-751	12:30 p.m.
August 18	HSB D-751	12:30 p.m.
September 15	HSB D-751	12:30 p.m.
October 20	HSB D-751	12:30 p.m.
November 17	HSB D-751	12:30 p.m.
December 15	HSB D-751	12:30 p.m.

**WSR 94-03-075**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Farmed Salmon Commission)  
 [Memorandum—January 17, 1994]

Pursuant to RCW 42.17.260, the following are the 1994 regular meeting dates for the Washington Farmed Salmon Commission, all to be held at NMFS Montlake Lab West Building, Seattle, Washington at 1:00 p.m.:

- March 8
- June 14
- September 13
- November 15
- December 13

Sociology  
Faculty Meetings

Meeting Dates	Location	Time
February 2, 1994	209 Savery	3:30
March 2, 1994	209 Savery	3:30
March 9, 1994	209 Savery	3:30
April 6, 1994	209 Savery	3:30
May 4, 1994	209 Savery	3:30
May 18, 1994	209 Savery	3:30
June 1, 1994	209 Savery	3:30
October 5, 1994	209 Savery	3:30
November 2, 1994	209 Savery	3:30
December 7, 1994	209 Savery	3:30

**WSR 94-03-076**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—January 18, 1994]

**BOARD OF TRUSTEES MEETING**  
 January 20, 1994  
 Sno-King Room 103  
 4:30 - 6:00

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

Department of Endodontics  
Faculty

Meeting Dates	Location	Time
Fridays (during academic quarters only)	D-657	3:00 p.m.

Student Activities and Union Facilities  
Finance and Budget

Meeting Dates	Location	Time
Mondays	HUB 204M	2:30

ASUW Governance

Meeting Dates	Location	Time
All Wednesdays from January 5th through the end of the academic year (93-94)	HUB 200A	3:30

ASUW Constitution and Bylaws

Meeting Dates	Location	Time
All Fridays from January 7th through the end of the academic year (93-94)	HUB 204	3:00

**WSR 94-03-077**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 14, 1994]

Following are the schedules for regular meetings to be held by the University of Washington's Student Activities and Union Facilities, Endodontics, Sociology, and Restorative Dentistry.

Restorative Dentistry  
Restorative Faculty

Meetings Dates	Location	Time
January 20	HSB D-751	12:30 p.m.
February 17	HSB D-751	12:30 p.m.
March 17	HSB D-751	12:30 p.m.

MISCELLANEOUS

**WSR 94-03-078**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 14, 1994]

Following are the schedules for regular meetings to be held by the University of Washington's Department of Philosophy, Department of Classics, University of Washington Medical Center and Department of Biostatistics.

**Department of Philosophy**  
**Philosophy Faculty**

Meeting Dates	Location	Time
Semi-regular Tuesdays	Savery Hall Room 345 (meeting room)	3:30 p.m.

**Classics Faculty**

Meeting Dates	Location	Time
Tuesday, Jan. 11	DEN 210	12:30 p.m.
Wednesday, Jan. 19	DEN 210	4:00 p.m.
Friday, Feb. 18	DEN 210	2:30 p.m.
Tuesday, Mar. 8	DEN 210	12:30 p.m.
Tuesday, Apr. 5	DEN 210	12:30 p.m.
Tuesday, May 3	DEN 210	12:30 p.m.
Tuesday, June 7	DEN 210	12:30 p.m.
Tuesday, Oct. 4	DEN 210	12:30 p.m.
Tuesday, Nov. 1	DEN 210	12:30 p.m.
Tuesday, Dec. 6	DEN 210	12:30 p.m.

**UWMC**  
**Facilities Committee**

Meeting Dates	Location	Time
February 18	Plaza Cafe Room B	12 noon
March 18	Plaza Cafe Room B	12 noon
May 20	Plaza Cafe Room B	12 noon
July 15	Plaza Cafe Room B	12 noon
September 16	Plaza Cafe Room B	12 noon
November 18	Plaza Cafe Room B	12 noon

**UWMC**  
**UW Medical Center Board**

Meeting Dates	Location	Time
January 3	Plaza Cafe B-C	12 noon
February 7	Plaza Cafe B-C	12 noon
March 7-8 (retreat)	Langley Inn	12 noon
April 4	Plaza Cafe B-C	12 noon
May 2	Plaza Cafe B-C	12 noon
June 6	Plaza Cafe B-C	12 noon
July 11	Plaza Cafe B-C	12 noon
August 1	Plaza Cafe B-C	12 noon
September 12	Plaza Cafe B-C	12 noon
October 3	Plaza Cafe B-C	12 noon
November 7	Plaza Cafe B-C	12 noon
December 5	Plaza Cafe B-C	12 noon

**UWMC**  
**Planning Committee**

Meeting Dates	Location	Time
February 16	Plaza Cafe Room B	12 noon
April 20	Plaza Cafe Room B	12 noon
June 15	Plaza Cafe Room B	12 noon

August 17	Plaza Cafe Room B	12 noon
October 19	Plaza Cafe Room B	12 noon
December 21	Plaza Cafe Room B	12 noon

**UWMC**  
**Joint Conference Committee**

Meeting Dates	Location	Time
January 18	Plaza Cafe B	12 noon
February 15	Plaza Cafe B	12 noon
March 15	Plaza Cafe B	12 noon
April 19	Plaza Cafe B	12 noon
May 17	Plaza Cafe B	12 noon
June 21	Plaza Cafe B	12 noon
July 19	Plaza Cafe B	12 noon
August 16	Plaza Cafe B	12 noon
September 20	Plaza Cafe B	12 noon
October 18	Plaza Cafe B	12 noon
November 15	Plaza Cafe B	12 noon
December 20	Plaza Cafe B	12 noon

**UWMC**  
**Finance Committee**

Meeting Dates	Location	Time
January 5	Plaza Cafe Room B	7:30 a.m.
January 26	Plaza Cafe Room B	7:30 a.m.
February 23	Plaza Cafe Room B	7:30 a.m.
March 30	Plaza Cafe Room B	7:30 a.m.
April 27	Plaza Cafe Room B	7:30 a.m.
May 25	Plaza Cafe Room B	7:30 a.m.
June 29	Plaza Cafe Room B	7:30 a.m.
July 27	Plaza Cafe Room B	7:30 a.m.
August 31	Plaza Cafe Room B	7:30 a.m.
September 28	Plaza Cafe Room B	7:30 a.m.
November 30	Plaza Cafe Room B	7:30 a.m.
January 4, 1995	Plaza Cafe Room B	7:30 a.m.

**UWMC**  
**Biostatistics Faculty Meeting**

Meeting Dates	Location	Time
1st and 3rd Thursday of every month in 1994	Biostatistics Conference Room, #F643 HSB	12:00 noon

**WSR 94-03-079**  
**NOTICE OF PUBLIC MEETINGS**  
**TACOMA COMMUNITY COLLEGE**  
 [Memorandum—January 18, 1994]

**BOARD OF TRUSTEES**  
**(SPECIAL MEETING)**

Tacoma Community College  
 Building 7 Cascade Conference Center  
 Baker Room

January 18, 1993 [1994], 1:00 p.m.

The board of trustees, Tacoma Community College, District 22, will hold a special meeting at 1:00 p.m. on Tuesday,

MISCELLANEOUS

January 18, 1994, for the purpose of hearing a state audit exit report.

No action will be taken at this meeting.

**WSR 94-03-080**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Barley Commission)  
 [Memorandum—January 14, 1994]

The Washington Barley Commission hereby complies with the regulations as stated in RCW 42.30.075. Following are the dates, times, and locations of our 1994 scheduled meetings:

Regular Meeting	March 3, 1994	10:00 a.m.
	March 4, 1994	8:30 a.m.
Annual Meeting	June 9, 1994	9:00 a.m.
Regular Meeting	September 28, 1994	10:00 a.m.
	September 29, 1994	8:30 a.m.
Regular Meeting	December 6, 1994	9:00 a.m.

All meetings to be held at: West 907 Riverside Avenue, [Spokane, WA].

If you have any questions, please do not hesitate to call our office at (509) 456-4400.

**WSR 94-03-083**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—January 14, 1994]

The Washington State Human Rights Commission will hold its February regular commission meeting in Olympia, Washington on February 23 and 24, 1994. The meeting on February 23, will be held at the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia, and will be a planning and training session beginning at 7:00 p.m. The regular business meeting on February 24, will be held at the Department of Licensing, Conference Room 1, 405 Black Lake Boulevard, Olympia, beginning at 9:00 a.m.

**WSR 94-03-088**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 94-01]

**IMPLEMENTING THE WASHINGTON ENERGY STRATEGY**

WHEREAS, energy is a key component of the Washington State economy, costing citizens and businesses over \$9.2 billion per year; and

WHEREAS, growing demand for energy poses significant economic and environmental challenges to Washington state; and

WHEREAS, increased energy efficiency benefits Washington businesses, government, and citizens by controlling costs, improving environmental quality, and supporting sustainable economic development; and

WHEREAS, in January, 1993, the Washington Energy Strategy Committee adopted its report titled Washington's Energy Strategy, An Invitation to Action, which has detailed principles and policy recommendations that can increase energy efficiency, improve environmental quality, and assure adequate, cost-effective energy supplies to support a robust economy; and

WHEREAS, state government has saved millions of dollars in energy costs through increased efficiency, and further efforts to improve efficiency has the potential to add significant savings;

NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, by virtue of the power vested in me, do hereby direct:

1. The Washington Energy Strategy shall be the policy framework for energy decisions made by state agencies.
2. The Washington State Energy Office (WSEO) shall be the lead agency for implementing the Washington Energy Strategy. To ensure efficient coordination, the Director at WSEO shall convene an interagency working group, including at a minimum the Directors of their designees of the departments of Transportation, Ecology, General Administration, Corrections, Community Development, the Superintendent of Public Instruction and the Washington Utilities and Transportation Commission. The working group shall review the recommendations of the Washington Energy Strategy, and shall pursue implementation of the most promising policy alternatives.
3. WSEO shall provide a brief annual report on the status of implementing this executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 13th day of January, A.D., nineteen hundred and ninety-four.

\_\_\_\_\_  
 Mike Lowry  
 Governor of Washington

BY THE GOVERNOR:

\_\_\_\_\_  
 Ralph Munro  
 Secretary of State

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

MISCELLANEOUS

**WSR 94-03-090**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE GOVERNOR**  
 [Memorandum—January 17, 1994]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 1994: March 4, June 3, September 2 and December 2, at 9:00 a.m. in the Governor's Conference Room.

**WSR 94-03-091**  
**DEPARTMENT OF ECOLOGY**  
 [Filed January 19, 1994, 10:21 a.m.]

**NOTICE OF ISSUANCE OF A GENERAL PERMIT**  
**FOR THE FRESH FRUIT PACKING INDUSTRY**  
**PERMIT ISSUANCE**

The Washington State Department of Ecology (ecology) is issuing a general permit which will regulate the discharge of process and storm water from fresh fruit packing facilities.

Issuance date of this permit is February 10, 1994. Effective date of the permit is March 4, 1994, or thirty days after publication of this notice in the state register.

The geographic area covered by this general permit shall be the entire state of Washington.

This permit meets the requirements of chapters 90.48, 90.52, and 90.54 RCW as amended, and the Federal Water Pollution Control Act (FWPCA) (Title 33 United States Code, Section 1251 et seq.) as amended. All requirements of 40 CFR 122.41 and 122.42 are incorporated in this general permit by reference.

