

Washington State Register

FEBRUARY 16, 1994

OLYMPIA, WASHINGTON

ISSUE 94-04



IN THIS ISSUE

Agriculture, Department of
Archives and Records Management,
Division of
Attorney General, Office of the
Bellevue Community College
Boiler Rules, Board of
Community and Technical Colleges,
State Board for
Community Economic Revitalization Board
Dental Disciplinary Board
Dental Examiners, Board of
Dental Hygiene Program
Eastern Washington University
Ecology, Department of
Employment Security Department
Escrow Commission
Fisheries, Department of
Gambling Commission
Governor, Office of the
Green River Community College
Health, Department of
Health Services Commission
Health Statistics, Center for
Higher Education Coordinating Board
Highline Community College
Hispanic Affairs, Commission on
Horse Racing Commission
Human Rights Commission

Insurance Commissioner, Office of the
Investment Board, State
Legal Foundation of Washington
Licensing, Department of
Multimodal Transportation Programs and
Projects Selection Committee
Parks and Recreation Commission
Peninsula College
Personnel, Department of
Personnel Resources Board
Pharmacy, Board of
Pilotage Commissioners, Board of
Public Disclosure Commission
Public Instruction, Superintendent of
Puget Sound Water Quality Authority
Revenue, Department of
Secretary of State
Social and Health Services, Department of
Tacoma Community College
Transportation Commission
Transportation, Department of
University of Washington
Veterans' Affairs, Department of
Vocational-Technical Education, Council on
Walla Walla Community College
Wildlife Commission
Wildlife, Department of
Workforce Training and Education
Coordinating Board

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than February 2, 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 ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
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

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

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

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

Regulatory Fairness Act

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

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

AN SBEIS IS REQUIRED

When:

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

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

AN SBEIS IS NOT REQUIRED

When:

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

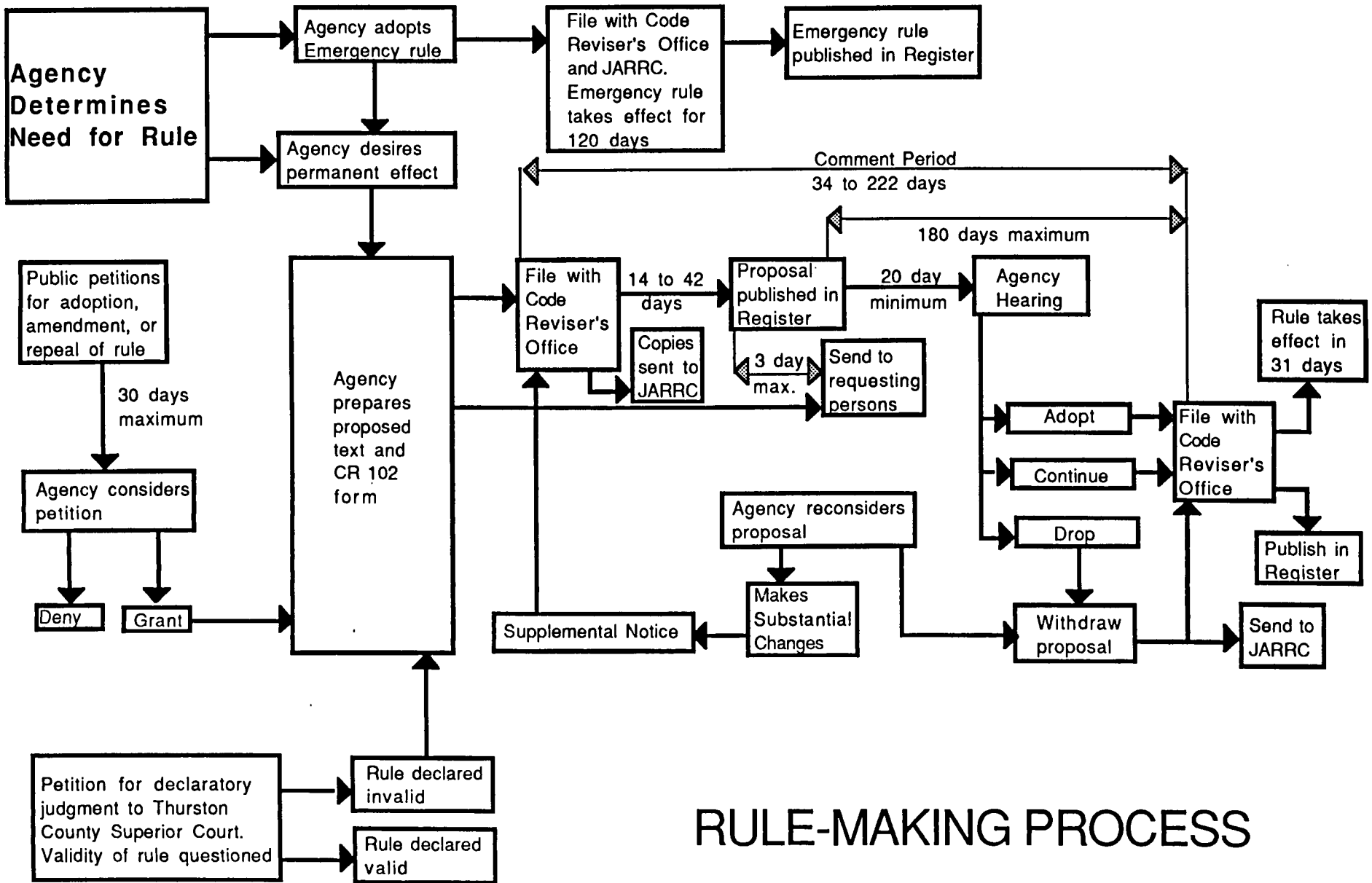
There is no economic impact on business;

The rule **REDUCES** costs to business;

There is only minor or negligible economic impact;

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

The rule is pure restatement of statute.



RULE-MAKING PROCESS

PROPOSED

WSR 94-04-009
WITHDRAWAL OF PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed January 21, 1994, 1:06 p.m.]

The Personnel Resources Board hereby withdraws proposed new rule WAC 356-30-328 filed with your office on November 30, 1993, as a part of WSR 93-24-089.

Dennis Karras
Director

WSR 94-04-010
WITHDRAWAL OF PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed January 21, 1994, 1:09 p.m.]

The Personnel Resources Board is withdrawing two notices of proposed rule making (CR-102s).

The first withdrawal is WSR 93-24-079, filed with your office on November 30, 1993.

The second withdrawal is WSR 93-24-078, filed with your office on November 30, 1993.

Dennis Karras
Director

WSR 94-04-017
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed January 24, 1994, 2:21 p.m.]

Original Notice.

Title of Rule: WAC 308-62-010, 308-62-020 and 308-62-030, procedure for taking custody of unauthorized vehicles.

Purpose: Repeal entire chapter.

Summary: WAC 308-62-010, 308-62-020, and 308-62-030 are being repealed due to the sections being covered in chapter 308-61 WAC or chapter 46.55 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Art Farley, Licensing Services Manager, P.O. Box 48071, Olympia, WA 98504, (206) 586-5373.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-62-010, 308-62-020, and 308-62-030 are being repealed. This chapter is covered in another chapter, chapter 308-61 WAC or chapter 46.55 RCW.

Proposal Changes the Following Existing Rules: It repeals the existing WAC chapter.

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

Hearing Location: Department of Licensing, 3rd Floor Executive Conference Room, General Administration Building, 11th and Columbia, Olympia, Washington 98504, on March 14, 1994, at 10:00 a.m.

Submit Written Comments to: Michele Gruender, Dealer Services, Department of Licensing, P.O. Box 48071, Olympia, WA 98504-8071, by March 7, 1994.

Date of Intended Adoption: March 28, 1994.

January 18, 1994
Kathy Baros Friedt
Director

WSR 94-04-022
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistant)
[Filed January 25, 1994, 12:27 p.m.]

Original Notice.

Title of Rule: WAC 388-86-073 Occupational therapy, 388-86-090 Physical therapy, and 388-86-098 Speech therapy services.

Purpose: Adds number of speech therapy services not needing authorization, and adds when medically necessary, the department may approve additional occupational, physical, and speech therapy.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Adds additional services not needing authorization. Adds that when medically necessary, the department may approve additional services.

Reasons Supporting Proposal: To assure clients receive necessary services when medically necessary.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance Administration, 753-0529.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 8, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by February 22, 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 March 1, 1994.

Date of Intended Adoption: March 9, 1994.

January 25, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

- (a) By a licensed occupational therapist;
- (b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or
- (c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

- (a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;
- (b) By a home health agency as described under WAC 388-86-045;
- (c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;
- (d) In a neuromuscular center; or
- (e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

- (a) One occupational therapy assessment;
- (b) Two durable medical equipment needs assessments;
- (c) Twelve occupational therapy sessions; ~~((and))~~
- (d) ~~((A maximum of))~~ Twenty-four additional outpatient occupational therapy sessions if ~~((services are specifically identified in the medical assistance administration billing instructions and))~~ the diagnosis is associated with:

- (i) A medically necessary condition for developmentally delayed clients;
- (ii) Surgeries involving extremities:
 - (A) Fractures; or
 - (B) Open wounds with tendon involvement ~~((or~~
 - ~~((C) Dorsal rhizotomy))~~.
- (iii) Intracranial injuries;
- (iv) Burns;
- (v) Traumatic injuries;
- (vi) Cerebral palsy;
- (vii) Downs Syndrome;
- (viii) Meningomyelocele;
- (ix) Severe oral/motor problems:
 - (A) Dyspraxia;
 - (B) Cleft palate and/or cleft lip; or
 - (C) That interfere with adequate nutrition.
- (x) Symptoms involving nervous and musculoskeletal

- systems:
 - (A) Abnormality of gait; or
 - (B) Lack of coordination; or
- (xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services, but continues to require specialized outpatient therapy.

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Additional sessions when requested and approved through department of health's children with special health care needs program;

(g) Subject to department approval, additional occupational therapy services regardless of diagnosis when such services are medically necessary.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

- (a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;
- (b) Medically needy program only when the client is:
 - (i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or
 - (ii) Receiving home health care services as described under WAC 388-86-045.
- (c) Medically indigent program as part of the treatment program under home health care services as described under WAC 388-86-045

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

- (a) The attending physician prescribes physical therapy;
- (b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and
- (c) The therapy assists the client:
 - (i) In avoiding hospitalization or nursing facility care; or
 - (ii) In becoming employable; or
 - (iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or
 - (iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

- (a) One medical diagnostic evaluation;
- (b) Twelve physical therapy sessions; and
- (c) ~~((A maximum of))~~ Twenty-four additional outpatient sessions, when the services are ~~((specifically identified in the~~

~~medical assistance administration billing instructions and are~~) for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

(A) Fractures;

(B) Open wounds with tendon involvement(~~(; or~~

~~(C) Dorsal rhizotomy~~);

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems(~~(;~~

~~(A))~~ with abnormality of gait(~~(; and~~

~~((B))~~ lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program;

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Subject to department approval, additional physical therapy services regardless of diagnosis when such services are medically necessary.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year when the health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve speech therapy sessions; ~~((and))~~

(c) ~~((A maximum of))~~ Twenty-four additional speech therapy sessions if the speech therapy service is for:

(i) Medically necessary conditions for developmentally delayed clients;

(ii) Cerebral Palsy;

(iii) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(iv) Meningomyelocele;

(v) Neurofibromatosis; ~~((or))~~

(vi) Downs Syndrome;

(vii) Traumatic head/brain injury (TBI);

(viii) Cerebral vascular accident (recent only) of dominant hemisphere; or

(ix) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing, but continues to require specialized outpatient therapy.