The fruit packing industry is eligible for coverage under a general permit due to: The similar wastewater characteristics among facilities, the uniform discharge conditions to which all facilities would be subject, and the significant reduction of resources necessary for permit handling. However, individual permits will still be applied in those instances where: Ecology determines the general permit is not appropriate for that facility or an individual facility does not wish to be covered or limited by this general permit (see Request to be Excluded from Coverage Under a General Permit for details).

The development, issuance, and compliance with the fresh fruit packing general permit are anticipated to protect human health and the waters of the state.

**TYPES OF FACILITIES OR DISCHARGERS COVERED**

Every new or existing fresh fruit packing facility which receives, packs, stores, and/or ships either hard or soft fruit shall be required to apply for and obtain coverage under either this general permit or an individual National Pollution Discharge Elimination System (NPDES)/state waste discharge permit.

**HOW AND WHEN TO APPLY**

Upon issuance of this general permit, every fresh fruit packing facility shall apply for coverage under this general permit. Each facility shall submit to the Department of Ecology central regional office (see address below in

information available section) a completed and signed Application for Coverage form which has been specifically developed by ecology for this general permit.

All facilities required to apply for and obtain coverage under either this general permit or an individual permit shall do so according to the waste discharge general permit program, chapter 173-226 WAC. All such facilities shall submit an Application for Coverage within the following time limits:

For existing facilities, in no event shall application be made later than May 11, 1994, or ninety days after the issuance date of this general permit.

For new facilities, in no event shall application be made later than one hundred and eighty days prior to commencement of the activity which may result in the discharge of any pollutant. Any new facility shall submit to the department, along with any Application for Coverage, proof that such facility has complied with State Environmental Policy Act (SEPA).

Any facility required to apply for and obtain coverage under either this general permit or an individual NPDES/state waste discharge permit, with exception to those stipulated in WAC 173-216-050, and found not to have done so within the time limits given will be deemed to be in violation of the state Water Pollution Control Act and/or the Federal Clean Water Act, and shall be subject to the enforcement sanctions provided in such acts for unlawfully discharging without a permit.

**REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER A GENERAL PERMIT**

Any discharger authorized by this general permit may request to be excluded from coverage under this general permit by applying for an individual permit. The discharger shall submit to the director of ecology an application as described in WAC 173-220-040 or 173-216-070, whichever is applicable, with reasons supporting the request. The director shall either issue an individual permit or deny the request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to this general permit, the applicability of this general permit to that discharger is automatically terminated on the effective date of the individual permit.

**WHAT THE PERMIT REQUIRES**

All general permit holders must properly install, operate, and maintain acceptable treatment/disposal methods (TDMs) for their process wastewater discharges. These TDMs include: Lined evaporative lagoons; dust abatement; publicly-owned treatment works (POTWs) or on-site sewage devices; land application; percolation ponds and ditches; and surface waters. Each TDM may only be used to treat/dispose of certain wastestreams, and requires the use of specific best management practices (BMPs). Required BMPs and effluent limits will cause some fruit packers to switch TDMs or to change current practices or operating methods.

**OPPORTUNITY TO APPEAL**

Pursuant to the provisions of chapter 43.21B RCW, any person who objects to the terms and conditions of this general permit may file an appeal of the permit by March

12, 1994, or within 30 days of issuance of this general permit. Appeals should be sent to: Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Central Regional Office, 106 South 6th Avenue, Yakima, WA 98902-3387.

Any appeal must contain the following in accordance with the rules of the hearings board: The appellant's name and address; a description of the substance of the permit that is the subject of the appeal; the date of the permit; a clear and concise statement of facts upon which the appellant relies to sustain his or her statement of error; a clear, separate, and concise statement of every error alleged to have been committed; and a statement setting forth the relief sought.

A decision of the Department of Ecology concerning coverage under this general permit for a particular facility is appealable within 30 days of that decision.

#### INFORMATION AVAILABLE

Copies of the permit, fact sheet, Application for Coverage, and other related documents are available at the following address. Completed Applications for Coverage should also be submitted to this address.

Washington State Department of Ecology  
Central Regional Office  
106 South 6th Avenue  
Yakima, WA 98902-3387  
Attn: Water Quality Permit Coordinator  
(509) 575-2680

Ecology is an equal opportunity and affirmative action employer.

#### WSR 94-03-096

#### DEPARTMENT OF ECOLOGY

[Filed January 19, 1994, 10:39 a.m.]

#### AMENDMENTS TO THE MODEL TOXICS CONTROL ACT CLEANUP REGULATION, WAC 173-340-550(5)

#### RESPONSIVENESS SUMMARY

#### INTRODUCTION

This is only a portion of the responsiveness summary written to address comments on the proposed amendments to WAC 173-340-550 of the Model Toxics Control Act cleanup regulation (chapter 173-340 WAC) received by the Washington State Department of Ecology (ecology or department) during the public comment period for the rule amendment, August 4, 1993, through September 3, 1993. The entire responsiveness summary can be obtained by calling Donna Foster at (206) 407-7180.

#### PUBLIC COMMENT AND ECOLOGY'S RESPONSE WAC 173-340-550(5) PRIVATE RIGHTS OF ACTION (CONTRIBUTION)

#### COMMENTS ON INTRODUCTORY PARAGRAPH

#### Comment 10

Conflicting comments were received regarding the need for the introductory paragraphs to this section of the rule:

Ken Weiner and Mack Funk commented that the introductory paragraphs to this section of the rule are not necessary because the paragraphs either restate the statute or provisions in the existing MTCA rule, or overreach them.

Kris Backes, Thomas Newlon, and Kevin Godbout commented that ecology should expand the preamble to further explain the concept and intent of the agency in issuing these rules. In their opinion, the statement of intent should indicate that the department would seek to avoid rigid interpretations of the regulation that would unduly limit private rights of action, and that a determination of "substantial equivalence" cannot be rejected on minor technical deviations from the regulation. It was also noted that a statement needs to be added that the intent is to encourage independent cleanups.

Several of these persons also had suggested editorial changes to the introductory paragraph.

#### Response 10

The statements duplicating the language already in the statute has been removed. Other language helping to explain the intent of this section has been modified and expanded somewhat to address these concerns. Many of the suggested editorial changes have been incorporated into the final rule.

#### Comment 11

Kris Backes, Mack Funk, Thomas Newlon, Eric Johnson, and Kevin Godbout commented that WAC 173-340-550 (5)(a) and (b) are unnecessary and should be deleted. Most were concerned that these provisions would limit the ability of PLPs to initiate contribution actions by requiring payment to ecology before initiating a court action against another PLP. One individual noted that these provisions essentially restated the obvious and are not needed.

#### Response 11

These subsections were not intended to restrict the ability of PLPs to file private rights of action. Rather, they were intended to make it easier to seek contribution in these instances.

Subsection (5)(a) was intended to make it clear that when the department conducts a remedial action and a PLP reimburses the department for its costs, this is "substantially equivalent to a department-conducted remedial action." While this appears to be restating the obvious, it was felt important to do this, given the court's recent narrow interpretation of the MTCA regarding contribution. In fact, the department has recently become aware that a case has been filed claiming that the private right of action provisions of the MTCA apply only to independent remedial actions. The department believes this was not the intent of the legislature.

The primary underlying objection to subsection (5)(a) appears to be related to the language referring to payment of the department's costs. Again, it was not the intent of the department to create a new mechanism for enforcing payment of its remedial action costs. This language was included since the department was under the impression that there would not be a reason to seek contribution until some expense had been incurred by paying the department for at least a portion of the remedial action the department has conducted. Upon further review, it is conceivable that a PLP

could seek contribution prior to actually paying the department.

In light of this discussion, this provision will be modified to delete the statement requiring payment of the department's remedial action costs. In doing so, however, it should be noted that the department will not normally allow delayed payment of its remedial action costs until contribution actions have been resolved in the courts — a process that could take several years. The department believes such a delay would be inconsistent with the intent of the MTCA. PLPs refusing to pay these costs could be subject to the interest and penalty provisions of the MTCA.

Subsection (5)(b) was intended to make it clear that remedial actions conducted under an MTCA order or decree would be considered "department-supervised" and therefore qualify for private rights of action. Again, this may appear to be restating the obvious, but it was felt important since the department often provides technical assistance on sites outside the formal order/decreed process. Such assistance would not qualify a site as "department-supervised."

An underlying concern with subsection (5)(b) appears to be the reading into this section that failure to pay the department's oversight costs could result in the rejection of the contribution action. Language requiring payment of the department's oversight costs was present in earlier drafts of the rule, but was eliminated in this proposed version. While not specifically called out in the rule, payment of these costs is usually an integral requirement of an order or decree. As such, it is conceivable that a court would not find a remedial action to be substantially equivalent to a department-supervised remedial action unless most of the department's oversight costs were paid.

It is not the department's intent to create a new enforcement mechanism for payment of its costs through this provision. Accordingly, the final rule has been revised to refer to compliance with the "remedial" requirements of an order or decree. In making this change, however, it is not the department's intent to allow delayed payment of its costs until contribution actions have been resolved in the courts, a process that could take several years. The department believes such a delay would be inconsistent with the intent of the MTCA. PLPs refusing to pay these costs could be subject to the interest and penalty provisions of the MTCA. It is also not the intent of this change to in any way waive a PLP's responsibility to fully comply with an order or decree.

#### Comment 12

Jeff Belfiglio requested language be added indicating cleanup work done under an authority other than the MTCA be considered eligible for private rights of action under the MTCA.

#### Response 12

The recent amendment to the MTCA to provide for private rights of action addresses only remedial actions under the MTCA. Presumably, if the legislature intended a similar right of contribution under other state laws, similar language would have been included in those other laws.

Ecology believes it is beyond its authority to authorize private rights of action under the MTCA for cleanup costs incurred under other laws. Persons who conduct remedial

actions under other laws can claim a private right of action for their work as an independent remedial action under the MTCA if they have complied with the requirements of this section. Persons may also have other common law remedies and may seek legal advice on these potential approaches.

#### Comment 13

Melvin Knutson commented that the requirement that cost recovery be allowed only if the cleanup is "the substantial equivalent of a department-conducted or department-supervised remedial action" be deleted.

#### Response 13

This phrase in the proposed rule was merely restating the statutory requirement for seeking a private right of action under the MTCA. Since this is a statutory requirement, it is a prerequisite for filing an action and cannot be modified by the department through rule.

#### Comment 14

Helen Kennedy and Melvin Knutson commented that a private right of action should not be limited to just PLPs. Mr. Knutson suggested adding "...property owner or other person..." to WAC 173-340-550 (5)(c)(ii).

#### Response 14

Neither the statute nor this rule is intended to limit private rights of action to just PLPs (the statute specifically uses the term "person"). WAC 173-340-550 (5)(c)(ii) was intended to parallel language in WAC 173-340-510 regarding department objections to independent remedial actions. This subsection has been revised in the final rule to make it clear that private rights of action are not intended to be restricted to just PLPs.

### COMMENTS ON REPORTING REQUIREMENTS

#### Comment 15

Jeff Belfiglio and Ken Weiner requested that the provision requiring compliance with the reporting requirements of WAC 173-340-300 and 173-340-450 be deleted. Mr. Belfiglio was particularly concerned that failure to meet the requirement in WAC 173-340-450 to report UST releases within 24 hours could impair the ability to seek contribution. He also noted that he felt the reporting requirements were vague and could cause confusion as to when to report. Mr. Weiner suggested the 15-day notice requirement contained in the proposed rule be substituted for the reporting requirements in these sections.

#### Response 15

The department believes the reporting requirement provision should be retained. Reporting of releases requiring remedial action and documenting and reporting the remedial actions taken are already requirements of the MTCA regulations. This is part of the department's overall program for discovery of contaminated sites, provided for by statute. In order for a cleanup to be conducted or supervised by the department, the department would have to know about it. Thus, to be "substantially equivalent" it would make sense that the site and remedial actions conducted at the site would have to be reported to the department.