(d) Subject to department approval, additional speech therapy services regardless of diagnosis when such services are medically necessary.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

(a) Hospital inpatient diagnosis related group services; and

(b) Nursing facility services.

(5) The department shall pay for speech therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening,

diagnosis(;;)) and treatment program/healthy kids program; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

WSR 94-04-024
PROPOSED RULES
GAMBLING COMMISSION
 [Filed January 25, 1994, 2:37 p.m.]

Original Notice.

Title of Rule: WAC 230-02-161 Bona fide nonprofit organization defined; 230-40-035 Certification procedure—Charitable and nonprofit organizations—Classification of purpose; 230-04-075 No license required for certain bingo, raffles, and amusement games; 230-08-015 Certain lower volume licensees may meet reduced recordkeeping requirements; 230-12-010 Inspection of premises, records and devices; 230-12-305 Licensee required to submit updated documents or information; 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required; 230-20-111 Promotional activities—Performances as gifts—Advanced approval required; 230-20-220 Operators shall not play; 230-20-230 Free games for winners prohibited; 230-20-400 Certain lower volume licensees exempted from certain rules; 230-20-680 Commercial amusement games—Operation restrictions; 230-25-160 Pull tabs at fund-raising events—Operational requirements—Limitations; 230-30-060 Punchboard restrictions; 230-30-072 Punchboard and pull tab inventory and retention requirements; 230-30-102 Pull tab series assembly and packaging; 230-30-103 Standards for construction of pull tabs; and 230-40-055 Card tournaments for fee and prizes—Reporting requirements.

Purpose: Packet of rules have minor housekeeping changes to clarify wording, amend WAC and RCW references or amend rule in accordance with code reviser's standards.

Statutory Authority for Adoption: RCW 9.46.0209 for WAC 230-02-161, 230-04-035 and 230-04-075; RCW 9.46.070 for WAC 230-08-015, 230-12-305, 230-20-064, 230-20-111, 230-20-220, 230-20-230, 230-25-160, 230-30-060, 230-30-072, 230-30-102, 230-30-103, and 230-40-055; RCW 9.46.140 for WAC 230-12-010; RCW 9.46.070, 9.46.0315, and 9.46.0321 for WAC 230-20-400; and RCW 9.46.070 and 9.46.0331 for WAC 230-20-680.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: WAC 230-02-161, housekeeping change to add "made" to rule; WAC 230-04-035, housekeeping change to add "made" to subsection (2); WAC 230-04-075 and 230-08-015, housekeeping change to amend RCW reference; WAC 230-12-010, housekeeping change to clarify wording in subsection (1); WAC 230-12-305, housekeeping change to delete "and" from subsection (2); WAC 230-20-064, house-

keeping change to add numerical reference to subsection (4); WAC 230-20-111, housekeeping change to add hyphens to rule title; WAC 230-20-220, housekeeping change to delete and add commas in accordance with code reviser's standards and amend RCW reference; WAC 230-20-230 and 230-20-400, housekeeping change to amend RCW reference; WAC 230-20-680, housekeeping change to amend WAC reference; WAC 230-25-160, housekeeping change to clarify subsections (6) and (8); WAC 230-30-060, housekeeping change to clarify subsection (3); WAC 230-30-072, housekeeping change deleting subsection (1)(a), renumbering remaining paragraphs and clarifying subsection (1)(b); WAC 230-30-102, housekeeping change to amend subsection (5) in accordance with code reviser's standards; WAC 230-30-103, housekeeping change to amend subsection (8)(a) in accordance with code reviser's standards; and WAC 230-40-055, housekeeping change to amend subsection (2) in accordance with code reviser's standards.

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

Name of Proponent: [Gambling Commission], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed housekeeping changes are to clarify wording, amend WAC and RCW references, or to amend the rule in accordance with code reviser's standards.

Proposal Changes the Following Existing Rules: Amends existing rules to clarify wording of rule, amend RCW and WAC references, or amend the rule in accordance with code reviser's standards.

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

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

Hearing Location: Nordic Inn, 1700 Boone Street, Aberdeen, WA 98520, on March 11, 1994, at 10:00 a.m.

Submit Written Comments to: Sharon M. Tolton, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, by March 9, 1994.

Date of Intended Adoption: March 11, 1994.

January 24, 1994
 Sharon M. Tolton
 Rules Coordinator

AMENDATORY SECTION (Amending Order 190, filed 4/18/89, effective 7/1/89)

WAC 230-02-161 Bona fide nonprofit organization defined. A bona fide nonprofit organization is a organization that meets all of the requirements of RCW 9.46.0209 and is organized and operated primarily to provide one or more of the following nonprofit services:

- (1) Educational;
- (2) Civic;
- (3) Patriotic;
- (4) Political;
- (5) Social;
- (6) Fraternal;
- (7) Athletic;
- (8) Agricultural;
- (9) Church and religious societies under chapter 24.12 RCW;
- (10) Fraternal societies under chapter 24.20 RCW;
- (11) Granges under chapter 24.28 RCW; and
- (12) Agricultural fairs under chapter 15.76 RCW or chapter 36.37 RCW.

Each nonprofit organization shall provide evidence of its nonprofit status by submitting documentation setting forth the progress it has made toward accomplishing its nonprofit purposes during its previous fiscal year. The fact that an organization is not exempt from payment of federal income taxes on income from its primary activities shall be prima facie evidence that the organization is not a nonprofit organization for purposes of conducting gambling activities.

AMENDATORY SECTION (Amending Order 190, filed 4/18/89, effective 7/1/89)

WAC 230-04-035 Certification procedure—Charitable and nonprofit organizations—Classification of purpose. (1) Each organization requesting a license to conduct gambling shall be classified as either a "charitable organization" or a "nonprofit organization." The classification will be based upon an organization's primary purpose as set forth below:

(a) If an organization is classified as a "charitable organization," its primary purpose shall be charitable as defined in WAC 230-02-160.

(b) If an organization is classified as a "nonprofit organization," it will be assigned one or more of the purposes set forth in WAC 230-02-161 as its primary purpose(s).

For the purposes of this classification, the term primary purpose shall mean the lawful purpose to which a majority of an organization's fiscal year income was spent or dedicated. If an organization did not use a majority of its income for any single purpose, the purpose to which the greatest percentage of its income was devoted shall be an organization's primary purpose.

(2) In determining an organization's primary purpose, the commission staff shall review the organization's declaration of purpose, reported achievements, and expenditures made during the preceding twelve months.

(3) An organization may challenge its assigned purpose, by submitting to the director additional evidence supporting its choice. The director shall then issue a written decision as to the organization's primary purpose. The director's decision may be reviewed by the commission upon written request.

AMENDATORY SECTION (Amending Order 136, filed 9/13/83)

WAC 230-04-075 No license required for certain bingo, raffles, and amusement games. Bona fide charitable or bona fide nonprofit organizations organized primarily

for purposes other than the conduct of gambling activities, are hereby authorized to conduct the following gambling activities without obtaining a license to do so from the commission:

(1) Raffles when:

(a) Held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; and

(b) Gross revenues from all such raffles held by the organization during the calendar year do not exceed \$5000; and

(c) Tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: *Provided*, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles; and

(2) Bingo, raffles, and amusement games when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW ((~~9-46-020(2)~~) 9.46.0205 as now or hereafter amended: *Provided*, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenue to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local policy agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(3) An organization may exceed the separate limits set forth in (1) and (2) above only if it first obtains a license to conduct the appropriate gambling activity from the commission, with the classification and fee to be computed, including but not limited to, all income from the activity or activities already conducted during that calendar year. The duration of the license issued shall be one year from the date of the first gross receipts received for the particular activity during the calendar year.

AMENDATORY SECTION (Amending Order 127, filed 3/2/83)

WAC 230-08-015 Certain lower volume licensees may meet reduced recordkeeping requirements. Notwithstanding the provisions of WAC 230-08-010, persons holding licenses issued under the classes and circumstances set out in WAC 230-04-065 and persons operating without a license under RCW (~~(9.46.030 (2) or (3))~~) 9.46.0315 and 9.46.0321 need only keep a set of permanent records of all of the activities of the licensee related to conducting the licensed activity which includes the following, by month:

- (1) The gross receipts from the conduct of each licensed activity;
- (2) The total amount of cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually paid out for each licensed activity;
- (3) A summary of all expenses related to each of the activities licensed; and
- (4) The net income received by the licensee from the licensed activity with a designation of the purposes for which the net income was raised and the amount paid each recipient of any part of the net income.

These records shall be maintained by the licensee for a period of not less than three years from the end of the license year for which the record is kept unless released by the commission from this requirement as to any particular record. Persons operating under RCW (~~(9.46.030 (2) or (3))~~) 9.46.0315 and 9.46.0321 without a license shall maintain the above records for a period of one year.

AMENDATORY SECTION (Amending Order 194, filed 7/18/89, effective 8/18/89)

WAC 230-12-010 Inspection of premises, records and devices. All premises licensed, or any premises in any way connected physically or otherwise with a licensed business, including vehicles used in connection therewith, shall at all times be open to inspection by the commission or its authorized representatives.

At any time during which a licensed gambling activity is being operated upon a premises, the commission, and any authorized representative of the commission, may enter upon the premises without advance notice and:

- (1) Make a count of all monies received during the operation of the licensed activity located on the premises, inspect all receipts (~~((for income issued by the licensee, and inspect all receipts))~~) for prizes which have been awarded by the licensee.
- (2) Inspect any of the other records of the licensee, or of any member that directly participates in the management, operation or promotion of a licensed activity, or of any employee of the licensee, or of any operator of the licensed activity.
- (3) Inspect, including the dismantling of, all pieces of equipment or parts thereof, or devices of any nature, which are being used to conduct the licensed activity.
- (4) When the commission, or its authorized representative, finds cause to believe that there is a reasonable probability that the provisions of chapter 9.46 RCW, including any amendments thereto, or any of the rules passed by the commission, have been or are being violated by the licensee, or its employees or operators, remove to another location or

locations for further inspection and investigation, any and all records and any and all equipment, parts thereof, and devices of any nature located upon the premises related to the operation of the licensed activity, or any other gambling activity: Provided, That records may be removed, for inspection purposes, from the licensee's premises or control in the case of an inadequate working environment.

A receipt shall be issued to the licensee or operator of the activity which shall list and describe each record and each piece of equipment, or part thereof, and device which has been removed from the premises.

Each such record, piece of equipment, part thereof, and device so removed shall be returned to the premises or to the address of the licensee within a reasonable period of time after its removal subsequent to notification of settlement of the case, in as good a condition as it was in when removed, unless the commission or the director determines that the record, equipment or devices so removed are necessary for an ongoing investigation of possible violations of statutes or rules of the commission by the licensee, by employees of the licensee, or by operators of the licensed activity. Copies of retained records and reports will be provided to the licensee upon written request within ten working days after the receipt of the request, unless good cause is shown for an additional extension.

AMENDATORY SECTION (Amending WSR 91-07-021, filed 3/13/91, effective 4/13/91)

WAC 230-12-305 Licensee required to submit updated documents or information. In addition to any other requirements set forth in these rules, the persons licensed by the commission shall be required to submit any changes in the following documents or information on file with the commission:

- (1) Articles of incorporation or by laws, or any other documents which set out the organizational structure and purposes;
- (2) Internal Revenue Service tax exemption status (charitable/nonprofit organizations only); (~~((and))~~)
- (3) All leases, rental, consignment, franchise, or other agreements relating to gambling activities or altering the commercial stimulant business, whether oral or written; and
- (4) All loans, from other than recognized financial institutions, which individually or collectively exceed a total of \$2,000.00 during any calendar year.