As for the potential for a technical violation of these reporting requirements to restrict the ability of a person to seek a private right of action, it is not the intent of the department to do so. Additional language has been added to the introductory paragraph emphasizing that technicalities should not be used by the court to keep a private right of action from being heard.

The requirement for reporting underground storage tank (UST) releases within 24 hours of discovery is a requirement under federal UST as well as state UST regulations. It applies only to tanks regulated under these programs. Again, the department would not expect a technical violation of this provision to preclude a private right of action.

Regarding the concern about the vague nature of the reporting requirements, the department has previously prepared guidance on what to report (see Policy 101 and 102). The essential requirements of the existing rule and policy state that when a person discovers a release that needs remedial action, the release must be reported to the department. A report documenting the remedial actions conducted to address the release must be submitted to the department once the work has been completed. If a person has decided to take a private right of action, it is presumably because they have decided that the release meets the reporting threshold under the MTCA and needs remedial action.

The department does not concur that the 15-day notice requirement should substitute for the reporting requirements in these sections. For leaking underground storage tank sites, the reporting requirements are necessary for delegation of the federal UST program; changing them would jeopardize the department's delegation and funding for this program. For other sites, the department believes that the requirements of WAC 173-340-300 should still apply because the reporting requirements provide the department with information that would not be available under the 15-day notice requirements of this section.

#### COMMENTS ON THE PUBLIC NOTICE REQUIREMENTS

##### Comment 16

Kris Backes commented that divisions C through E of WAC 173-340-550 (c)(iii) should be deleted. The requirements are narrative, unnecessary, and too prescriptive. Jeff Belfiglio echoed these concerns, indicating the public notice requirements should be stated in more general terms. He was concerned that a technical error like failing to post a sign could result in not having a private right of action.

##### Response 16

Public notice of cleanup activities is a key element of cleanups under the MTCA (see RCW 70.105D.030 (2)(a)) and the federal Superfund program. Under Superfund, the nature of the public notice given and timing has often been a point of contention in contribution actions. To minimize this becoming a similar roadblock in MTCA private rights of action, the public notice requirements have been simplified and made more explicit in the draft rule. The department believes this approach should be retained in the final rule. It is not the intent of the department that a technical violation of these public notice procedures would restrict a person's ability to seek a private right of action. Additional language has been added to the introductory paragraph that

emphasizes technicalities should not be used by the court to keep a private right of action from being heard. Several comments were made on the specific requirements in this subsection, and these are addressed below.

##### Comment 17

Ken Weiner commented that a PLP should be able to combine public notice requirements with any notices required under another law.

##### Response 17

The department concurs with this suggestion and a provision providing for this has been added to the final rule.

##### Comment 18

Kris Backes and Thomas Newlon commented that the 15-day public notice period is excessive. Daryl Grigsby commented that the 15-day notice period was totally inadequate. He stated notification should occur prior to the start of planning for the cleanup so that his agency could provide expertise and minimize its potential share of the cleanup costs.

##### Response 18

In earlier drafts of this rule, ecology had proposed a 30 day comment period since this is the length of the comment period used for orders and decrees issued under the MTCA. Several reviewers objected to this length of a comment period indicating it could impede property transactions. As a result the comment period was reduced to 15 days. This length of time is consistent with the notice requirement for determinations of nonsignificance under SEPA which most agencies and organizations have found workable. Also, 15 days should not result in project delays in most circumstances since it often takes this long to obtain any needed permits, obtain bids, and get a contractor on site to do the work.

The concern expressed by METRO about wanting to be notified early in the planning stages to help control costs is an important one. If a PLP waits until just 15 days prior to beginning construction work to notify others about the cleanup, meaningful involvement in the decision-making process may be precluded. For small sites where the cleanup action needed is readily apparent, this presents little difficulty. However, for more complex sites where a number of alternatives could achieve an acceptable cleanup, waiting to notify others of the cleanup could invite arguments that the cleanup is "gold plated." For this reason, language was included in the proposed rule that recommends notification be given once a decision had been made that the cleanup was needed and engineering design had begun. One person indicated this section was confusing and suggested it be deleted and replaced with a statement that notification before the 15 days is acceptable. Ecology agrees the draft rule is confusing in this area, but believes a stronger statement is needed than simply saying earlier notification is acceptable. The final rule has been changed to recommend (but not required) earlier notification for complex sites. It is not the intent of this change to invite litigation over what is a complex site. That is why the statement was expressed as a recommendation. A PLP can satisfy the public notification requirement with the 15-day notice. This recommendation

for earlier notification has been included in the rule to alert PLPs that earlier notification makes sense in some instances.

#### Comment 19

Ken Weiner, Mack Funk, and Eric Johnson commented that ecology should provide a summary of the public notices in the site register.

#### Response 19

The department agrees that a statement should be placed in the site register that indicates a notice has been received and the final rule has been revised to reflect this commitment.

#### Comment 20

Ken Weiner and Mack Funk commented that public notice provisions in the proposed rule amendment and the existing provisions of WAC 173-340-300 and 173-340-600 are not clear and may be conflicting. Ecology should review the relationships between these provisions and clarify notice requirements in the final rule.

#### Response 20

This section of the rule is not intended to supersede the reporting requirements in WAC 173-340-300 or 173-340-450. The notice detailed in this section is in addition to that in these other sections. It is, however, intended to replace the public notification requirements in WAC 173-340-600 by providing more specific requirements for independent cleanup actions. Statements clarifying this relationship have been added to the final rule, including a statement added to WAC 173-340-300(4) cross-referencing WAC 173-340-550.

#### Comment 21

Eric Johnson, Tom Newlon, and Kris Backes commented that the requirement to notify all PLPs "known" to the person conducting the cleanup is problematic. Of particular concern is the level of research needed for a person to meet this requirement to make certain that no one had been left out.

#### Response 21

Ecology's intent in including this requirement in the rule was to ensure that PLPs who are likely to be sued under a private right of action have had notice the cleanup was occurring. Ecology's expectation was that PLPs who are technically or financially capable to contribute, would start discussions with the person doing the cleanup. Furthermore, this requirement is intended to help minimize cleanup transaction costs. If PLPs subject to a contribution claim are involved early in the cleanup, it will be more difficult for them to claim that the cleanup was "gold plated" as an excuse for not having to pay their full share.

Ecology recognizes this language imposes an obligation on the person conducting the cleanup to research records to identify other PLPs. It seems only fair, however, that persons who are likely to be required to pay for the cleanup be made aware that the cleanup is underway. This PLP notification normally occurs for cleanups conducted by the department or under an order or decree, and so a notification requirement should be included for a remedial action to be

substantially equivalent of a department-conducted or department-supervised remedial action.

To minimize concerns that this language could be meddlesome, an explicit statement has been added to the final rule indicating the level of effort expected for persons to comply with this provision. The intent here is not to preclude the person conducting the cleanup from seeking a private right of action from another PLP simply because the PLP was not notified before remedial action was begun. This is an example of an omission, as stated in the opening paragraph to WAC 173-340-550(5), that could still result in the remedial action being substantially equivalent when "evaluated as a whole." Lastly, it should be noted that ecology does not normally conduct an extensive PLP search at most sites and ecology would not expect a PLP to have to conduct one to ensure their cleanup qualifies as substantially equivalent.

#### Comment 22

Kris Backes expressed concern with the requirement that "all land owners" be notified.

#### Response 22

Ecology's intent with this provision was to ensure that persons who own the land where the remedial action is occurring are notified about the remedial action. Not only could these persons be PLPs who could be sued for contribution, they also have a long-term stake in the outcome since the value of the property could be affected by the quality of the cleanup. Ecology understands that a concern with this provision is that there may be owners with a hidden interest in the property who, if not notified, might preclude a private right of action. To address this concern, additional language has been added to the final rule indicating this notice be given only to the landowner(s) identified in the tax assessor's records at the time the interim action or cleanup action commences.

#### Comment 23

Mack Funk and Eric Johnson commented that public notice to landowners and PLPs be to "the last known mailing address" to avoid an undue burden on the party conducting the cleanup.

#### Response 23

This language has been added to the final rule.

#### Comment 24

Jeff Belfiglio suggested a statement be added indicating that cleanup actions conducted prior to the effective date of this subsection can still be found substantially equivalent "as a whole" even if little or no public comment was provided for.

#### Response 24

Public notification is a key provision under the MTCA. The department believes the courts will likely decide some level of public notice would have been needed to be done to be substantially equivalent "as a whole." We recognize that most independent remedial actions done to date have had little prior public notice. A statement to this effect has been added to the final rule so that the courts understand that



ecology was aware of this practice. Also, a statement has been added to the introductory paragraph making it clear that omissions such as lack of public notice should not preclude a private right of action as long as the overall effectiveness of the remedial action is not diminished.

#### TECHNICAL REQUIREMENTS

##### Comment 25

Stephen Simmons commented that WAC 173-340-550 (5)(c) should be rewritten to require strict compliance with the referenced sections as a prerequisite to a private right of action.

##### Response 25

This comment is in direct conflict with the comments of several other reviewers. All other reviewers suggested strict compliance with the provisions of the MTCA should not be a requirement for a private right of action. Ecology agrees. The statute uses the phrases "substantially equivalent" and "as a whole." Ecology believes these phrases indicate a strong legislative intent that a technicality not prevent a person from seeking a private right of action. The final rule maintains this philosophy.

##### Comment 26

Ken Weiner, Tom Newlon, and Mack Funk expressed concerns with the reference to "procedures" in subsection (5)(c)(iv). Ken Weiner suggested this term be replaced with the phrase "evaluation criteria."

##### Response 26

Many of the sections identified contain a number of requirements that could be viewed as procedural. An example of this is the process described in WAC 173-340-360 for the selection of a remedy. Ecology's intent of including "procedures" in the requirements was to ensure these narrative evaluation criteria were included in any substantial equivalency determination. It was not ecology's expectation that other procedural requirements, for example, the preparation of a cleanup action plan, would be followed in independent cleanup actions. While a cleanup action plan is not required, some sort of document describing the logic behind the remedy selected would be necessary. Ecology concurs that the phrase "evaluation criteria" best captures this intent, and this provision has been changed in the final rule.

##### Comment 27

Mack Funk, Tom Newlon, and Ken Weiner suggested additional wording be added to clarify that other documents with substantially the same information could be used in lieu of those identified in the rule.

##### Response 27

A statement to this effect has been added to the final rule.

##### Comment 28

Jeff Belfiglio requested the term "consistent" be replaced with "substantially equivalent."

##### Response 28

While the term "consistent" was used in earlier drafts of the rule, the proposed draft does use the term "substantially equivalent." This language is retained in the final rule.

##### Comment 29

Ken Weiner suggested the following statement be added to this subsection: "This section does not require a party to have made the same decision or choice of remedy as the department."

##### Response 29

The department recognizes that there are usually many alternative methods of studying and cleaning up a contaminated sites [site]. This statement seems to imply more than this, however, since a PLP following the same standards and evaluation criteria should end up with decisions similar (although not necessarily identical) to those the department would have made. To address this concern, a statement recognizing that there are often many alternative methods for remediating contaminated sites has been added to the final rule.

#### COMMENTS ON THE HANDLING OF CLEANUP RESIDUALS

##### Comment 30

Kris Backes and Thomas Newlon commented that requirements of WAC 173-340-550 (5)(c)(v) are unnecessary and should be deleted.

Kevin Godbout commented that the requirements of WAC 173-340-550 (5)(c)(v) would increase the costs of conducting an independent cleanup by increasing nonessential documentation requirements.

##### Response 30

Ecology has become aware of situations where contaminated soils removed during a cleanup at one site have been transported to another site for disposal, creating a second contaminated site. While the standards for proper disposal of cleanup residuals would be determined by an analysis of other applicable, relevant, and appropriate requirements (ARARs) as required by WAC 173-340-710, ecology believes it is important to state this expectation explicitly in the rule. To make it clear that ecology's primary concern is the proper disposal of cleanup residuals, the reference to treatment has been deleted.

It is not ecology's intent to create excessive documentation requirements as a result of this provision. For example, if off-site disposal has occurred, it would be sufficient to have records indicating that the residuals have been disposed of at a permitted solid waste or hazardous waste landfill. Usually a disposal facility provides receipts upon payment of disposal fees. A copy of such receipt would be sufficient to meet this requirement. The final rule retains this documentation requirement and includes an additional explanation of ecology's intent.



**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 #
4-25-185	REP	94-02-070	16-680-010	REP	94-03-021	173-335-050	REP-P	94-03-071
4-25-186	REP	94-02-070	16-680-015	REP	94-03-021	173-460-020	AMD	94-03-072
4-25-187	REP	94-02-070	50-60-010	NEW	94-03-009	173-460-030	AMD	94-03-072
4-25-188	REP	94-02-070	50-60-020	NEW	94-03-009	173-460-040	AMD	94-03-072
4-25-280	REP	94-02-070	50-60-030	NEW	94-03-009	173-460-050	AMD	94-03-072
4-25-300	REP	94-02-070	50-60-040	NEW	94-03-009	173-460-060	AMD	94-03-072
4-25-320	REP	94-02-070	50-60-050	NEW	94-03-009	173-460-080	AMD	94-03-072
4-25-521	NEW	94-02-068	50-60-060	NEW	94-03-009	173-460-090	AMD	94-03-072
4-25-522	NEW	94-02-068	50-60-070	NEW	94-03-009	173-460-100	AMD	94-03-072
4-25-810	NEW	94-02-072	50-60-080	NEW	94-03-009	173-460-110	AMD	94-03-072
4-25-811	NEW	94-02-072	50-60-090	NEW	94-03-009	173-460-150	AMD	94-03-072
4-25-812	NEW	94-02-072	50-60-100	NEW	94-03-009	173-460-160	AMD	94-03-072
4-25-813	NEW	94-02-072	50-60-110	NEW	94-03-009	180-16-200	AMD	94-03-104
4-25-820	NEW	94-02-071	50-60-120	NEW	94-03-009	180-40-235	AMD	94-03-102
4-25-920	NEW	94-02-069	50-60-130	NEW	94-03-009	180-50-115	AMD	94-03-104
16-221-001	REP	94-03-024	50-60-140	NEW	94-03-009	180-50-120	AMD	94-03-104
16-221-010	REP	94-03-024	50-60-150	NEW	94-03-009	180-51-050	AMD	94-03-100
16-221-020	REP	94-03-024	50-60-160	NEW	94-03-009	180-51-075	AMD	94-03-104
16-221-030	REP	94-03-024	50-60-170	NEW	94-03-009	180-51-105	AMD	94-03-103
16-221-040	REP	94-03-024	50-60-180	NEW	94-03-009	180-95-010	AMD	94-03-103
16-223-001	REP	94-03-023	132V-300-020	AMD-W	94-03-082	180-95-020	AMD	94-03-103
16-223-002	REP	94-03-023	132Y-125-004	AMD	94-03-010	180-95-030	AMD	94-03-103
16-223-004	REP	94-03-023	173-19-100	AMD-P	94-03-093	180-95-040	AMD	94-03-103
16-223-005	REP	94-03-023	173-19-120	AMD-P	94-03-092	180-95-050	AMD	94-03-103
16-223-010	REP	94-03-023	173-19-390	AMD	94-03-095	180-95-060	AMD	94-03-103
16-223-020	REP	94-03-023	173-19-4205	AMD-P	94-03-094	180-96-005	AMD	94-03-101
16-223-030	REP	94-03-023	173-34-010	REP-P	94-03-071	180-96-010	AMD	94-03-101
16-223-040	REP	94-03-023	173-34-020	REP-P	94-03-071	180-96-015	REP	94-03-101
16-223-050	REP	94-03-023	173-34-030	REP-P	94-03-071	180-96-025	REP	94-03-101
16-223-060	REP	94-03-023	173-34-040	REP-P	94-03-071	180-96-030	REP	94-03-101
16-223-070	REP	94-03-023	173-34-050	REP-P	94-03-071	180-96-035	AMD	94-03-101
16-415-010	REP	94-03-026	173-224-020	AMD-P	94-02-080	180-96-045	AMD	94-03-101
16-415-020	REP	94-03-026	173-224-030	AMD-P	94-02-080	180-96-048	NEW	94-03-101
16-415-030	REP	94-03-026	173-224-040	AMD-P	94-02-080	180-96-050	AMD	94-03-101
16-415-040	REP	94-03-026	173-224-050	AMD-P	94-02-080	180-96-053	NEW	94-03-101
16-432-010	REP	94-03-025	173-224-070	REP-P	94-02-080	180-96-055	REP	94-03-101
16-432-020	REP	94-03-025	173-224-090	AMD-P	94-02-080	180-96-058	NEW	94-03-101
16-432-030	REP	94-03-025	173-224-100	AMD-P	94-02-080	180-96-060	REP	94-03-101
16-432-040	REP	94-03-025	173-224-120	REP-P	94-02-080	180-96-065	REP	94-03-101
16-432-050	REP	94-03-025	173-320-010	REP-P	94-03-071	180-96-070	REP	94-03-101
16-432-060	REP	94-03-025	173-320-020	REP-P	94-03-071	180-96-075	REP	94-03-101
16-432-070	REP	94-03-025	173-320-030	REP-P	94-03-071	204-24-050	AMD-E	94-02-081
16-432-080	REP	94-03-025	173-320-040	REP-P	94-03-071	204-24-050	AMD-P	94-02-082
16-432-090	REP	94-03-025	173-320-050	REP-P	94-03-071	220-16-015	AMD-P	94-03-106
16-432-100	REP	94-03-025	173-320-060	REP-P	94-03-071	220-16-460	NEW-P	94-03-105
16-432-110	REP	94-03-025	173-320-070	REP-P	94-03-071	220-20-021	AMD-P	94-03-106
16-432-120	REP	94-03-025	173-320-080	REP-P	94-03-071	220-20-025	AMD-P	94-03-106
16-432-130	REP	94-03-025	173-335-010	REP-P	94-03-071	220-33-060	AMD-P	94-03-106
16-678-001	REP	94-03-022	173-335-020	REP-P	94-03-071	220-44-020	AMD-P	94-03-106
16-678-010	REP	94-03-022	173-335-030	REP-P	94-03-071	220-44-030	AMD-P	94-03-106
16-680-001	REP	94-03-021	173-335-040	REP-P	94-03-071	220-44-090	NEW-P	94-03-106