The new or updated documents and/or information shall be submitted to the commission by notation on the next quarterly activity report filed, and by attaching all details concerning each transaction: *Provided*, That licensees not required to submit quarterly activity reports shall submit the required information no later than 60 days following the transaction(s) date.

AMENDATORY SECTION (Amending Order 240, filed 6/17/93, effective 7/18/93)

WAC 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Organizations licensed to conduct bingo games must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the organization's license year as set out in WAC 230-04-201, Table 1., or as restricted by the commission under subsection (6) of this section.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts, as percentages of gross receipts, shall not exceed the percentages listed in Table 1. by class of license, or as restricted by the commission under subsection (6) of this section.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, combined net income from bingo games, punchboards/pull tabs, and food, drink or other retail sales activities conducted in conjunction with bingo games, as a percentage of bingo games gross receipts shall not be less than the percentage listed in Table 1. by class of license for any annual license period, or as restricted by the commission under subsection (6) of this section: *Provided*, That local gambling taxes paid or accrued will be allowed as a credit when computing net income for bingo and punchboards and pull tabs.

(4) The director may allow a licensee to temporarily exceed the limitations set out in subsection (2) or (3) of this section, or Table 1. of this section when unusual and/or uncontrollable conditions affect the licensee's ability to comply. Any licensee seeking relief from these requirements must petition the commission staff in writing. This petition must set forth the specific circumstances for which such relief is sought and include objective evidence regarding the scope of the impact on the bingo operation. The director may authorize exceptions under the following conditions:

(a) When a new class D or above bingo licensee or any game not under the jurisdiction of the commission and which operates two or more days per week begins bingo activities within the market area of an operating game. For purposes of this section, "market area" is defined as:

(i) Primary market area - within the area encompassed by a measurement that starts at the premises of an operating class D or above bingo game and extends to a radius that is located five miles from such premises;

(ii) Secondary market area - within the area encompassed by a measurement that starts at a radius that is located five miles from the premises of an operating class D or above bingo game and extends to a radius that is located ten miles from the premises;

(iii) Rural market area - within the area starting at the premises of an operating class D or above bingo game and extending to the twenty-five mile radius from such premises when such premises is located in any county that the total population is less than one hundred thousand.

(b) When a class D or above game is forced to move its current operations outside their primary market area due to circumstances beyond the control of the organization. Examples of uncontrollable circumstances are:

- (i) Premises destroyed or condemned;
- (ii) Lease expiration without an option to renew;
- (iii) Increases to rent that would put the licensee in jeopardy of being in violation of net income requirements;
- (iv) Permanent interruption of customer flow, such as: Closure of arterial exit ramps; loss of customer parking; cancellation of public transportation; etc.; or
- (v) Other circumstances as approved by the director.

(c) When an organization not previously licensed to conduct bingo at any class begins operations at the class D or above level;

(d) When a licensee is required to upgrade their license class in the last quarter of their annual license period; or

(e) When an organization incurs a temporary interruption of customer flow. A "temporary interruption of customer flow" is defined as an interruption that the licensee can not prevent but which will be corrected within a reasonable time period, such as street repairs, damage to premises, inclement weather, etc.

(5) Relief granted under subsection (4) of this section shall be limited to adjustment of the requirements in Table 1. as follows:

(a) Relief for subsection (4)(a) of this section - New game operating within the primary market area. When a new class D or above or any game not under the jurisdiction of the commission and which operates two or more days per week begins operations within the primary market area of an operating class D or above bingo game and:

(i) The new game operates two or more occasions per week that are common to the currently operating game, the annual and calendar quarter prize payout limits shall be increased by two percentage points for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by two percentage points for the first twelve months of operation of the new game; or

(ii) The new game operates one occasion or less per week that is common to the currently operating game, the annual and calendar quarter prize payouts limits shall be increased by one percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one percentage point for the first twelve months of operation of the new game.

(b) Relief for subsection (4)(a) of this section - New game operating within the secondary or rural market area. When a new class D or above or any game not under the jurisdiction of the commission and which operates two or more days per week begins operations within the secondary or rural market area of an operating class D or above bingo game and:

(i) The new game operates on two or more occasions common to the current game, then the annual and calendar quarter prize payout limits shall be increased by one percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one percentage point for the first twelve months of operation of the new game; or

(ii) The new game operates on one or less occasion common to the current game, then the annual and calendar quarter prize payout limits shall be increased by one-half percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one-half percentage point for the first twelve months of operation of the new game.

(c) Relief for subsection (4)(b) of this section - Organizations forced to move their game outside their primary market area shall be authorized an increase in the quarterly prize payout limit of one percentage point, and a decrease in the annual net income limit by one percentage point for the first twelve months of operation in the new location;

(d) Relief for subsection (4)(c) of this section - Organizations not previously licensed to conduct bingo at any level shall be authorized a two percentage point reduction in the net income requirement and a two percentage point increase in the maximum prize payout requirement of Table 1. for the first annual license period;

(e) Relief for subsection (4)(d) of this section - Organizations required to upgrade their license in the last quarter of their annual license period shall be measured for the entire annual license period based on the lower license class limits; and

(f) Relief for subsection (4)(e) of this section - Organizations that have temporary interruption of customer flow shall be measured for the affected period, plus one month, based on performance with the interruption period factored out.

(6) Enforcement actions. The commission may impose the following corrective requirements and/or penalties on any licensee who fails to meet requirements of this section:

(a) Any licensee that exceeds the maximum calendar quarter prize payout limit or reports net income that is more than two percentage points lower than the annual minimum net income requirements during any quarter and whose net income falls below the annual minimum requirements when measured license year-to-date shall:

(i) Take immediate steps to decrease prizes and/or expenses;

(ii) Report the violation to commission staff as soon as discovered, but in no case later than thirty days following the end of the quarter. This notification shall be separate and additional to the quarterly activity report;

(iii) Provide a written plan of actions to gain compliance to the commission no later than forty-five days following the end of the quarter. This plan shall be evaluated by commission staff and input provided to the licensee no later than thirty days after receipt;

(iv) Provide the commission additional reports determined by the staff as necessary to monitor progress toward compliance; and

(v) Upon request, a committee of the licensee's management, including the chief executive officer, executive director, or equivalent manager responsible for supervising the primary bingo manager, and the primary bingo manager shall meet with commission staff to discuss the action plan.

(b) Any licensee who fails to achieve the minimum net income requirement for their annual measurement period shall be limited in license class for the next annual license period to the license class equal to the level of net income actually achieved, not to exceed a license class that authorizes at least one-half of the maximum gross gambling receipts of the current license class. The annual measurement period used shall be the licensee's annual fiscal accounting year: *Provided*, That the reduction for the first violation shall be a maximum of two license classes. A licensee limited under this section will not be granted an increase in their authorized license class until it has demonstrated the ability to maintain net income requirements at or above the minimum level for the class of license sought. Achieving net income requirements at or above the minimum level for at least two quarters, one of which may be the last quarter in the previous license year, shall be prima facie evidence of such ability: *Provided Further*, That a licensee may petition the

commissioners for a license to operate at a higher level. Any such petition would be heard at a regular public meeting of the commission under the requirements of WAC 230-50-850. Petitions for relief under this section must include: The impact the reduction would have on their programs; what portion of their programs are charitable as compared to nonprofit; and income available from other sources to fund programs. The commission may take testimony from other parties that may be affected by approval of the petition. Any approval granted under this section may be made contingent upon future compliance or other issues as determined by the commission.

(c) The commission deems the responsibility for maintaining prize payouts at or below the maximum annual limit to be that of the primary bingo manager. The organization's board of directors may relieve the primary bingo manager of this responsibility by informing the commission in writing. Unless relieved by the board of directors, the primary manager shall be responsible for all penalties imposed under this section. If the board relieves the manager of responsibility for prizes, the commission shall consider the organization fully responsible for compliance with this section. In this case, prize payouts will be considered when reviewing violations of this section. The primary manager shall not be compensated in any manner during periods of license suspension imposed under this section. Any primary bingo manager who fails to achieve the annual limit for the class of license issued to the organization, as set out in Table 1. below, shall:

(i) First violation - Receive a written warning and be required to demonstrate in-depth knowledge of factors affecting prize payouts including, but not limited to, bingo game prize probabilities, expected payouts for each type of game, factors included in the computation, and methods for analysis of games. The scope and depth of their bingo management knowledge shall be demonstrated by requiring the manager to prepare and submit their current game schedules, records used to analyze games, and the expected payout for each game. The manager will be required to meet with commission staff to discuss the evaluation and other aspects of their game;

(ii) Second violation - Three day suspension that includes at least one operating day;

(iii) Third violation - Ten day suspension that includes at least four operating days;

(iv) Fourth violation - Thirty-day suspension;

(v) Fifth violation - Revocation of manager's license for at least one year.

Table 1.

Group	License Class	Annual Gross Receipts	Annual Prize Payout Limits	Calendar Quarter Prize Payout Limits	Annual Minimum Net Income Requirements - Bingo *	Annual Minimum Net Income Requirements - Bingo & Punchboards/Pull Tabs **
I	A	Up to \$ 10,000	No Limits	No Limits	No Limits ***	No Limits ***
	B	\$ 10,001- 50,000	No Limits	No Limits	No Limits ***	No Limits ***
	C	50,001- 100,000	No Limits	No Limits	No Limits ***	No Limits ***
	D	100,001- 300,000	Max of 85.0%	Max of 86.5%	At least 1.0%	At least 2.0%
	E	300,001- 500,000	Max of 84.0%	Max of 85.0%	At least 2.0%	At least 3.0%
II	F	500,001- 1,000,000	Max of 83.0%	Max of 84.0%	At least 3.5%	At least 4.5%
	G	1,000,001- 1,500,000	Max of 80.0%	Max of 81.0%	At least 5.0%	At least 7.0%
	H	1,500,001- 2,000,000	Max of 78.0%	Max of 79.0%	At least 7.0%	At least 9.0%
	I	2,000,001- 2,500,000	Max of 76.0%	Max of 77.0%	At least 9.0%	At least 11.0%
	J	2,500,001- 3,000,000	Max of 74.0%	Max of 75.0%	At least 11.0%	At least 13.0%
III	K	3,000,001- 3,500,000	Max of 72.0%	Max of 73.0%	At least 12.5%	At least 15.0%
	L	3,500,001- 4,000,000	Max of 70.0%	Max of 71.0%	At least 13.5%	At least 16.0%
	M	Over 4,000,000	Max of 70.0%	Max of 71.0%	At least 14.5%	At least 17.0%

* = Combined net income from bingo games and sales of food, drink, or other retail items, if applicable, as a percent of bingo gross receipts. Local gambling taxes are not considered an expense for computing net income.

** = Combined net income from punchboards/pull tabs, bingo games and sales of food, drink, or other retail items, if applicable, as a percent of bingo gross receipts. Local gambling taxes are not considered an expense for computing net income.

*** = Combined net income must be equal to or greater than zero (0) if wages or rent is paid to operate the activity. Local gambling taxes are not considered an expense for computing net income.

AMENDATORY SECTION (Amending Order 242, filed 7/14/93, effective 8/14/93)

WAC 230-20-111 Promotional activities—Performances as gifts—Advance approval required. In order to preserve the integrity and image of the charitable and nonprofit bingo industry, promotional activities including performances to entertain bingo patrons shall be deemed a promotional gift and subject to the monetary restrictions of WAC 230-20-242. For the purpose of this rule, a performance includes any show, comedy act, skit, play, dance, or similar activities, whether live or recorded, and whether or not consideration is paid or not paid to the performers of such activities.

(1) An organization that plans to offer any performance before, during, or after any bingo session shall present a written detailed outline of such and shall secure approval by the director of the commission prior to conducting the performance. The organization shall, in writing, request a review by the director at least sixty days in advance of the scheduled date of the performance.

(2) The director shall review the subject matter of the proposed performance and shall not approve any such performance which in the director's opinion is contrary to the public interest of preserving the integrity of charitable bingo.

(3) If the director denies a request to conduct a performance, the organization may request a review by the commission within thirty days of the decision. The decision of the commission shall be final.

AMENDATORY SECTION (Amending Order 115 and 116, filed 12/18/81 and 1/18/82)

WAC 230-20-220 Operators shall not play. No operator shall allow a person who receives any compensation, directly or indirectly, for the operation of, any bingo game conducted by the operator to play in a bingo game conducted by that operator.

No operator shall allow any person who, without payment, assists in the operation of any bingo game conducted by that operator to play in any bingo game conducted by that operator on the same bingo occasion. However, the second paragraph of this rule shall not apply to Class A((~~F~~)), B((~~F~~)), and C bingo licensees, or to games operating under the authority of RCW ((~~9.46.030(3)~~)) 9.46.0321.

AMENDATORY SECTION (Amending Order 53, filed 5/25/76)

WAC 230-20-230 Free games for winners prohibited. No free cards, or any opportunity to play in a bingo game, shall be awarded or given to a person as a prize for, or conditioned upon, winning a bingo game or games, except those bingo games conducted under the authority of a Class A or B license issued by the commission or games conducted without a license under RCW ((~~9.46.030(3)~~)) 9.46.0321.

AMENDATORY SECTION (Amending Order 80, filed 12/28/77)

WAC 230-20-400 Certain lower volume licensees exempted from certain rules. Persons holding the licenses issued under the classes and circumstances set forth in WAC 230-04-065 or persons operating without a license under RCW ((~~9.46.030(3)~~)) 9.46.0315 and 9.46.0321 need not comply with the following rules of the commission, except as noted:

(1) WAC 230-04-280 requiring notification to local law enforcement of their activity, but nonlicensees must comply with RCW ((~~9.46.030~~)) 9.46.0315 and 9.46.0321.

(2) WAC 230-08-080 requiring certain daily records: *Provided*, That all such persons in the alternative, must comply with WAC 230-08-015 (1), (2), and (3).

(3) WAC 230-08-010 concerning operator records: *Provided*, That all such persons must, in the alternative, comply with WAC 230-08-015 (1), (2), and (3).

(4) WAC 230-08-120 requiring quarterly reports: *Provided*, That holders of such classes of licenses must in the alternative, comply with WAC 230-08-015(4).

(5) With respect to volunteer operators only, i.e., those not compensated for their work by the licensee, WAC 230-20-220 prohibiting certain persons from playing in bingo games.

(6) WAC 230-20-120 concerning free food and beverages at bingo games.

(7) WAC 230-20-190 concerning bingo card prices.

(8) WAC 230-20-230 concerning free games for winners.

AMENDATORY SECTION (Amending Order 227 [WSR 93-01-013], filed 9/18/91 [12/4/92], effective 10/19/91 [1/4/93])

WAC 230-20-680 Commercial amusement games—Operation restrictions. (1) No person shall operate commercial amusement games in any location except under the following conditions:

(a) The operation of amusement games must be closely monitored and controlled to ensure all games are operated in accordance with all provisions of this WAC title;

(b) The players are protected from fraud and game manipulation; and

(c) All games and/or machines are maintained in proper condition to ensure the operation is as approved by ((WAC 230-20-605)) WAC 230-20-508.

(2) All locations where school-aged minors are allowed to play must be supervised by an adult during all hours of operation. The adult supervisor will ensure that school-age minors are prohibited from entry and/or playing amusement games in locations authorized by WAC 230-04-138 (1)(g), (i), (j), or (k) during school hours and after 10:00 p.m. on any day: *Provided*, That school-aged minors are prohibited from entry into licensed amusement game locations in regional shopping centers after the normal shopping area closing hours on Sunday through Thursday.

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

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

AMENDATORY SECTION (Amending WSR 93-12-082, filed 5/28/93, effective 7/1/93)

WAC 230-25-160 Pull tabs at fund-raising events—Operational requirements—Limitations. The following requirements shall be utilized in the sale of pull tabs at fund-raising events.

(1) All pull tab series for use at fund-raising events shall contain the inspection identification stamps and record entry labels and shall be purchased for specific use at fund-raising events.

(2) Pull tabs shall be removed from the packaging container and mixed before selling to the public. All pull

tabs will be sold out of a noncoin operated dispensing device (clear container). Pull tab prices shall be equal to the price set by the manufacturer for each specific series. The maximum price for any pull tab shall not exceed fifty cents.

(3) Up to a maximum of three pull tab series may be out for play at one time. All pull tabs shall be sold from a booth or similar confined area which prohibits public access to the pull tabs.

(4) Each pull tab series shall constitute a separate table and have a separate number. Each series shall have a separate corresponding lock box, money paddle, chip rack for making change and payment of prizes. All currency, coin, or chips used to purchase pull tabs, shall immediately be placed in the corresponding lock box by the attendant(s) on duty. All change given back to players shall be in the form of chips or coin.

(5) All winning pull tabs shall be defaced when cashed in and deposited in the corresponding lock box. Winning pull tabs shall be paid in chips and coin only. *Provided:* Winning pull tabs may be redeemed for additional tabs from the same series only. When a winning pull tab of five dollars or more is cashed, the attendant shall conspicuously delete all references to that prize being available to players from the flare prior to awarding the prize. In addition, for prizes over twenty dollars, the attendant(s) will verify the winner's identity and record the date, and initial the winning pull tab. The winner shall be required to print their name and date of birth in ink on the winning pull tab or to an attached sheet of paper.

(6) When a series is removed from play, the series (including the flare), the corresponding lock box and chip rack shall be transported to the count room by a runner at which time the box shall be opened for tabulation. All ((moneys)) gross gambling receipts collected, prizes paid and tabs sold shall be tabulated and recorded on the pull tab accounting report furnished by the commission in accordance with the instructions attached to the accounting report.

(7) After completing the count, winning pull tabs shall be packaged separately or banded and placed with the unused portion of that particular series in the original shipping container. The organization must retain the used series for a period of one year.

(8) At the completion of the fund-raising event, all series still out for play shall be transported to the count room in accordance with subsections (6) and (7) of this section. All unopened pull tab series shall be returned to the licensed distributor who furnished the series for a full refund. Pull ((tabs may)) tab series purchased for fund-raising events shall not be sold, or transferred ((to another licensee)).

AMENDATORY SECTION (Amending WSR 93-12-082, filed 5/28/93, effective 7/1/93)

WAC 230-30-060 Punchboard restrictions. No operator shall put out for play, and no manufacturer shall sell or furnish to any person, any punchboard:

(1) To which any key to any winning number, or symbol, exists other than a key which is furnished to the operator, which key designates the color codes for all chances on that board without regard to whether or not such chances are designated winners.

(2) Which has taped sides, corners, or edges.

(3) Wherein the winning punches or approximate location of any winning punches can be determined in advance of punching the punchboard in any manner or by any device, including, but not limited to, any patterns in manufacture, assembly, packaging or programming. Winning punches shall be randomly distributed and mixed among all other punches in the punchboard. The punchboard shall be manufactured or programmed with special care so as to eliminate any pattern as between punchboards, or portions of punchboards, from which the location or approximate location of the winning punches may be determined.

AMENDATORY SECTION (Amending Order 241, filed 6/17/93, effective 7/18/93)

WAC 230-30-072 Punchboard and pull tab inventory and retention requirements. Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Each operator shall closely monitor punchboard and pull tab series purchased to assure that all Washington state identification and inspection service stamp numbers are correctly entered in all records and each device purchased is recorded. The following control procedures apply:

~~(a) ((After the close of business on September 30, 1988, and before operating punchboards and pull tabs after that date, each operator shall take a physical inventory of all punchboards and pull tabs in play and awaiting play and record the following information separately for punchboards and pull tabs:~~

~~(i) Name of game; and~~

~~(ii) Washington state identification and inspection stamp number;~~

~~(b))~~ At the time a punchboard or pull tab series is delivered, each operator will assure that all purchase invoice data is correctly recorded by the distributor by comparing the actual Washington state identification and inspection services stamp number attached to each punchboard and pull tab series to the number recorded on the purchase invoice;

~~((e))~~ (b) All purchases of punchboards or pull tab series shall be recorded on a standard distributor's invoice, which will be used by the operator as a record to account for the punchboard or pull tab series between the time it is purchased and removed from play. Each invoice shall include space for the operator to either attach a records entry label or enter the Washington state identification and inspection services stamp number and the date the device was placed out for play: *Provided*, That in lieu of the distributor's invoice recording system, licensees may use a separate inventory record to account for purchases and uses of punchboards and pull tabs. Entries required to be made by the distributor on the purchase invoice shall be entered by the operator on the alternative inventory record at the time devices are received. The inventory record may be manually maintained or generated from a computer data base. If generated from a computer data base, all requirements relating to computer data base records and printouts, as set out in WAC 230-08-010 (6) and (7) shall be followed. Inventory records shall include space for the following entries for each punchboard or pull tab series purchased or otherwise obtained:

(i) Distributor's name;
(ii) Invoice number;
(iii) Date of purchase;
(iv) Name of the punchboard or pull tab series;
(v) Date placed into play;
(vi) The Washington state identification and inspection services stamp number entered by the distributor at the time of purchase; and

(vii) The Washington state identification and inspection services stamp number entered by the operator by attaching a records entry label at the time placed into play: *Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label;

~~((d))~~ (c) At the time a punchboard or pull tab series is placed into play, each operator shall record in the allotted space on the distributor's invoice or the inventory record the following:

(i) Date placed into play; and

(ii) Washington state identification and inspection services stamp number by attaching a records entry label: *Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label.

~~((e))~~ (d) If a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice or inventory log in the spaces allotted for "date-in-play" and "records entry label";

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator for at least four months following the last day of the month in which it was removed from play. The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand;

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: *Provided*, That the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent.

AMENDATORY SECTION (Amending Order 228, filed 10/15/91, effective 11/15/91)

WAC 230-30-102 Pull tab series assembly and packaging. (1) Manufacturers of pull tabs shall manufacture, assemble, and package each pull tab series in one container and in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(2) Winning pull tabs shall be distributed and mixed among all other pull tabs in a series so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined. The pull tab series must be assembled so that no placement of winners or losers exist that allows the possibility of prize manipulation or "pick out." Manufacturers shall not manufacture or offer for sale in Washington any pull tab series in which the winning pull tabs are not distributed and mixed among all other pull tabs in that series.

(3) Manufacturers will mix pull tabs prior to placing them in their final packing container. The mix shall insure that pull tabs are separated from the original collated row position and dispersed amongst all rows in the final packing container.

(4) Each series of pull tabs shall contain a packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: *Provided*, That this information may be printed on the back of the flare or the outside of the package, box or container in which the pull tabs are packed.