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-48-001	AMD-P	94-03-106	220-56-350	AMD-P	94-03-105
220-48-005	AMD-P	94-03-106	220-56-380	AMD-P	94-03-105
220-48-011	AMD-P	94-03-106	220-56-382	AMD-P	94-03-105
220-48-015	AMD-P	94-03-106	220-56-390	AMD-P	94-03-105
220-48-016	NEW-P	94-03-106	220-56-400	AMD-P	94-03-105
220-48-017	AMD-P	94-03-106	220-56-405	AMD-P	94-03-105
220-48-019	AMD-P	94-03-106	220-56-410	AMD-P	94-03-105
220-48-028	AMD-P	94-03-106	220-56-415	NEW-P	94-03-105
220-48-031	AMD-P	94-03-106	220-57-130	AMD-P	94-03-105
220-48-041	AMD-P	94-03-106	220-57-135	AMD-P	94-03-105
220-48-051	AMD-P	94-03-106	220-57-140	AMD-P	94-03-105
220-48-061	AMD-P	94-03-106	220-57-155	AMD-P	94-03-105
220-48-071	AMD-P	94-03-106	220-57-200	AMD-P	94-03-105
220-49-005	NEW-P	94-03-106	220-57-210	AMD-P	94-03-105
220-49-011	AMD-P	94-03-106	220-57-215	AMD-P	94-03-105
220-49-012	AMD-P	94-03-106	220-57-230	AMD-P	94-03-105
220-49-013	AMD-P	94-03-106	220-57-235	REP-P	94-03-105
220-49-014	AMD-P	94-03-106	220-57-250	AMD-P	94-03-105
220-49-015	REP-P	94-03-106	220-57-255	AMD-P	94-03-105
220-49-016	REP-P	94-03-106	220-57-270	AMD-P	94-03-105
220-49-017	AMD-P	94-03-106	220-57-280	AMD-P	94-03-105
220-49-020	AMD-P	94-03-106	220-57-285	AMD-P	94-03-105
220-49-021	AMD-P	94-03-106	220-57-300	AMD-P	94-03-105
220-49-022	REP-P	94-03-106	220-57-310	AMD-P	94-03-105
220-49-023	AMD-P	94-03-106	220-57-319	AMD-P	94-03-105
220-49-024	AMD-P	94-03-106	220-57-335	AMD-P	94-03-105
220-49-025	REP-P	94-03-106	220-57-350	AMD-P	94-03-105
220-49-026	REP-P	94-03-106	220-57-370	AMD-P	94-03-105
220-49-055	REP-P	94-03-106	220-57-385	AMD-P	94-03-105
220-49-056	AMD-P	94-03-106	220-57-400	AMD-P	94-03-105
220-49-057	AMD-P	94-03-106	220-57-415	AMD-P	94-03-105
220-49-063	AMD-P	94-03-106	220-57-425	AMD-P	94-03-105
220-49-064	AMD-P	94-03-106	220-57-430	AMD-P	94-03-105
220-52-010	AMD-P	94-03-106	220-57-435	AMD-P	94-03-105
220-52-018	AMD-P	94-03-106	220-57-450	AMD-P	94-03-105
220-52-019	AMD-P	94-03-106	220-57-455	AMD-P	94-03-105
220-52-01901	AMD-P	94-03-106	220-57-465	AMD-P	94-03-105
220-52-020	AMD-P	94-03-106	220-57-473	AMD-P	94-03-105
220-52-030	AMD-P	94-03-106	220-57-480	AMD-P	94-03-105
220-52-040	AMD-P	94-03-106	220-57-490	AMD-P	94-03-105
220-52-043	AMD-P	94-03-106	220-57-495	AMD-P	94-03-105
220-52-046	AMD-P	94-03-106	220-57-520	AMD-P	94-03-105
220-52-050	AMD-P	94-03-106	220-57-525	AMD-P	94-03-105
220-52-051	AMD-P	94-03-098	220-57A-012	AMD-P	94-03-105
220-52-051	AMD-P	94-03-106	220-57A-152	AMD-P	94-03-105
220-52-060	AMD-P	94-03-106	220-88A-010	NEW-P	94-03-098
220-52-063	AMD-P	94-03-106	220-88A-020	NEW-P	94-03-098
220-52-066	AMD-P	94-03-106	220-88A-030	NEW-P	94-03-098
220-52-068	AMD-P	94-03-106	220-88A-040	NEW-P	94-03-098
220-52-069	AMD-P	94-03-106	220-88A-050	NEW-P	94-03-098
220-52-070	AMD-P	94-03-106	220-88A-060	NEW-P	94-03-098
220-52-071	AMD-P	94-03-106	220-88A-070	NEW-P	94-03-098
220-52-073	AMD-P	94-03-106	220-88A-080	NEW-P	94-03-098
220-52-07300R	REP-E	94-03-063	232-28-61944	NEW-E	94-03-038
220-52-07300S	NEW-E	94-03-063	246-807-115	NEW-P	94-03-053
220-52-075	AMD-P	94-03-106	246-815-990	AMD	94-02-059
220-56-100	AMD-P	94-03-105	246-816-015	NEW-P	94-03-045
220-56-105	AMD-P	94-03-105	246-818-015	NEW-P	94-03-044
220-56-123	NEW-P	94-03-105	246-818-990	REP	94-02-058
220-56-124	AMD-P	94-03-105	246-818-991	NEW	94-02-058
220-56-128	AMD-P	94-03-105	246-824-200	NEW-P	94-02-057
220-56-190	AMD-P	94-03-105	246-824-210	NEW-P	94-02-057
220-56-191	AMD-P	94-03-105	246-824-220	NEW-P	94-02-057
220-56-195	AMD-P	94-03-105	246-824-230	NEW-P	94-02-057
220-56-235	AMD-P	94-03-105	246-865-060	AMD	94-02-077
220-56-240	AMD-P	94-03-105	246-878-010	NEW-P	94-02-079
220-56-245	AMD-P	94-03-105	246-878-020	NEW-P	94-02-079
220-56-255	AMD-P	94-03-105	246-878-030	NEW-P	94-02-079
220-56-285	AMD-P	94-03-105	246-878-040	NEW-P	94-02-079
220-56-305	AMD-P	94-03-105	246-878-050	NEW-P	94-02-079
220-56-307	AMD-P	94-03-105	246-878-060	NEW-P	94-02-079
220-56-315	AMD-P	94-03-105	246-878-070	NEW-P	94-02-079
220-56-320	AMD-P	94-03-105	246-878-080	NEW-P	94-02-079
246-878-090	NEW-P	94-02-079			
246-878-100	NEW-P	94-02-079			
246-878-110	NEW-P	94-02-079			
246-878-120	NEW-P	94-02-079			
246-883-030	AMD-P	94-02-078			
246-886-030	AMD	94-02-060			
246-887	AMD-C	94-02-089			
275-55-221	NEW-E	94-03-004			
275-55-221	NEW-P	94-03-005			
275-59-072	NEW-E	94-03-004			
275-59-072	NEW-P	94-03-005			
284-10	NEW-C	94-02-065			
284-10	NEW-C	94-03-048			
284-10-010	NEW-E	94-03-084			
284-10-010	NEW-W	94-03-085			
284-10-015	NEW-E	94-03-084			
284-10-015	NEW-W	94-03-085			
284-10-020	NEW-E	94-03-084			
284-10-020	NEW-W	94-03-085			
284-10-030	NEW-E	94-03-084			
284-10-030	NEW-W	94-03-085			
284-10-060	NEW-E	94-03-084			
284-10-060	NEW-W	94-03-085			
284-10-070	NEW-E	94-03-084			
284-10-070	NEW-W	94-03-085			
284-10-080	NEW-W	94-03-085			
284-10-090	NEW-E	94-03-084			
284-10-090	NEW-W	94-03-085			
284-10-100	NEW-W	94-03-085			
284-10-110	NEW-W	94-03-085			
284-10-120	NEW-W	94-03-085			
284-10-130	NEW-W	94-03-085			
284-10-140	NEW-W	94-03-085			
284-10-150	NEW-W	94-03-085			
284-10-160	NEW-W	94-03-085			
284-10-170	NEW-W	94-03-085			
284-10-180	NEW-W	94-03-085			
284-10-190	NEW-W	94-03-085			
284-10-200	NEW-W	94-03-085			
296-15-020	AMD-C	94-03-006			
296-15-02606	NEW-C	94-03-006			
296-15-030	AMD-C	94-03-006			
296-15-170	AMD-C	94-03-006			
296-20-135	AMD	94-03-008			
296-20-370	AMD	94-03-073			
296-20-380	AMD	94-03-073			
296-20-385	NEW	94-03-073			
296-20-680	AMD	94-03-073			
308-72-543	NEW-P	94-02-076			
308-72-660	AMD-P	94-02-076			
308-72-665	NEW-P	94-02-076			
308-72-690	AMD-P	94-02-076			
308-77-010	AMD-P	94-01-075			
308-77-060	AMD-P	94-01-075			
308-77-095	AMD-P	94-01-075			
308-77-155	NEW-P	94-01-075			
308-77-250	AMD-P	94-01-075			
308-93-073	AMD-W	94-03-018			
308-93-280	AMD-W	94-03-018			
308-93-330	AMD-W	94-03-018			
308-93-630	REP-W	94-03-018			
314-60-010	AMD	94-03-060			
314-60-020	AMD	94-03-060			
314-60-030	AMD	94-03-060			
314-60-080	AMD	94-03-060			
314-60-105	AMD	94-03-060			
314-60-110	AMD	94-03-060			
315-02-120	REP	94-03-020			
315-04-180	AMD	94-03-020			
315-04-210	AMD	94-03-020			
315-06-035	AMD	94-03-020			
315-06-140	REP	94-03-020			
315-06-150	REP	94-03-020			

**Table of WAC Sections Affected**

<u>WAC #</u>		<u>WSR #</u>	<u>WAC #</u>		<u>WSR #</u>	<u>WAC #</u>	<u>WSR #</u>
315-06-160	REP	94-03-020	458-20-210	AMD-P	94-03-034		
315-06-170	AMD	94-03-020	458-20-238	PREP	94-03-046		
315-06-180	REP	94-03-020	460-44A-500	AMD	94-03-061		
315-06-190	AMD	94-03-020	460-44A-501	AMD	94-03-061		
315-10-030	AMD	94-03-020	460-44A-502	AMD	94-03-061		
315-10-060	AMD	94-03-020	460-44A-504	AMD	94-03-061		
315-10-080	AMD	94-03-020	460-44A-505	AMD	94-03-061		
315-11A-114	NEW	94-03-019	460-44A-506	AMD	94-03-061		
315-11A-115	NEW	94-03-019	468-38-020	AMD-P	94-03-042		
315-11A-116	NEW	94-03-019	468-38-030	AMD-P	94-03-042		
315-11A-117	NEW	94-03-019	468-38-075	AMD-E	94-02-064		
315-11A-118	NEW-P	94-03-099	468-38-075	AMD-P	94-03-043		
315-11A-119	NEW-P	94-03-099	480-12-260	AMD	94-03-002		
315-11A-120	NEW-P	94-03-099	480-12-321	AMD	94-03-001		
315-11A-121	NEW-P	94-03-099	480-50-010	AMD	94-03-003		
315-30-030	AMD	94-03-020	480-50-040	AMD	94-03-003		
315-34-040	AMD-P	94-03-099					
326-30-041	AMD	94-03-068					
352-32-010	AMD-P	94-03-097					
352-32-045	AMD-P	94-03-097					
352-32-250	AMD-P	94-03-097					
352-32-252	AMD-P	94-03-097					
352-32-255	AMD-P	94-03-097					
352-32-320	NEW-P	94-03-097					
352-74-040	AMD-P	94-03-089					
356-56-015	AMD-E	94-03-069					
356-56-230	AMD-E	94-03-069					
388-24-250	REP-P	94-03-051					
388-24-252	REP-P	94-03-051					
388-24-253	REP-P	94-03-051					
388-24-254	REP-P	94-03-051					
388-24-255	REP-P	94-03-051					
388-24-260	REP-P	94-03-051					
388-24-265	REP-P	94-03-051					
388-28-439	AMD-P	94-03-055					
388-49-535	AMD-P	94-03-041					
388-49-590	AMD-P	94-03-050					
388-86-045	AMD	94-03-052					
388-225-0010	NEW-P	94-03-051					
388-225-0020	NEW-P	94-03-051					
388-225-0050	NEW-P	94-03-051					
388-225-0060	NEW-P	94-03-051					
388-225-0070	NEW-P	94-03-051					
388-225-0080	NEW-P	94-03-051					
388-225-0090	NEW-P	94-03-051					
388-225-0100	NEW-P	94-03-051					
388-225-0120	NEW-P	94-03-051					
388-225-0150	NEW-P	94-03-051					
388-225-0160	NEW-P	94-03-051					
388-225-0170	NEW-P	94-03-051					
388-225-0180	NEW-P	94-03-051					
388-225-0190	NEW-P	94-03-051					
388-225-0300	NEW-P	94-03-051					
390-16-324	NEW-P	94-03-087					
390-17-300	AMD-P	94-03-087					
390-17-315	AMD-P	94-03-087					
434-663-001	NEW-W	94-03-081					
434-663-005	NEW-W	94-03-081					
434-663-020	NEW-W	94-03-081					
434-663-030	NEW-W	94-03-081					
434-663-050	NEW-W	94-03-081					
434-663-060	NEW-W	94-03-081					
434-663-070	NEW-W	94-03-081					
456-09-010	AMD-P	94-03-056					
456-09-325	AMD-P	94-03-056					
456-09-365	AMD-P	94-03-056					
456-10-010	AMD-P	94-03-057					
456-10-325	AMD-P	94-03-057					
456-10-360	AMD-P	94-03-057					
458-20-122	AMD-P	94-03-035					
458-20-125	REP-P	94-03-037					
458-20-167	AMD-P	94-03-047					
458-20-209	AMD-P	94-03-036					

TABLE



**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

<b>ACCOUNTANCY, BOARD OF</b>			Opinions		
CPA certificates			higher education institutions, fundraising and gifts (1993, No. 18)	MISC	94-01-144
continuing professional education	PERM	94-02-070	higher education institutions, public works contracts (1993, No. 19)	MISC	94-01-145
	PERM	94-02-072	tuberculosis, authority of local health officer to control spread (1993, No. 20)	MISC	94-02-061
education requirements	PERM	94-02-070			
	PERM	94-02-072			
Enforcement procedures	PERM	94-02-070			
Hearings	PERM	94-02-069			
Operations and procedures	PERM	94-02-068	<b>BATES TECHNICAL COLLEGE</b>		
Program standards	PERM	94-02-070	Meetings	MISC	94-01-045
Quality assurance review program	PERM	94-02-070			
	PERM	94-02-071	<b>BELLEVUE COMMUNITY COLLEGE</b>		
<b>AGRICULTURE, DEPARTMENT OF</b>			Admission	PROP	94-01-091
Apple commission			Meetings	MISC	94-03-011
meetings	MISC	94-02-063	Refund policy	PERM	94-01-181
Apples			Registration	PROP	94-01-091
gift grade, standards	PERM	94-03-021	Residency classification	PROP	94-01-091
watercore in Fuji variety	EMER	94-01-165			
Apiaries			<b>BELLINGHAM TECHNICAL COLLEGE</b>		
registration fees, schedule	PROP	94-01-162	Meetings	MISC	94-03-013
Asparagus commission				MISC	94-03-033
meetings	MISC	94-01-130			
Barley commission			<b>BIG BEND COMMUNITY COLLEGE</b>		
meetings	MISC	94-03-080	Public records, availability	PROP	94-01-049
Beef commission					
meetings	MISC	94-03-074	<b>CENTRAL WASHINGTON UNIVERSITY</b>		
Brucellosis, tuberculosis, and scrapie control	PROP	94-01-177	Rules coordinator	MISC	94-01-105
Farmed salmon commission			<b>CENTRALIA COLLEGE</b>		
meetings	MISC	94-03-075	Meetings	MISC	94-03-014
Cherries			<b>CLARK COLLEGE</b>		
sweet cherry containers, marking requirements	PERM	94-03-022	Meetings	MISC	94-02-022
Holly, cut spray standards	PERM	94-03-026			
Hop commission			<b>CLOVER PARK TECHNICAL COLLEGE</b>		
meetings	MISC	94-01-008	Rules coordinator	MISC	94-01-043
Horsemeat decharacterization	PROP	94-01-176			
Milk			<b>COMBINED FUND DRIVE, STATE EMPLOYEE</b>		
processor assessments	PROP	94-01-151	(See GOVERNOR, OFFICE OF THE)		
Noxious weeds			<b>COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR</b>		
noxious weed list	MISC	94-01-076	Rules coordinator	MISC	94-01-023
Nursery stock			Running start program	PROP	94-01-096
standards	PERM	94-03-025		PROP	94-01-113
Pea cyst nematode quarantine	PROP	94-01-163	<b>COMMUNITY DEVELOPMENT, DEPARTMENT OF</b>		
Pesticides			Affordable housing advisory board		
DDT and DDD, registration, distribution, and use	PERM	94-03-023	meetings	MISC	94-03-062
lindane products, registration and distribution	PERM	94-03-024	Fire protection services division		
Plant services			meetings	MISC	94-01-017
holly, cut spray standards	PERM	94-03-026		MISC	94-02-038
Potato commission				MISC	94-03-064
meetings	MISC	94-02-086	Public works board		
Red raspberry commission			meetings	MISC	94-01-135
meetings	MISC	94-02-049			
Scrapie, brucellosis, and tuberculosis control	PROP	94-01-177	<b>CONVENTION AND TRADE CENTER</b>		
Strawberry commission			Meetings	MISC	94-01-068
meetings	MISC	94-03-067		MISC	94-03-040
Tuberculosis, brucellosis, and scrapie control	PROP	94-01-177	<b>COUNTY ROAD ADMINISTRATION BOARD</b>		
Weeds			Land area ratio, computation	PERM	94-01-115
noxious weed list	MISC	94-01-076	Meetings	MISC	94-01-007
Wheat commission			Rural arterials	PERM	94-01-116
meetings	MISC	94-01-020			
Wine commission			<b>DEFERRED COMPENSATION, COMMITTEE FOR</b>		
meetings	MISC	94-02-088	Rules coordinator	MISC	94-03-058
<b>ARTS COMMISSION</b>			<b>EASTERN WASHINGTON UNIVERSITY</b>		
Rules coordinator	MISC	94-01-099	Rules coordinator	MISC	94-01-031
<b>ATTORNEY GENERAL'S OFFICE</b>					
Opinion, notice of request for	MISC	94-01-189			

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

**ECOLOGY, DEPARTMENT OF**

Air quality  
operating permits PERM 94-02-041  
particulate matter standard  
for Seattle, Duwamish Valley and  
Tacoma tideflats MISC 94-03-065  
toxic air pollutants, control  
of sources PERM 94-03-072  
woodstoves MISC 94-01-026  
Annual rule plan MISC 94-01-170  
Beverage containers PROP 94-03-071  
Dangerous waste  
designation PROP 94-01-089  
Clean Air Act  
toxic air pollutants,  
control of sources PERM 94-03-072  
PERM 94-01-060  
excluded categories of waste  
facilities, requirements PROP 94-01-173  
tracking system PROP 94-01-089  
PROP 94-01-089  
Environmental Policy Act  
exemptions from detailed  
statement requirements PROP 94-03-071  
Fresh fruit packing industry  
water discharge permit MISC 94-03-091  
Model Toxics Control Act  
responsiveness summary MISC 94-03-096  
Oil handling facilities  
operations and design standards PROP 94-01-171  
PROP 94-01-172  
Resource damage assessment committee  
meetings MISC 94-01-061  
Shoreline master programs  
Asotin County PROP 94-03-093  
Chelan County PROP 94-03-092  
Port Townsend, city of PROP 94-01-174  
Snohomish County PERM 94-03-095  
Tumwater, city of PROP 94-03-094  
Tire recycling and removal PROP 94-03-071  
Wastewater  
discharge permit program  
fees PROP 94-02-080  
Woodstoves  
buy back program MISC 94-01-026  
sales ban on uncertified woodstoves MISC 94-01-026

**EDMONDS COMMUNITY COLLEGE**

Meetings MISC 94-01-086  
MISC 94-02-023  
MISC 94-03-076  
Students' rights and responsibilities  
disciplinary actions PERM 94-03-010

**EDUCATION, STATE BOARD OF**

American Indian language and culture,  
instruction PERM 94-03-104  
Certification requirements PERM 94-01-101  
Continuing education  
definition PERM 94-01-104  
Corporal punishment  
conditions and prohibitions PERM 94-03-102  
Credit for high school graduation,  
definition PERM 94-03-100  
Educational center, "educational clinic"  
changed to "educational center" PERM 94-03-103  
Educational staff associates  
assignment PERM 94-01-103  
Exit examination PERM 94-01-102  
General educational development (GED)  
test eligibility, authority to  
regulate PERM 94-03-101  
High school credit, definition PERM 94-03-100  
Meetings MISC 94-01-029  
School construction  
contracts, awarding of PERM 94-01-013

documents, approval PERM 94-01-014  
growth impact fees and mitigation PERM 94-01-030  
payments PERM 94-01-014  
site acceptance criteria  
Teachers  
certification requirements PERM 94-01-101

**EMPLOYMENT SECURITY DEPARTMENT**

Overpayments  
interest charges EMER 94-02-028  
Temporary total disability  
definitions EMER 94-02-029  
exclusions EMER 94-02-029  
failure to apply in timely manner EMER 94-02-029  
injuries, additional EMER 94-02-029

**EVERETT COMMUNITY COLLEGE**

Rules coordinator MISC 94-01-071

**EVERGREEN STATE COLLEGE, THE**

Meetings MISC 94-01-092  
Rules coordinator MISC 94-01-072

**FINANCIAL INSTITUTIONS, DEPARTMENT OF**

Mortgage brokers and loan originators  
licensing PERM 94-03-009  
Transactions, registration exemptions PERM 94-03-061

**FISHERIES, DEPARTMENT OF**

Commercial  
bottomfish  
coastal bottomfish catch limits EMER 94-02-039  
licenses PERM 94-01-001  
EMER 94-02-040  
marine fish  
rules and definitions PROP 94-03-106  
sea urchins  
area and seasons EMER 94-01-109  
EMER 94-01-152  
EMER 94-03-063  
shellfish  
rules and definitions PROP 94-03-106  
shrimp  
Puget Sound  
sturgeon  
Columbia River  
above Bonneville, seasons EMER 94-02-010  
vessel designation EMER 94-02-040  
vessel registration PERM 94-01-001  
Personal use  
food fish  
rules and definitions PROP 94-03-105  
licenses PERM 94-01-001  
EMER 94-02-040  
salmon  
area closures EMER 94-01-012  
shellfish  
rules and definitions PROP 94-03-105

**FOREST PRACTICES BOARD**

Enforcement PERM 94-01-134  
Meetings MISC 94-01-133  
Penalties  
assessment and enforcement PERM 94-01-134  
Wetlands  
forested bogs and fens EMER 94-01-124

**GAMBLING COMMISSION**

Amusement games  
approval and authorization PERM 94-01-036  
Bingo  
disposable bingo cards PERM 94-01-034  
equipment requirements PERM 94-01-033



**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

Charitable or nonprofit organizations qualifications, procedures, and responsibilities	PERM	94-01-035	Pharmacy, board of compounding practices controlled substances	PROP	94-02-079
Meetings	MISC	94-01-037	destruction of schedule II substances in nursing homes	PERM	94-02-077
Nonprofit or charitable organizations qualification, procedures, and responsibilities	PERM	94-01-035	list corrections and additions	PROP	94-02-089
Punchboards and pull tabs retention requirements	PERM	94-01-032	ephedrine prescription restrictions	PROP	94-02-078
<b>GOVERNOR, OFFICE OF THE</b>			good compounding practices	PROP	94-02-079
Clemency and pardons board meetings	MISC	<b>94-03-090</b>	pharmacy assistants specialized functions	PROP	94-01-088
Combined fund drive, state employee charity membership criteria	PERM	94-01-038	Physical therapy, board of meetings	MISC	94-02-056
Energy strategy, implementation	MISC	<b>94-03-088</b>	wildlife, department of approved legend drug use	PERM	94-02-060
Multimodal transportation programs and projects selection committee meetings	MISC	94-01-182	Radiation protection, division of fees	PROP	94-01-142
project selection process	EMER	94-01-069	radiation protection standards	PROP	94-01-059
				PERM	94-01-073
				PROP	94-01-142
<b>GRAYS HARBOR COLLEGE</b>			<b>HIGHER EDUCATION COORDINATING BOARD</b>		
Meetings	MISC	94-02-024	Meetings	MISC	<b>94-03-049</b>
			Running start program	PROP	94-01-112
<b>GREEN RIVER COMMUNITY COLLEGE</b>			<b>HUMAN RIGHTS COMMISSION</b>		
Meetings	MISC	94-02-087	Meetings	MISC	94-01-119
				MISC	94-01-120
<b>GROWTH PLANNING HEARINGS BOARDS</b>				MISC	<b>94-03-083</b>
Meetings	MISC	94-01-053	<b>INDETERMINATE SENTENCE REVIEW BOARD</b>		
	MISC	94-01-067	Rules coordinator	MISC	94-02-067
	MISC	94-01-077			
Practice and procedure	PROP	94-01-097	<b>INTEREST RATES</b>		
Rules coordinator	MISC	94-01-053	(See inside front cover)		
<b>HARDWOODS COMMISSION (See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)</b>			<b>INSURANCE COMMISSIONER, OFFICE OF</b>		
<b>HEALTH CARE AUTHORITY</b>			Audited financial statements	PROP	94-01-192
Public employees benefits board meetings	MISC	<b>94-03-007</b>	Financial statements	PROP	94-01-192
<b>HEALTH SERVICES COMMISSION</b>			Health care service contractors participating provider contracts	PROP	94-01-075
Organization and operation	PROP	94-01-141	Health insurance reform short term form modification	PROP	94-02-065
Rules coordinator	MISC	94-01-070		PROP	<b>94-03-048</b>
<b>HEALTH, DEPARTMENT OF</b>			portability	PROP	94-02-065
Boarding homes				PROP	<b>94-03-048</b>
nursing care for residents	PERM	94-01-058	rate limitations	PROP	94-02-065
Chiropractic disciplinary board adjudicative proceedings	PROP	<b>94-03-053</b>		PROP	<b>94-03-048</b>
future care contracts	PROP	94-02-016	renewability	PROP	<b>94-03-085</b>
Dental disciplinary board adjudicative proceedings	PROP	<b>94-03-045</b>		PROP	<b>94-03-048</b>
Dental examiners, board of adjudicative proceedings	PROP	<b>94-03-044</b>	unfair practices	PROP	<b>94-03-084</b>
dentist fees	PERM	94-02-058	Health maintenance organizations participating provider contracts	PROP	94-01-075
Dental hygienists education requirements	PROP	94-01-056	Malpractice insurance		
licenses fees	PERM	94-02-059	midwifery and birthing centers	PERM	94-02-053
HIV health insurance eligibility	PROP	94-01-057	Midwifery and birthing centers malpractice joint underwriting authority	PERM	94-02-053
Massage, board of continuing education	PROP	94-01-055	<b>JUDICIAL CONDUCT, COMMISSION ON</b>		
Nursing, board of computer adaptive testing	PROP	94-01-132	Meetings	MISC	94-01-050
Nursing home administrators, board of meetings	MISC	<b>94-03-054</b>		MISC	94-01-051
Opticians contact lenses			<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>		
fitting and dispensing	PROP	94-02-057	Boiler rules, board of meetings	MISC	94-01-015
records retention	PROP	94-02-057	Crime victims compensation		
			mental health treatment fees and rules	PERM	94-02-015
			Electrical board meetings	MISC	94-02-055