(5) Manufacturers of pull tabs shall print on the outside of the die cut box, package or other container of pull tabs the following message "Washington State law requires that pull tabs NOT sold through a mechanical pull tab dispensing device must be removed from the packaging container and mixed before selling to the public. Failure to remove and mix pull tabs from a packaging container may result in a minimum five day suspension of a license for each series not mixed." *Provided*, ~~((That))~~ That the above information may be printed on a crack and peel sticker and placed on the outside of the die cut box, package or other container of pull tabs. The above information may be printed on a colored packing slip and placed inside the package of pull tabs.

AMENDATORY SECTION (Amending Order 228, filed 10/15/91, effective 11/15/91)

WAC 230-30-103 Standards for construction of pull tabs. (1) All pull tabs manufactured for use in the state of Washington after January 1, 1992 shall utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the director prior to use within the state. Punchboards are exempt from the secondary verification code requirements.

(2) Pull tabs shall be constructed so that it is impossible to determine the covered or concealed number, symbol, set of symbols, or game protection on the pull tab until it has been dispensed to and opened by the player, by any method

or device, including but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(3) All pull tabs, except banded and latex covered pull tabs, will be constructed using a two or three ply paper stock construction.

(4) The manufacturer shall conspicuously print on the face or cover sheet the series number and the name of the manufacturer or label or trademark identifying the manufacturer. On banded pull tabs, the series number and the name of the manufacturer or label or trademark identifying the manufacturer shall be printed so both are readily visible prior to opening the pull tab.

(5) The cover sheet shall be color coded when individual series numbers are repeated and may show the consumer how to open the pull tab to determine the symbols or numbers. The cover sheet will contain perforated and/or clean-cut openings centered over the symbols or numbers on the back of the face sheet in such a manner as to allow easy opening by the consumer after purchase of the pull tabs, while at the same time, not permitting pull tabs to be opened prematurely in normal handling. Perforation should exist on both horizontal lines of the opening with either perforated or clean-cut on the vertical or elliptical line where the tab must be grasped for opening after bending the edge of ticket down. On latex covered pull tabs, either the face or back of the pull tab shall be color coded when individual series numbers are repeated and may show the consumer how to remove the latex to determine the symbols or numbers. On banded pull tabs, the paper stock shall be color coded when individual series numbers are repeated.

(6) Pull tabs will be glued or sealed so that it is impossible to determine the covered or concealed numbers, symbol or set of symbols on the pull tab until it has been dispensed to and opened by the player.

(7) Thickness.

(a) Vendable pull tabs. Defined as pull tabs that are sold out of mechanical pull tab dispensing devices approved for such use in this state by the Washington state gambling commission.

(i) Single opening and double sided tabs. The overall bulk thickness of the pull tab shall be .045 inches plus or minus .003 inches.

(ii) Multiple opening tabs. The overall bulk thickness of the pull tab shall be .026 inches plus or minus .002 inches.

(b) Nonvendable pull tabs. Defined as pull tabs that cannot be sold out of mechanical pull tab dispensing devices approved for use in this state by the Washington state gambling commission. Nonvendable pull tabs may be dispensed from fishbowls, receptacles, packing boxes or spindles. Manufacturers may use any thickness, provided they comply with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be of the same thickness.

(8) Length and width.

(a) Vendable pull tabs~~((+))~~.

(i) Single opening and double sided tabs shall be 1 7/8 inches x 1 inch plus or minus 1/8 inch.

(ii) Multiple opening tabs shall be 3 1/2 inches by 1 7/8 inches plus or minus 1 inch.

(b) Nonvendable pull tabs - manufacturers may construct nonvendable pull tabs in any size provided the pull tab complies with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be uniform in length or width and not vary by more than 3/64 inch, provided that in no case shall winning pull tabs be identifiable by visible variation in dimension.

(9) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights or any other method.

(10) Each manufacturer shall establish his own game protection for each pull tab game or series of games. The game protection shall be a method of identifying winning pull tabs, after they have been purchased and opened, from nonwinning, altered or forged pull tabs. The manufacturer may use special numbers, colors, designs, ink or any combination to establish the game protection. Manufacturers will submit to the gambling commission a letter explaining the game protection and will keep the commission informed on any changes. Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this requirement.

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 WSR 93-12-082, filed 5/28/93, effective 7/1/93)

WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the commission. Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: *Provided*, That Class B licensees are limited to only those card games authorized under their licensing class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. The licensee shall notify the commission ten days in advance of any card tournament where the single or multiple buy-in exceeds fifty dollars. A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed fifty dollars, including all separate fees which might be paid by a player for various phases, events of the tournament, food and drink offerings, and promotional material. The fee to enter a tournament and a description of all goods and services to be provided as a part of the tournament must be fully disclosed to each entrant prior to their paying such fee. Such disclosure must be posted conspicuously on the premises at the time payment is received and remain posted until the tournament is complete. This same information must be included in all advertisements for said tournament. Operators may offer "free roll" or customer appreciation tournaments: *Provided*, That the pretournament play requirements do not exceed the fifty-dollar entry fee limitation. Entrants in such tournaments

must initially be provided with the same number of chips or points and the same opportunity for re-buys. All prizes awarded for free roll or customer appreciation tournaments may be deducted as prizes for determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(3) All fees paid to enter a tournament shall be reported as gross gambling receipts: *Provided*, That if an operator prepares and provides food and drink items to all tournament entrants on the licensed premises as a part of their entry fee, the fair market value of the food and drink provided, not to exceed twenty-five dollars or fifty percent of the entry fee, which ever is greater, shall be treated as sales of food and drink for on premise consumption and not included as gross gambling receipts. Such sales, must be properly supported by records: *Provided further*, That if an operator provides items promoting the tournament or licensed business, such as hats, t-shirts, etc., to all participants as a part of their entry fee, the actual cost of such items, supported by invoices and other such records, shall be deducted as prizes in determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(4) In addition to the entry fee, a minimum buy-in of chips may be required. The total buy-in per player shall not exceed two hundred dollars per tournament and may be either a single or multiple buy-in during the course of the tournament. A record of the buy-ins for each participant will be maintained by the licensee in a format provided by the commission. All buy-ins of chips are not gross gambling receipts and shall be returned to the participants in the form of prizes. Prizes from buy-ins are not deductible for commercial stimulant purposes.

(5) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in subsection (2) of this section. The licensee's actual cost for prizes awarded to the players may be deducted as prizes for determining adjusted net gambling receipts generated by the entry fees.

(6) The licensee shall adopt tournament rules to facilitate the operation of card tournaments: *Provided*, That all tournament rules for tournaments where the single or multiple buy-in exceeds fifty dollars must be submitted to the commission for approval. All tournament rules must be posted where all tournament participants can see and read the rules.

(7) The licensee shall maintain a record of all such fees collected and the number of participant for each tournament conducted. This information shall be entered in a format approved by the commission. The total gross gambling receipts for the tournament shall be entered on the card room daily control sheet for the time and date the tournament begins and the record of participants shall be attached and maintained with that daily control sheet.

(8) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant: *Provided*, That the name and address of each participant receiving promotional items as set forth in subsection (3) of this section shall not be required on the prize record. The record shall be attached to

the daily control sheet used on the date the majority of the prizes are awarded.

**WSR 94-04-025
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 94-03—Filed January 25, 1994, 4:12 p.m.]

Original Notice.

Title of Rule: Chapter 392-320 WAC, School personnel—Administrator internship program.

Purpose: To set forth policies and procedures for the administrator internship program.

Statutory Authority for Adoption: RCW 28A.415.300.

Statute Being Implemented: RCW 28A.415.270, [28A.415.]280, and [28A.415.]290.

Summary: The proposed rules set forth policies and procedures for the operation of the administrator internship program, including the conditions for the use of state moneys by educational service districts and school districts.

Reasons Supporting Proposal: To adopt rules to support new RCWs.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation: Kathleen Plato, Superintendent of Public Instruction, Old Capitol Building, (206) 753-0793; and Enforcement: Theodore E. Andrews, Superintendent of Public Instruction, Old Capitol Building, (206) 753-3222.

Name of Proponent: Judith Billings, Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules establish the administrator internship program beginning in 1994-95. Local school districts shall nominate qualified employees to the educational service district to select those who will participate in the principal or superintendent internship program. Employing school districts will receive up to forty-five days of substitute teacher funds for each selected employee.

Proposal does not change existing rules.

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

Hearing Location: Superintendent of Public Instruction, Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504-7200, on March 8, 1994, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, by March 6, 1994.

Date of Intended Adoption: March 10, 1994.

January 24, 1994
Judith A. Billings
Superintendent of
Public Instruction

**Chapter 392-320 WAC
SCHOOL PERSONNEL—ADMINISTRATOR
INTERNSHIP PROGRAM**

NEW SECTION

WAC 392-320-005 Authority. The authority for this chapter is RCW 28A.415.250 which authorizes the superintendent of public instruction to develop rules and regulations for the establishment and administration of the administrator internship program.

NEW SECTION

WAC 392-320-010 Purpose. The purpose of this chapter is to set forth policies and procedures for the operation of the administrator internship program, including the conditions for the use of state moneys for such purpose by educational service districts and school districts of the state.

NEW SECTION

WAC 392-320-015 Definition—Administrator intern. As used in this chapter, the term "administrator intern" means a school employee selected for a principal or superintendent certification internship of at least forty-five school days, as defined in WAC 392-121-033, and who is enrolled in a state board of education approved administrator preparation program, pursuant to chapter 180-78 WAC.

NEW SECTION

WAC 392-320-020 Definition—Mentor administrator. As used in this chapter, the term "mentor administrator" means a school district administrator in a like-role selected by a school district to provide supervision of an administrator intern.

NEW SECTION

WAC 392-320-025 Definition—Replacement substitute teacher cost. As used in this chapter, the term "replacement substitute teacher cost" shall mean an amount paid by a school district to employ a substitute to replace an administrator intern completing an administrator certification field experience. The maximum daily amount shall be the estimated state-wide average substitute teacher cost, to include salary and benefits, as determined by the superintendent of public instruction.

NEW SECTION

WAC 392-320-030 Definition—Educational service district internship advisory board. As used in this chapter, the term educational service district advisory board means a board or committee composed of representatives of the public, school district administrators, principals, teachers, and colleges having state board of education approved administrator programs. The advisory board shall advise in the establishment of the educational service district intern selection criteria and process. An existing educational service district in-service committee or task force may serve

as the educational service district internship advisory board provided it includes the membership described herein.

NEW SECTION

WAC 392-320-035 Incorporation by reference of state board of education rules. The rules of the state board of education set forth in WAC 180-78-266 which consist of the administrator internship standards shall likewise govern the administrator internship program administered by the superintendent of public instruction.

NEW SECTION

WAC 392-320-040 Administrator intern selection process. The process for selecting administrator interns shall be as follows:

(1) Any school district employee eligible for this program may apply in writing to the school district superintendent, or his/her designee to be an administrator intern.

(2) Each school district shall determine which applicants meet its internship criteria, provided that applicants must be enrolled in and recommended by a state board of education program approved for principal or superintendent certification.

(3) The school district shall agree to provide each intern at least forty-five school days of released time, name a mentor administrator to supervise each intern, and to employ a substitute to replace the intern.

(4) The school district shall send the regional educational service district superintendent the following: School district criteria for intern selection, nominee name, position title, address, college/university in which the nominee is enrolled in, intern role (i.e., principal or superintendent), proposed internship site, minority and gender status, the actual, daily replacement substitute teacher cost, agreement to comply with state board of education internship standards requirement, agreement to comply with administrator internship program rules (chapter 392-320 WAC), mentor administrator name, title and position, and other information requested by the educational service district.