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Electrical installations			<u>Instant game number 117 - Cash Crop</u>		
wiring and apparatus	PERM	94-01-005	criteria	PERM	94-03-019
Electricians			definitions	PERM	94-03-019
journeyman electricians			ticket validation	PERM	94-03-019
certificate of competency	PERM	94-01-005	<u>Instant game number 118 - Aces Wild</u>		
Fees	PERM	94-01-100	criteria	PROP	94-03-099
Medical and mental health treatment			definitions	PROP	94-03-099
fees and rules	PERM	94-02-015	ticket validation	PROP	94-03-099
Prevailing wages			<u>Instant game number 119 - Big Bucks</u>		
fees for filing statements	PERM	94-01-100	criteria	PROP	94-03-099
Safety and health standards			definitions	PROP	94-03-099
agriculture	PROP	94-01-186	ticket validation	PROP	94-03-099
Workers' compensation			<u>Instant game number 120 - Lucky Deal</u>		
health care providers' reimbursement	PERM	94-02-045	criteria	PROP	94-03-099
	PERM	94-03-008	definitions	PROP	94-03-099
general	PROP	94-01-186	ticket validation	PROP	94-03-099
respiratory impairment, evaluation	PERM	94-03-073	<u>Instant game number 121 - Hog Mania</u>		
self-insurance			criteria	PROP	94-03-099
certification	PROP	94-03-006	definitions	PROP	94-03-099
employee rights	PROP	94-03-006	ticket validation	PROP	94-03-099
<b>LAKE WASHINGTON TECHNICAL COLLEGE</b>			Instant games		
Meetings	MISC	94-01-052	criteria	PERM	94-03-020
	MISC	94-03-016	official end	PERM	94-03-020
<b>LICENSING, DEPARTMENT OF</b>			Lotto		
Cemetery board			prizes	PROP	94-03-099
fees	PERM	94-01-117	retailer settlement	PERM	94-03-020
Escrow commission			On-line games		
meetings	MISC	94-02-018	criteria	PERM	94-03-020
Landscape architects			Retailers		
fees	PROP	94-01-047	obligations	PERM	94-03-020
licenses			procedures	PERM	94-03-020
examination	PROP	94-01-047	retailer settlement	PERM	94-03-020
renewal	PROP	94-01-047	<b>MARINE OVERSIGHT BOARD</b>		
Model traffic ordinance	PERM	94-01-082	Meetings	MISC	94-02-084
reciprocity and proration	PROP	94-02-025	<b>MARINE SAFETY, OFFICE OF</b>		
special fuel, tax exemption and refunds	PROP	94-02-075	Regional marine safety committee		
	PROP	94-02-076	meetings	MISC	94-01-110
Motor vehicles			Rules coordinator	MISC	94-02-021
model traffic ordinance	PERM	94-01-082	<b>MARITIME COMMISSION</b>		
title and registration advisory committee	MISC	94-01-111	Meetings	MISC	94-01-027
Real estate appraisers			<b>MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF</b>		
residential classification	PERM	94-01-002	Agency and educational institution plans		
Real estate commission			contents	PROP	94-01-164
meetings	MISC	94-02-018	Annual goals for participation	PROP	94-01-127
Vessels				PERM	94-03-068
fees	PROP	94-03-018	Fees	PROP	94-01-090
registration and certificate of title	PROP	94-03-018		PROP	94-01-187
				EMER	94-01-188
<b>LIQUOR CONTROL BOARD</b>			<b>MULTIMODAL TRANSPORTATION PROGRAMS AND PROJECTS SELECTION COMMITTEE</b>		
Breweries			(See GOVERNOR, OFFICE OF THE)		
retail sale of beer on premises	PROP	94-02-013	<b>NATURAL RESOURCES, DEPARTMENT OF</b>		
retailers' brewery license	PROP	94-02-013	Forest practices board		
Private clubs			(see FOREST PRACTICES BOARD)		
advertising	PROP	94-02-014	Natural heritage advisory council		
Public records, availability	PERM	94-03-060	meetings	MISC	94-03-070
Wineries			Survey monuments		
retail sale of wine on premises	PROP	94-02-013	removal or destruction	PROP	94-01-022
retailers' winery license	PROP	94-02-013	<b>NORTHWEST AIR POLLUTION AUTHORITY</b>		
<b>LOTTERY COMMISSION</b>			Air contaminant sources		
<u>Instant game number 114 - Wildcard</u>			reporting	PERM	94-01-108
criteria	PERM	94-03-019	Fees	PERM	94-01-108
definitions	PERM	94-03-019	Operating permits	PERM	94-01-108
ticket validation	PERM	94-03-019			
<u>Instant game number 115 - Cash Roulette</u>					
criteria	PERM	94-03-019			
definitions	PERM	94-03-019			
ticket validation	PERM	94-03-019			
<u>Instant game number 116 - Fortune</u>					
criteria	PERM	94-03-019			
definitions	PERM	94-03-019			
ticket validation	PERM	94-03-019			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

<b>OLYMPIC COLLEGE</b>							
Meetings	MISC	94-01-122	Campaign finance reporting forms	EMER	94-01-039		
	MISC	94-01-123	Contributions	PROP	94-01-040		
	MISC	94-02-085	designations for primary and general elections	<b>PROP</b>	<b>94-03-087</b>		
<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>			encouraging expenditures to avoid contributions, result	MISC	94-01-054		
Rules coordinator	MISC	94-02-062	personal use, standard political committees	<b>PROP</b>	<b>94-03-087</b>		
			Exempt activities	<b>PROP</b>	<b>94-03-087</b>		
<b>PARKS AND RECREATION COMMISSION</b>			definition and reporting limitations	MISC	94-01-054		
Aircraft				MISC	94-01-054		
paragliders, prohibition exemption	PERM	94-01-087					
Boating safety program			<b>PUBLIC EMPLOYEES BENEFITS BOARD (See HEALTH CARE AUTHORITY)</b>				
local government programs	PROP	94-01-149					
Camping facilities			<b>PUBLIC INSTRUCTION, SUPERINTENDENT OF</b>				
fees	<b>PROP</b>	<b>94-03-097</b>	Child nutrition				
Day use			practice and procedures	PROP	94-01-137		
fees	<b>PROP</b>	<b>94-03-097</b>	Running start program	PROP	94-01-114		
Film permit application, fee	<b>PROP</b>	<b>94-03-089</b>		PROP	94-01-136		
Fort Worden			Salary allocations				
fees	PROP	94-01-150	certificated instructional staff	PERM	94-01-190		
Meetings	MISC	94-01-148					
Paragliders			<b>PUBLIC WORKS BOARD (See COMMUNITY DEVELOPMENT, DEPARTMENT OF)</b>				
aircraft prohibition, exemption	PERM	94-01-087					
Senior citizens, off-season pass	<b>PROP</b>	<b>94-03-097</b>					
			<b>PUGET SOUND AIR POLLUTION CONTROL AGENCY</b>				
<b>PENINSULA COLLEGE</b>			Chromic acid plating and anodizing	PERM	94-01-083		
Meetings	MISC	94-01-185	Coatings	PERM	94-01-083		
				PROP	94-02-083		
<b>PERSONNEL RESOURCES BOARD</b>			Compliance with regulations	PERM	94-01-083		
Appeals	PROP	94-02-034		PROP	94-02-083		
Demotion	PROP	94-02-034	Control officer				
Dismissal	PROP	94-02-034	duties and powers	PROP	94-02-083		
Exemptions, civil service law	PROP	94-02-030	Definitions	PROP	94-02-083		
	PERM	94-02-031	Emission standards				
	PROP	94-02-036	compliance	PROP	94-02-083		
Filing of papers			Gasoline loading terminals	PERM	94-01-083		
Higher education institutions and related boards, civil service law exemptions	PERM	94-02-031	Gasoline stations				
Layoff or separation	PROP	94-02-034	vapor recovery	PROP	94-02-083		
Operations	PERM	94-02-032	Refuse burning	PERM	94-01-083		
	PROP	94-02-035	Sources				
Position allocations and reallocations	PROP	94-02-034	registration	PROP	94-02-083		
Public records, availability	PERM	94-02-032					
	PROP	94-02-035	<b>PUGET SOUND WATER QUALITY AUTHORITY</b>				
Service of process	PROP	94-02-036	Meetings	MISC	<b>94-03-017</b>		
State internship program	PERM	94-02-033	Rules coordinator	MISC	94-02-019		
	PROP	94-02-035					
Trial service	PROP	94-02-034	<b>RENTON TECHNICAL COLLEGE</b>				
			Meetings	MISC	<b>94-03-015</b>		
<b>PERSONNEL, DEPARTMENT OF</b>							
Career executive program			<b>REVENUE, DEPARTMENT OF</b>				
transition into Washington management service	PROP	94-01-125	Business and occupation tax				
			agricultural products, sales by producers	<b>PROP</b>	<b>94-03-034</b>		
Personnel resources board, See PERSONNEL RESOURCES BOARD			farmers, miscellaneous sales to feed, seed, fertilizer, and spray materials for farm use	<b>PROP</b>	<b>94-03-037</b>		
Rules coordinator	MISC	94-01-160	heat or steam sales	<b>PROP</b>	<b>94-03-035</b>		
Washington management service			horticultural services to farmers	<b>PROP</b>	<b>94-03-036</b>		
career executive program, transition from establishment	PROP	94-01-125	hospitals, medical care facilities, and adult family homes	PROP	94-01-158		
	PROP	94-01-048	hotels, motels, and boarding houses	PROP	94-01-157		
	PERM	94-01-126	laundries and dry cleaners	PROP	94-01-156		
	<b>EMER</b>	<b>94-03-069</b>	schools and educational institutions	<b>PROP</b>	<b>94-03-047</b>		
<b>PIERCE COLLEGE</b>							
Meetings	MISC	94-02-017	Property tax				
			agricultural land valuation	PROP	94-01-166		
<b>PILOTAGE COMMISSIONERS, BOARD OF</b>			exemptions	PROP	94-01-169		
Pilotage tariff rates	PROP	94-01-153	forest land values	PERM	94-02-046		
Grays Harbor district	EMER	94-01-154	nonprofit organizations, associations, and corporations, exemption conditions	PROP	94-01-169		
			personal property ratio, computation	PROP	94-01-168		
<b>PUBLIC DISCLOSURE COMMISSION</b>							
Aggregate, definition	MISC	94-01-054					

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

refunds, rate of interest	PROP	94-01-167		
Public utility tax	PROP	94-01-159		
Sales tax				
agricultural products, sales by producers	<b>PROP</b>	<b>94-03-034</b>		
farmers, miscellaneous sales to	<b>PROP</b>	<b>94-03-037</b>		
feed, seed, fertilizer, and spray materials for farm use	<b>PROP</b>	<b>94-03-035</b>		
heat or steam sales	PROP	94-01-155		
horticultural services to farmers	<b>PROP</b>	<b>94-03-036</b>		
hospitals, medical care facilities, and adult family homes	PROP	94-01-158		
hotels, motels, and boarding houses	PROP	94-01-157		
laundries and dry cleaners	PROP	94-01-156		
schools and educational institutions	<b>PROP</b>	<b>94-03-047</b>		
watercraft, sales to nonresidents	<b>PROP</b>	<b>94-03-046</b>		
Timber excise tax				
stumpage values	PERM	94-02-047		
	PROP	94-02-073		
	PROP	94-02-074		
	<b>PROP</b>	<b>94-03-086</b>		
<b>RULES COORDINATORS</b>				
(See Issue 94-01 for a complete list of rules coordinators designated as of 12/22/93)				
Arts commission	MISC	94-01-099		
Central Washington University	MISC	94-01-105		
Clover Park Technical College	MISC	94-01-043		
Community and technical colleges, state board for	MISC	94-01-023		
Deferred compensation, committee for	<b>MISC</b>	<b>94-03-058</b>		
Eastern Washington University	MISC	94-01-031		
Everett Community College	MISC	94-01-071		
Evergreen State College, The	MISC	94-01-072		
Growth planning hearings boards	MISC	94-01-053		
Health services commission	MISC	94-01-070		
Indeterminate sentence review board	MISC	94-02-067		
Marine safety, office of	MISC	94-02-021		
Outdoor recreation, interagency committee for	MISC	94-02-062		
Personnel, department of	MISC	94-01-160		
Puget Sound water quality authority	MISC	94-02-019		
Seattle Community Colleges	MISC	94-01-107		
Spokane, Community Colleges of	MISC	94-01-009		
Trade and economic development, department of	MISC	94-01-183		
Utilities and transportation commission	MISC	94-02-026		
Whatcom Community College	MISC	94-01-044		
<b>SEATTLE COMMUNITY COLLEGES</b>				
Meetings	MISC	94-01-006		
	MISC	94-01-085		
	MISC	94-01-131		
	<b>MISC</b>	<b>94-03-059</b>		
Rules coordinator	MISC	94-01-107		
<b>SECRETARY OF STATE</b>				
Archives and records management, division of electronic imaging systems, standards for accuracy and durability	PROP	94-01-161		
	<b>PROP</b>	<b>94-03-081</b>		
Corporations division				
charitable solicitation organizations				
financial reporting	PERM	94-01-004		
registration	PERM	94-01-004		
charitable trusts				
financial reporting	PERM	94-01-004		
registration	PERM	94-01-004		
commercial fund raisers				
auditing standards	PERM	94-02-011		
registration	PERM	94-02-011		
fees	PERM	94-01-074		
Election training and certification program	PROP	94-01-010		
<b>SHORELINE COMMUNITY COLLEGE</b>				
Meetings	MISC	<b>94-03-012</b>		
<b>SKAGIT VALLEY COLLEGE</b>				
Grievance procedure	PERM	94-01-028		
Harassment	PERM	94-01-028		
Meetings	MISC	94-01-128		
Records, availability	PERM	94-01-028		
Smoking policy	PERM	94-01-028		
<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b>				
Alcohol and substance abuse, division of chemical dependency treatment service providers				
certification	PERM	94-02-002		
	PROP	94-02-020		
Deaf and hard of hearing services				
telecommunications access service (TAS)	PROP	94-01-080		
	PERM	94-02-042		
Developmental disabilities, division of family support services				
	PROP	94-01-062		
	EMER	94-01-063		
	EMER	94-01-064		
	PROP	94-01-011		
Disaster relief				
Food stamp program				
income budgeting	<b>PROP</b>	<b>94-03-041</b>		
interview process	PERM	94-01-066		
monthly reporting	<b>PROP</b>	<b>94-03-050</b>		
standards of assistance	EMER	94-02-043		
Income assistance				
consolidated emergency assistance program (CEAP)	<b>PROP</b>	<b>94-03-051</b>		
incorrect payments	PROP	94-02-052		
self-employment resource exemptions	<b>PROP</b>	<b>94-03-055</b>		
standards of assistance	PROP	94-01-118		
supplemental security income (SSI) program				
	PROP	94-01-118		
	PROP	94-01-138		
	PROP	94-01-139		
transfer of property				
Individual and family grant program				
disaster relief	PROP	94-01-011		
Medical assistance				
client grievances	PROP	94-01-003		
drugs				
discount agreement	PROP	94-01-046		
	PERM	94-01-094		
exempt resources	PERM	94-02-007		
eyeglasses and examinations	PROP	94-01-081		
	EMER	94-02-044		
hearing aids	PROP	94-02-050		
	EMER	94-02-051		
home health services	PROP	94-01-147		
	<b>PERM</b>	<b>94-03-052</b>		
	PROP	94-02-052		
incorrect payments				
institutionalized client, allocation of income and resources	PERM	94-02-006		
mental health services, managed care prepaid healthcare plans				
	PROP	94-01-079		
	PROP	94-01-140		
	PROP	94-02-003		
	EMER	94-02-004		
	EMER	94-02-008		
	PROP	94-02-009		
occupational therapy	PERM	94-01-065		
physical therapy	PERM	94-01-065		
speech therapy services	PERM	94-01-065		
SSI-related income exemptions	PERM	94-02-005		
Mental health division				
managed care prepaid healthcare plans	PROP	94-02-003		
	EMER	94-02-004		
	EMER	94-02-008		
	PROP	94-02-009		
Restoration of right to possess firearms by former involuntary committed person	<b>EMER</b>	<b>94-03-004</b>		
	<b>PROP</b>	<b>94-03-005</b>		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Support enforcement good cause not to cooperate	PROP	94-01-042		
<b>SOUTH PUGET SOUND COMMUNITY COLLEGE</b>				
Meetings	MISC	<b>94-03-032</b>		
<b>SPOKANE, COMMUNITY COLLEGES OF</b>				
Meetings	MISC	94-01-019		
Rules coordinator	MISC	94-01-009		
<b>SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY</b>				
Solid fuel burning devices standards	PERM	<b>94-03-027</b>		
<b>SUPREME COURT</b>				
Bar Association				
collective bargaining for employees (GR 12)	MISC	94-01-025		
Videotaped proceedings (RAP)	MISC	94-01-024		
<b>TACOMA COMMUNITY COLLEGE</b>				
Discrimination	PROP	<b>94-03-082</b>		
Grievance procedure	PROP	<b>94-03-082</b>		
Meetings	MISC	94-01-129		
	MISC	<b>94-03-079</b>		
Sexual harassment	PROP	<b>94-03-082</b>		
<b>TAX APPEALS, BOARD OF</b>				
Hearings				
procedures for requesting formal or informal hearing	PROP	<b>94-03-056</b>		
	PROP	<b>94-03-057</b>		
Meetings	MISC	94-01-016		
<b>TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>				
Hardwoods commission				
meetings	MISC	<b>94-03-039</b>		
Rules coordinator	MISC	94-01-183		
<b>TRAFFIC SAFETY COMMISSION</b>				
Meetings	MISC	94-02-066		
<b>TRANSPORTATION COMMISSION</b>				
Meetings	MISC	94-01-143		
<b>TRANSPORTATION IMPROVEMENT BOARD</b>				
Meetings	MISC	<b>94-03-030</b>		
<b>TRANSPORTATION, DEPARTMENT OF</b>				
Contractors				
prequalification	PROP	94-01-021		
Motor vehicles				
overlength exemptions	EMER	94-02-064		
	PROP	<b>94-03-043</b>		
temporary additional tonnage permits	PROP	<b>94-03-042</b>		
<b>UNIVERSITY OF WASHINGTON</b>				
Meetings	MISC	94-01-098		
	MISC	94-02-054		
	MISC	<b>94-03-028</b>		
	MISC	<b>94-03-029</b>		
	MISC	<b>94-03-077</b>		
	MISC	<b>94-03-078</b>		
<b>USURY RATES</b>				
(See inside front cover)				
			<b>UTILITIES AND TRANSPORTATION COMMISSION</b>	
			Commercial ferries	
			definitions	PERM 94-03-003
			tariffs	PERM 94-03-003
			Electric utilities	
			purchases of electricity	PROP 94-01-175
			Log road classification	PERM 94-03-001
			Meetings	MISC 94-02-027
			Motor freight carriers	
			bills of lading	PERM 94-03-002
			Motor vehicles	
			interstate carriers	
			registration	EMER 94-01-041
			log road classification	PERM 94-03-001
			Rules coordinator	MISC 94-02-026
			Telecommunication companies	
			mandatory cost changes	PERM 94-01-146
			open network architecture environment	PROP 94-01-191
			Water companies	
			customer deposits, interest	PERM 94-01-095
			<b>VOCATIONAL-TECHNICAL EDUCATION, COUNCIL ON</b>	
			Meetings	MISC 94-01-093
			<b>VOLUNTEER FIREFIGHTERS, BOARD FOR</b>	
			Meetings	MISC 94-03-031
			<b>WASHINGTON STATE HISTORICAL SOCIETY</b>	
			Meetings	MISC 94-01-018
			<b>WASHINGTON STATE PATROL</b>	
			Commercial vehicles	
			tire chains or traction devices	EMER 94-02-081
				PROP 94-02-082
			Hazardous materials	
			procedure upon entering state	PERM 94-01-180
			Private carriers	
			drivers' qualifications	PERM 94-01-178
			hours of service of drivers	PERM 94-01-178
			School buses	
			lamps, operation	PERM 94-01-179
			stop signal arms	PERM 94-01-179
			<b>WASHINGTON STATE UNIVERSITY</b>	
			Meetings	MISC 94-01-121
			<b>WHATCOM COMMUNITY COLLEGE</b>	
			Meetings	MISC 94-01-184
			Rules coordinator	MISC 94-01-044
			<b>WILDLIFE, COMMISSION AND DEPARTMENT</b>	
			Fishing	
			game fish seasons and catch limits, 1992-94	
			steelhead	EMER 94-02-037
				EMER 94-03-038
			game fish seasons and catch limits, 1994-95	
			steelhead	EMER 94-02-037
				EMER 94-03-038
			Meetings MISC	94-02-001
			Migratory waterfowl	
			1993-94 seasons and regulations	EMER 94-02-012
			<b>WINE COMMISSION (See AGRICULTURE, DEPARTMENT OF)</b>	
			<b>WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD</b>	
			Meetings	MISC 94-01-078
				MISC 94-02-048

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

### **YAKIMA COUNTY CLEAN AIR AUTHORITY**

Fees PERM 94-01-084

### **YAKIMA VALLEY COMMUNITY COLLEGE**

Meetings MISC 94-01-106



# WASHINGTON STATE REGISTER Subscriptions

---

To: Subscription Clerk  
WASHINGTON STATE REGISTER  
Code Reviser's Office  
PO Box 40552  
Olympia, WA 98504-0552

I would like to order \_\_\_\_\_ subscription(s) to the WASHINGTON STATE REGISTER, at an annual rate of \$188.83, sales tax included (\$175 for state agencies). Enclosed is my check or money order for \$\_\_\_\_\_. Please start my subscription with the January issue of 1994.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

THE WASHINGTON STATE REGISTER, published pursuant to RCW 34.08.020, is distributed on the first and third Wednesdays of each month. The Register contains the full text of proposed, emergency, and permanently adopted rules of state agencies, executive orders of the governor, notices of public meetings of state agencies, rules of the state supreme court, summaries of attorney general opinions, and juvenile disposition standards that have been filed in the code reviser's office before the pertinent closing date for that issue of the Register. A cumulative table of existing sections of the Washington Administrative Code (WAC) affected by a particular agency action guides the user to the proper volume of the Register.

The code reviser's office has established an annual subscription price of \$175 for a Register subscription, and single copies will cost \$7.50. Sales tax of 7.9% now applies to all sales other than to state agencies. State law requires payment in advance. To subscribe to the Register, please complete the order form above and forward it to the address indicated, accompanied by your check or money order in the amount of \$188.83 (\$175 for state agencies) payable to the code reviser's office.

---

*Send Address Changes to:*

**WASHINGTON STATE REGISTER**  
**(ISSN 0164-6389)**  
**Code Reviser's Office**  
**PO Box 40552**  
**OLYMPIA, WA 98504-0552**



Second-Class Postage Paid At Olympia, WA
--

## S E C O N D C L A S S