(5) The educational service district internship advisory board shall review the school district intern nominee applications for compliance with the educational service district internship criteria and make recommendations for approval to the educational service district superintendent. Provided: The interns should reflect the percentage of minorities of the public school student population in the educational service district region, and to the extent practicable, represent an equal number of males and females. If it is not possible to find qualified principal intern candidates reflecting the percentage of minorities of the public school student population of the educational service district, the educational service district shall select those qualified principal intern candidates who meet these criteria and leave the remaining principal intern positions unfilled. If it is not possible to find qualified superintendent candidates reflecting the percentage of minorities of public school student population of the educational service district, the educational service district shall select those qualified superintendent intern candidates who meet these criteria and may fill the remaining superintendent intern positions with qualified candidates without regard to minority or gender status.

(6) The educational service district superintendent shall notify the local district, the respective college or university, and the applicant of their selection status and forward a copy of the information cited in subsection (4) of this section for each selected intern to the superintendent of public instruction.

NEW SECTION

WAC 392-320-045 Administrator internship allocation. Internship funds shall be allocated as follows:

(1) The superintendent of public instruction shall allocate administrator internship funds after the state board of education adopts internship standards in accordance with WAC 392-320-035.

(2) The superintendent of public instruction shall allocate administrator internship funding to each educational service district based on the percentage of public school students enrolled in each educational service district.

(3) The superintendent of public instruction shall annually calculate the estimated state-wide average substitute teacher cost to include salary and benefits.

(4) Prior to allocating funding to a school district, the educational service district may retain sufficient moneys needed to implement the administrator internship program, including costs of the educational service district internship advisory board. The superintendent of public instruction shall determine the maximum dollar amount each educational service district may retain. In accordance with superintendent of public instruction memorandum No. 1-92M, each educational service district shall retain up to nine percent of their allocation to carry out their internship program responsibilities.

(5) After selecting the interns, the educational service district shall allocate the administrator internship funding to the employing school district based on the actual replacement substitute teacher cost for forty-five days, provided that the allocation shall not exceed the estimated state-wide average substitute teacher cost, as determined by the superintendent of public instruction.

(6) Administrator internship allocations to each school district shall be used solely for replacement substitute teacher costs, as defined in WAC 392-320-025. Participating school districts shall receive allocations for a maximum of forty-five school days. Local districts shall not be reimbursed for other costs associated with implementing this program.

(7) Unexpended administrator intern funds shall revert to the state general fund.

NEW SECTION

WAC 392-320-050 Annual report. The superintendent of public instruction shall prepare an annual report on the administrator internship program based on the following information which shall be provided by each educational service district:

(1) Educational service district criteria for selecting interns.

(2) Data and information for each selected intern cited in WAC 392-320-040(4).

(3) Fiscal report, including allocations to participating districts for replacement substitute teachers.

- (4) Composition of educational service district internship advisory board.
- (5) Recommendations, if any, for program revisions.
- (6) Other information deemed necessary by the superintendent of public instruction.

NEW SECTION

WAC 392-320-055 Carryover prohibition. State moneys allocated to educational service districts and districts for the administrator internship program shall be subject to the carryover prohibition of WAC 392-122-900.

NEW SECTION

WAC 392-320-060 Maximum control factor—Proration. State moneys distributed to educational service districts and districts for the administrator internship program shall be subject to the proration provision of WAC 392-122-905 if the current program appropriation to the superintendent of public instruction is adversely affected by action of the legislature after the commencement of the ensuing school year.

**WSR 94-04-031
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Filed January 26, 1994, 3:29 p.m.]

Continuance of WSR 94-01-081.

Title of Rule: WAC 388-86-030 Eyeglasses and examinations.

Purpose: Removes the need for prior authorization of vision care services. Restricts adult clients to one eye examination for procurement of eyeglasses every two years.

Date of Intended Adoption: February 9, 1994.

January 26, 1994
Dewey Brock, Chief
Officer of Vendor Services
Administrative Services Division

**WSR 94-04-042
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Filed January 27, 1994, 3:16 p.m.]

Original Notice.

Title of Rule: WAC 388-22-030 Definitions and 388-28-600 Determination of net income in-kind.

Purpose: Clarifies the value of earned income in-kind is available to meet need, regardless of the nature of the in-kind item, and clarifies the value of a self-produced item is disregarded until the item is sold, at which time, proceeds from the same are treated as self-employment income. Eliminates the definition of "fraud." The department is only responsible for determining intent of overpayments through an administrative process and does not determine fraud.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Statute Being Implemented: 45 CFR 233.20 (a)(6)(iii), (a)(3)(iv), and (a)(6)(v)(B).

Summary: Current department policy regarding the treatment of income in-kind is out of compliance with federal regulations and current department policy regarding the treatment of self-produced income is not supported by federal regulations. Repeals the definition of "fraud." Fraud is a determination made during a prosecution through the court system; not determined by the department.

Reasons Supporting Proposal: The department is responsible for determining intent of overpayments through an administrative process. "Fraud" is a legal term used by the courts during a criminal prosecution. Removing this definition should help clarify that the department is not involved in determining "fraud."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

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

Rule is necessary because of federal law, 45 CFR 233.20 (a)(3)(iv), (a)(6)(iii), and (a)(6)(v)(B).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

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

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

If you need sign language assistance, please contact the Office of Vendor Services by March 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 March 15, 1994.

Date of Intended Adoption: March 29, 1994.

January 27, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3483, filed 11/25/92, effective 12/26/92)

WAC 388-22-030 Definitions. This section contains definitions of words and phrases extensively used in the department's rules concerning the financial aid programs. This section provides a central location for definitions while eliminating the need to repeat the same in each WAC chapter. Related definitions are grouped under the key word.

For medical assistance-Title XIX and medical services (fully state-financed) program definitions, see chapter 388-80 WAC. For food stamp program definitions, see chapter 388-49 WAC.

(1) "Adequate consideration" means the reasonable value of the goods or services received in exchange for transferred

property approximates the reasonable value of the property transferred.

(2) "Adult" means a person eighteen years of age or older.

(3) "Applicant" means any member of an assistance unit by or for whom a request for assistance has been made.

(4) "Application" means a written request for financial assistance or a written or oral request for medical or social service, provided by the department of social and health services, made by a person in the person's own behalf or in behalf of another person.

(5) "Assistance unit" means a person or group of persons required to be included together when determining eligibility for an assistance program.

(6) "Authorization" means an official approval of a departmental action.

(a) "Authorization date" means the date the prescribed form authorizing assistance is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance and giving authority to make payment accordingly.

(7) "Automobile" means a motorized vehicle.

(8) "Board and room" means a living arrangement where a person purchases food, shelter, and household maintenance from one vendor.

(9) "Boarding home" means a place where a person purchases food, shelter, and household maintenance on a board and room basis.

(10) "CFR" means the code of federal regulations established by the federal government.

(11) "Cash savings" means money which is not classified as income.

(12) "Certification date" means the date the worker certifies changes in a client's case and authorizes a change in grant.

(13) "Child" or "minor child" means a person under ~~(18)~~ eighteen years of age.

(14) "Chore services" means household, yard, and/or personal care services which assist a person in the person's own home.

(15) "Client" means an applicant and/or recipient of financial, medical, and/or social services.

(16) "Continuing assistance" means payments to persons who are eligible for and receive regular monthly grants on a prepayment basis.

(17) "Dependent child" means a child who is not self-supporting, married, or a member of the armed forces of the United States. Receiving public assistance does not constitute self-support.

(18) "Disability." See WAC 388-93-025.

(19) "Disaster assistance" means a financial grant or temporary housing for eligible victims of an emergency or major disaster as declared by the governor or president.

(20) "Effective date" means the date eligibility for a grant begins, changes, or ends.

(21) "Encumbrances" means any mortgage, claim, lien, charge or other legally enforceable liability, such as past due taxes, attached to and binding on property.

(22) "Energy costs" means space heat, lighting, water heating, and other household energy consumption.

(23) "Entitlement" means any form of benefit, such as compensation, insurance, pension retirement, military, bonus,

allotment, allowance payable in cash or in-kind in which a client may have a claim or interest.

(24) "Equity" means quick-sale value less encumbrances.

(25) "Estate" means all real and personal property that a deceased person has a right to or interest in as of the date of death.

(26) "Exception to policy" means a waiver by the secretary's designee to a department policy for a specific client experiencing an undue hardship because of the policy. The waiver may not be contrary to law.

(27) "Fair hearing" means an administrative proceeding to hear and decide a client appeal of a department action or decision.

(28) "Federal aid" means the assistance grant programs funded in part by the United States government.

(29) "Food stamp program" means the program administered by the department in cooperation with the U.S. Department of Agriculture to certify eligible households to receive food coupons used to buy food.

(30) (~~"Fraud" means:~~

~~(a) For financial aid programs, a deliberate, intentional and willful act with the specific purpose of deceiving the department with respect to any material fact, condition or circumstance affecting eligibility or need.~~

~~(b) "Food stamp fraud" is defined under chapter 388-49 WAC.~~

~~(31))~~ "Funeral" means the care of the remains of a deceased person with, appropriate services including necessary costs of, needed facilities, a lot or cremation, and the customary memorial marking of a grave.

~~((32))~~ (31) "General assistance" means state-funded assistance to an eligible pregnant or incapacitated person who is not eligible for or not receiving federal aid assistance.

~~((33))~~ (32) "Grant" means an entitlement awarded to a client and paid by state warrants redeemable at par.

(a) "Grant adjustment" means postpayment of the difference between the amount a client was eligible for in a given period and the amount already paid.

(b) "Initial grant" means the payment due from date of eligibility to the date of the first regular grant.

(c) "Minimum grant" means ten dollars, unless a court decision requires payment of a smaller amount, or the grant would have exceeded ten dollars prior to applying a mandatory overpayment deduction.

(d) "One-time grant" means a payment supplementing or replacing a regular grant.

(e) "Regular grant" means the monthly prepayment of assistance on a continuing basis.

~~((34))~~ (33) "Grantee" means the person or persons to or for whom assistance is paid.

~~((35))~~ (34) "House" means a separate structure of one or more rooms.

~~((36))~~ (35) "Household maintenance and operations" means household supplies, housewares, linens, sewing supplies, household management, laundry, banking, and telephone.

~~((37))~~ (36) "Income" means any appreciable gain in real or personal property (cash or in-kind) received by a client during the month for which eligibility is determined, and that can be applied toward the needs of the assistance unit.

(a) "Cash income" means income in the form of money, bank notes, checks or any other readily liquidated form.

(b) "Disregarded income" means income which is taken into consideration, but is disregarded in part or entirely when determining need.

(c) "Earned income" means income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the person is engaged as a self-employed person or as an employee.

~~((e))~~ (d) "Earned income in-kind" means income in a noncash form received by an assistance unit in lieu of wages, salary, commissions, or profit from activities in which the person is engaged as a self-employed person or as an employee. For grant programs income in-kind shall be evaluated in terms of its cash equivalent under WAC 388-28-600.

~~((e))~~ (e) "Exempt income" means net income which is not ~~((deducted from the cost of requirements to determine))~~ taken into consideration when determining need.

~~((d))~~ "Income in-kind" means income in the form of a requirement which contributes appreciably toward meeting the need for the requirement. Income in-kind shall be evaluated in terms of its cash equivalent under WAC 388-28-600.

~~((e))~~ (f) "Net income" means gross income less ~~((cost of producing or maintaining the income))~~ allowable disregards.

~~((f))~~ (g) "Nonexempt income" means ~~((net))~~ income which is ~~((deducted from the cost of requirements to determine))~~ taken into consideration when determining need.

~~((g))~~ (h) "Recurrent income" means income which can be predicted to occur at regular intervals.

(i) "Self-produced income" means income from the sale of an item made by a client for personal use. The client has not purchased the item, received it as a gift, or earned it in lieu of wages prior to its sale. For grant programs, self-produced income shall be treated as self-employment income.

~~((38))~~ (37) "Incapacity" (see WAC 388-24-065 for AFDC and WAC 388-37-030 and 388-37-032 for GA-U).

~~((39))~~ (38) "Inquiry" means a request for information about the department and/or the services offered by the department.

~~((40))~~ (39) "Institution" means a treatment facility within which a person receives professional care specific to that facility.

(a) "Institution-medical" provides medical, nursing or convalescent care by professional personnel.

(b) "Institution-private" is operated by nongovernmental authority by private interests.

(c) "Institution-public" is supported by public funds and administered by a governmental agency.

(d) "Institutional services" are those items and services furnished to a person in a particular institution.

(e) "Nursing home" means a public facility or private licensed facility certified by the department to provide skilled nursing and/or intermediate care.

~~((41))~~ (40) "Intentional overpayment" means a public assistance financial or medical payment, in whole or part, issued on behalf of an assistance unit when:

- (a) The unit was ineligible for such payment; and
- (b) The assistance was issued due to:

(i) A deliberate, willful act or omission by an assistance unit member; and

(ii) Intent by the assistance unit member to deceive the department with respect to any material fact, condition, or circumstance which affects eligibility or need.

~~((42))~~ (41) "Joint account" means a numbered account within a financial institution which is registered to two or more parties and is accessible to each party for withdrawal of a cash resource. See WAC 388-28-430 (2)(a).

~~((43))~~ (42) "Living in own home" means a living arrangement other than a boarding home, hospital, nursing home, or other institution.

~~((44))~~ (43) "Marketable securities" means stocks, bonds, mortgages, and all other forms of negotiable securities.

~~((45))~~ (44) "Minor" means a person under eighteen years of age.

~~((46))~~ (45) "Need" is the difference between the assistance unit's financial requirements, by departmental standards, and the value of all nonexempt net income and resources received by or available to the assistance unit.

~~((47))~~ (46) "Need under normal conditions of living" means the Washington state gross median income adjusted for family size as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act minus other income during a period of time when not receiving public assistance.

~~((48))~~ (47) "Overpayment" means any assistance paid to an assistance unit where:

- (a) Eligibility for the payment did not exist; or
- (b) Assistance paid was in excess of need.

~~((49))~~ (48) "Payee" means the person in whose name a warrant or check is issued.

~~((50))~~ (49) "Permanent and total disability" means the inability to do any substantial gainful activity because of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for at least twelve consecutive months.

~~((51))~~ (50) "Property" means all resources and/or income possessed by a client.

(a) "Personal property" means any form of property which is not real property.

(b) "Real property" is land, buildings thereon and fixtures permanently attached to such buildings. Growing crops are included. Any structure used as a dwelling shall be considered as real property.

(c) "Transfer of property" means a conveyance of title to, or any interest in, property from one party to another through a bill of sale, deed, or any other instrument conveying the interest in property.

(d) "Used and useful property" means property which currently serves a practical purpose for a client.

~~((52))~~ (51) "Protective payment" means a grant payment to a person on behalf of an eligible recipient.

~~((53))~~ (52) "Psychiatric facility" means an institution legally qualified to administer psychiatric inpatient treatment.

~~((54))~~ (53) "Public assistance" means public aid to persons in need thereof for any cause including services, medical care, assistance grants, disbursing orders, and work relief.

~~((55))~~ (54) "Recipient" means any person within an assistance unit receiving assistance.

~~((56))~~ (55) "Reinstate" means an authorization to resume payment of a grant from the category in which payment was previously suspended.

~~((57))~~ (56) "Requirement" means an item of maintenance or a service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential for some clients under specified conditions. See WAC 388-29-150 through 388-29-270.

(b) "Basic requirements" means the needs essential to all persons; food, clothing, personal maintenance and necessary incidentals, shelter, and household maintenance.

~~((58))~~ (57) "Resource" means an asset, tangible or intangible, owned by or available to a client which can be applied toward meeting financial need, either directly or by conversion into money or its equivalent. Any resource obtained on or after the first of the month in which eligibility is determined is called "income."

(a) "Exempt resource" is a resource which by policy is not considered in computing financial need.

(b) "Nonexempt resource" means a resource which is not exempt, and the value of which is used to determine financial need.

~~((59))~~ (58) "Restitution" means repayment to the state of assistance paid contrary to law.

~~((60))~~ (59) "Separate property" means real or personal property which was acquired by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property.

~~((61))~~ (60) "Statements in support of application" means any form or document required under department regulations.

~~((62))~~ (61) "Suspension" means a temporary discontinuance of a grant payment.

~~((63))~~ (62) "Terminate" means discontinuance of payment or suspension status.

~~((64))~~ (63) "Transfer" means reassignment of a case record from one CSO to another in accordance with a client's change of residence.

~~((65))~~ (64) "Underpayment" means the amount of public assistance financial payment an eligible assistance unit did not receive, but to which the assistance unit was otherwise entitled.

~~((66))~~ (65) "Unmarried parents" means a man and a woman not legally married who are the natural parents of the same child.

~~((67))~~ (66) "Value" means the worth of an item in money or goods at a certain time.

(a) "Ceiling value" means the limitation established by the department on the gross market value of nonexempt property.

(b) "Fair market value" means the price at which a seller willing, but not required to sell, might sell to a purchaser, willing but not required to purchase.

(c) "Quick-sale value" or "forced-sale value" is the value at which property can be converted into cash almost immediately, and without waiting for "the best offer."

~~((68))~~ (67) "Vendor payment" means an authorized payment to a person, corporation, or agency for goods furnished or services rendered to an individual eligible for public assistance.

~~((69))~~ (68) "Vocational training" means an organized curriculum in a school, training unit, or training program under recognized sponsorship with a specific vocational training objective.

~~((70))~~ (69) "Warrant" means the state treasurer's warrant issued in payment of a grant.

~~((71))~~ (70) "Warrant register" means the list of warrants issued specifying payee's name, amount of payment, warrant number, and for each AFDC payment the number of matchable persons whose need is met by the grant.

(a) "Regular warrant register" means the list of regular grants paid.

(b) "Supplemental warrant register" means the list of initial, adjusting, and one-time grants paid.

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83, effective 3/1/83)

WAC 388-28-600 Determination of net income in-kind. (1) Definitions:

(a) (~~"Supplied" as used herein means the in-kind item is furnished to the applicant or recipient without work or cost on his part~~) "Earned income in-kind" means the in-kind item is earned by work performed for another person by the client such as earning rent from a landlord, etc.

(b) "Self-produced" means (the applicant or recipient has produced the in-kind item through his own work for himself and not for others. He has not purchased it) an item made by a client for personal use.

(c) "Supplied" means the in-kind item is furnished to the client without work or cost.

(2) The department shall disregard the value of self-produced or supplied items (shall be disregarded) except when:

(a) Self-produced items are sold for cash. When such a sale is made, (fifty percent of) the department shall treat the cash sale value (shall be considered expenses of earning the) as self-employment income.

(b) The household's requirement for shelter is supplied. When the household's shelter is supplied, the department shall establish the payment level for the household (shall be those) as indicated in ((WAC 388-29-100(3))) chapter 388-29 WAC.

(3) Earned income in-kind items shall be evaluated in terms of their cash equivalent. (Allowance shall be made for exempt earned income according to WAC 388-28-570) The department shall treat the value of the in-kind item as earned income available to meet the needs of the assistance unit after applying allowable earned income disregards. The department shall apply the remaining net income (shall be applied) in determining need.

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 94-04-055
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed January 31, 1994, 9:45 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-02201 Region one; and repealing WAC 232-28-022 Game management units (GMUs)—Special game areas boundary descriptions.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-022	Game management units (GMUs)—Special game areas—Boundary descriptions
----------------	---

NEW SECTION

WAC 232-28-02201 Region one.

GMU 100-CURLEW (Ferry and Okanogan counties): Beginning at the Kettle River, Kipuna Road and the Canadian border near the Customs Office; then east on the border

to the Kettle River near Danville; then south along the Kettle River to Curlew; then northeast on the Deer Creek-Boulder Creek Road to the Kettle Crest Trail #13; then south on Trail #13 to USFS Road 250; then south on USFS Road 250 to the northern boundary of the Colville Indian Reservation in southeast 1/4 of Sec. 32; then west on the reservation boundary to Highway 21; then north on Highway 21 to Republic and Highway 20; then northwest on Highway 20 to Wauconda and the Toroda Creek Road; then northeast on the Toroda Creek Road to Toroda, and the mouth of Toroda Creek on the Kettle River; then north on the Kettle River to the point of beginning. (See Colville National Forest map)

GMU 103-BOULDER (Ferry County): Beginning at the Kettle River and the Canadian border near Danville; then east on the border to the Kettle River near Laurier; then south along the Kettle River and the Ferry County line to the mouth of the Kettle River and Lake Roosevelt; then south on the Ferry County line in Lake Roosevelt to the northern boundary of the Colville Indian Reservation; then west on the reservation boundary to USFS Road 250 in southeast 1/4 of Sec. 32; then north on Road 250 to the Kettle Crest Trail #13; then north on Trail #13 to the Deer-Creek Boulder Creek Road; then north on the Deer Creek-Boulder Creek Road to the Kettle River at Curlew; then north along the Kettle River to the Canadian border near Danville and the point of beginning. (See Colville National Forest map)

GMU 105-KELLYHILL (Stevens County): Beginning at the Kettle River and the Canadian border near Laurier; then east on the border to Lake Roosevelt (Columbia River); then south along Lake Roosevelt to the mouth of the Kettle River; then north along the Kettle River and the Ferry County line to the Canadian Border near Laurier and the point of beginning. (See Colville National Forest map)

GMU 108-DOUGLAS (Stevens County): Beginning at the bridge over Lake Roosevelt near Northport; then through the town of Northport to the Colville-Aladdin-Northport Road; then east and south on the Colville-Aladdin-Northport Road to Colville and State Highway 20; then west on State Highway 20 and U.S. Highway 395 past Kettle Falls to the bridge over Lake Roosevelt; then north up Lake Roosevelt (Columbia River) to the bridge over Lake Roosevelt near Northport and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 111-ALADDIN (Stevens and Pend Oreille counties): Beginning on Lake Roosevelt at the Canadian border; then east on the border to the Pend Oreille River; then south along the Pend Oreille River near Tiger; then west and south on State Highway 20 to Colville; then north on the Colville-Aladdin-Northport Road to Northport; then north on State Highway 25 to the bridge over Lake Roosevelt; then north up Lake Roosevelt to the Canadian border and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 113-SELKIRK (Pend Oreille County): Beginning on the Pend Oreille River at the Canadian border; east on the border to the Idaho State line; then south on the Idaho-Washington State line to the Pend Oreille River near Newport; then northwest along the Pend Oreille River to the Canadian border and the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest maps)

GMU 118-CHEWELAH (Stevens and Pend Oreille counties): Beginning at Colville and State Highway 20; then east on State Highway 20 to the Pend Oreille River near Tiger; then south along the Pend Oreille River to the bridge over the river at Usk; then west on the McKenzie Road to the West Side Calispell Road and the Flowery Trail Road; then west on the Flowery Trail Road to Chewelah and U.S. Highway 395 to Colville and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 119-BOYER (Stevens and Pend Oreille counties): Beginning at Chewelah and the Flowery Trail Road; then east on the Flowery Trail Road and the West Side Calispell Road; then east on the McKenzie Road to Usk and the Pend Oreille River; then south along the Pend Oreille River to the Idaho State line; then south along the state line to U.S. Highway 2 in Newport; then southwest on U.S. Highway 2 to the Deer Park-Milan Road; then west on the Deer Park-Milan Road to Deer Park and U.S. Highway 395; then northwest on U.S. Highway 395 to Loon Lake and State Highway 292; then west on State Highway 292 to Springdale and State Highway 231; then north on State Highway 231 through Valley to U.S. Highway 395; then north on U.S. Highway 395 to Chewelah and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 121-HUCKLEBERRY (Stevens County): Beginning at the bridge over Lake Roosevelt near Kettle Falls on U.S. Highway 395; then south on U.S. Highway 395 through Colville and Chewelah to State Highway 231; then south on State Highway 231 to the northeast corner of the Spokane Indian Reservation; then west on the north boundary of the reservation to Lake Roosevelt and the Stevens County line; then north along Lake Roosevelt (on the Stevens County line) to the bridge over Lake Roosevelt near Kettle Falls and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 124-MOUNT SPOKANE (Spokane, Stevens and Pend Oreille counties): Beginning at Springdale on State Highway 292; then east on State Highway 292 to Loon Lake and U.S. Highway 395; then south on U.S. Highway 395 to Deer Park; then east on the Deer Park-Milan Road to U.S. Highway 2; then north on U.S. Highway 2 to Newport and the Idaho-Washington State line; then south on the state line to the Spokane River; then west along the Spokane River to the Spokane Indian Reservation; then north on the east boundary of the Indian reservation (Chamokane Creek) to State Highway 231; then north on State Highway 231 to Springdale and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 127-MICA PEAK (Spokane County): Beginning at Spokane and following the Spokane River east to the Idaho-Washington border; then south on the border to the Spokane-Whitman County line (Whitman Road); then west on the county line to U.S. Highway 195; then north on U.S. Highway 195 to Spokane and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 130-CHENEY (Spokane and Lincoln counties): Beginning on the Spokane-Lincoln County line at the Spokane River and State Highway 231; then east along the Spokane River to Spokane and U.S. Highway 195; then south on U.S. Highway 195 to the Spokane-Whitman County

line; then west on the north boundary of Whitman and Adams counties to U.S. Highway 395; then northeast along U.S. Highway 395 to Sprague and State Highway 231; then north on State Highway 231 to U.S. Highway 2; then east on U.S. Highway 2 to Reardan and State Highway 231; then north along State Highway 231 to the Spokane River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 133-ROOSEVELT (Lincoln County): Beginning at Coulee Dam; then east along Lake Roosevelt and the Lincoln County line to State Highway 231; then south on State Highway 231 to Reardan and U.S. Highway 2; then west on U.S. Highway 2 to Wilbur and State Highway 174; then northwest on State Highway 174 to Coulee Dam and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 136-HARRINGTON (Lincoln County): Beginning at the town of Grand Coulee; then southeast on State Highway 174 to U.S. Highway 2 at Wilbur; then east on U.S. Highway 2 to U.S. Highway 231; then south on Highway 231 to U.S. Highway 395 at Sprague; then southwest on U.S. Highway 395 to the Adams County line at Sprague Lake; then west on the Lincoln-Adams County line (Davis Road) to the Grant County line; then north on the Lincoln-Grant County line (X NE, W.7 NE Roads) to the town of Grand Coulee and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 139-STEPTOE (Whitman County): Beginning at the northwest corner of Whitman County near Fourth of July Lake; then east on the north Whitman County line to the Washington-Idaho border; then south on the Washington-Idaho border to State Highway 270 near Moscow, Idaho; then west on State Highway 270 through Pullman to U.S. Highway 195; then northwest on U.S. Highway 195 to Colfax; then southwest on State Highway 26 to the Palouse River and the west Whitman County line; then north on the Whitman-Adams County line to the north Whitman County line and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 142-ALMOTA (Whitman County): Beginning at Colfax and U.S. Highway 195; then southeast on U.S. Highway 195 to State Highway 270; then east on State Highway 270 through Pullman to the Washington-Idaho State border near Moscow Idaho; then south along the state line to the Snake River (Whitman County line) near Clarkston; then west along the Snake River (Whitman County line) to the mouth of the Palouse River (Whitman County line); then north on the Whitman County line to State Highway 26 (Washtucna-LaCrosse Highway); then east on State Highway 26 to Colfax and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 145-MAYVIEW (Garfield and Asotin counties): Beginning at the mouth of Deadman Creek on the Snake River (Garfield County line) at Central Ferry; then east along the Snake River to the mouth of Alpowa Creek and U.S. Highway 12; then west on U.S. Highway 12 to State Highway 127; then north on State Highway 127 (Central Ferry Highway) to the Snake River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 148-STARBUCK (Walla Walla, Columbia and Garfield counties): Beginning at Ayer on the Snake River;

then east along the Snake River to Central Ferry; then south on State Highway 127 (Central Ferry Highway) to Dodge Junction; then southwest on U.S. Highway 12 through Dayton to the town of Waitsburg and the Touchet River; then west along the Touchet River to the Ayers Road at Harsha; then north on the Ayers Road to the Snake River at Ayer and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 151-EUREKA (Walla Walla County): Beginning on the Columbia River at the mouth of the Snake River (Walla Walla County line); then northeast along the Snake River to Ayer; then south along the Ayer Road to the Touchet River at Harsha; then east up the Touchet River to Waitsburg and U.S. Highway 12; then southwest on Highway 12 to Walla

Walla and State Highway 125; then south on State Highway 125 to the Washington-Oregon State line; then west on the state line to the Columbia River (Walla Walla County line); then north along the Columbia River to the mouth of the Snake River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 154-BLUE CREEK (Walla Walla and Columbia counties): Beginning at Waitsburg on U.S. Highway 12; then northeast on U.S. Highway 12 to the Payne Hollow Road at Long Station; then south on the Payne Hollow Road-Jasper Mountain-Mt. Pleasant Road to the Lewis Peak Road; then south on the Lewis Peak Road to its termination at the Mill Creek Watershed Intake Trail (#3211); then southwest on the trail to the Washington-Oregon State line; then west on the state line to State Highway 125; then north on State Highway 125 to Walla Walla and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 157-MILL CREEK WATERSHED (Walla Walla and Columbia counties): Beginning at the Mill Creek Watershed Intake Trail (#3211) on the Washington-Oregon State line; then northeast on the Intake Trail (#3211) to the Skyline Drive Road (USFS Road 64); then south on the Skyline Drive Road to the Washington-Oregon State line; then west on the state line to the Mill Creek Watershed Intake Trail (#3211) and the point of beginning. (See Umatilla Forest map)

GMU 160-TOUCHET (Walla Walla and Columbia counties): Beginning at Dayton and the North Touchet River Road (USFS Road 64); then southeast on the North Touchet River Road to the Skyline Drive Road at Manila Springs; then southwest on the Skyline Drive Road to the Mill Creek Watershed Intake Trail (#3211); then west on the Intake Trail to the Lewis Peak Trail; then north on the Lewis Peak Trail to the Mt. Pleasant Road; then north on the Mt. Pleasant Road to the Jasper Mountain Road; then north on the Jasper Mountain-Payne Hollow Road to U.S. Highway 12 at Long Station; then northeast on U.S. Highway 12 to Dayton and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 161-ECKLER (Columbia County): Beginning at Dayton and the Patit Creek Road; then east on the Patit Creek Road to the Hartsock-Maloney Mountain Road; then south and west on the Maloney Mountain Road (USFS Road 4625) to the Skyline Drive Road (USFS Road 46); then

south on the Skyline Drive Road to the North Touchet River Road and Manila Springs; then north on the North Touchet River Road (USFS Road 64) to Dayton and U.S. Highway 12; then northeast along U.S. Highway 12 to the Patit Creek Road in Dayton and the point of beginning. (See Washington Atlas & Gazetteer and the Umatilla National Forest map)

GMU 163-MARENGO (Columbia and Garfield counties): Beginning at Dayton and U.S. Highway 12; then north on U.S. Highway 12 to the Linville Gulch Road at Zumwalt; then south on the Linville Gulch Road to the Blind Grade Road; then southwest on the Blind Grade Road to the Tucannon Road; then north on the Tucannon Road to the Hartsock Grade Road; then south on the Hartsock Grade Road to the Patit Road; then west on the main Patit Road to Dayton and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 166-TUCANNON (Columbia and Garfield counties): Beginning at the intersection of the Hartsock Grade Road and the Tucannon River Road; then southeast on the Tucannon River Road to the elk drift fence; then southeast along the elk drift fence and the U.S. Forest Boundary to the Mountain Road (USFS Road 40); then south on the Mountain Road to the Diamond Peak Road (USFS Road 4030); then west on the Diamond Peak Road past Diamond Peak to the Diamond Peak-Oregon Butte-Bullfrog Springs-Teepee Trail; then west along the trail to Teepee Camp and the Teepee Road (USFS Road 4608); then west on the Teepee Road to the Skyline Drive Road (USFS Road 46); then north on the Skyline Drive Road to the Maloney Mountain Road (USFS Road 4625); then north on the Maloney Mountain Road to the Hartsock Grade Road; then north on the Hartsock Grade Road to the point of beginning at the Tucannon River Road. (See Washington Atlas & Gazetteer and the Umatilla National Forest map)

GMU 169-WENAHA (Columbia, Garfield and Asotin counties): Beginning on the Washington-Oregon State line at the Skyline Drive Road; then north on the Skyline Drive Road to Godman Springs and the Teepee Road (USFS Road 4608); then east on the Teepee Road to Teepee Camp; then east on the Teepee-Oregon Butte-Bullfrog Springs-Diamond Peak Trail to Diamond Peak; then east on the Diamond Peak Road (USFS Road 4030) to the Mountain Road (USFS Road 40); then south along the Mountain Road to the South Boundary Road (USFS Road 4039); then west along the South Boundary Road to the Three Forks Trail (USFS Road 3133); then northwest on the trail to Crooked Creek; then south along Crooked Creek to the Washington-Oregon State line; then due west on the state line to the Skyline Road and the point of beginning. (See Umatilla National Forest map)

GMU 172-MOUNTAIN VIEW (Garfield and Asotin counties): Beginning on the Washington-Oregon State line at Crooked Creek; then north along Crooked Creek to Three Forks Trail (3133); then southeast on the trail to the South Boundary Road (USFS Road 4039) then northeast on the South Boundary Road to the Mountain Road (USFS Road 40); then north on the Mountain Road to Misery Springs and the Mt. Misery-Big Butte Road (USFS Roads 44, 43, 4304); then east on the Mt. Misery-Big Butte Road to the West Mountain Road (1290); then northeast on the West Mountain Road to the Bennett Ridge Road-Mill Road; then north and

east on the Bennett Ridge Road-Mill Road to Anatone and State Highway 129; then southwest on State Highway 129 to the Washington-Oregon State line; then due west on the state line to Crooked Creek and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 175-LICK CREEK (Garfield and Asotin counties): Beginning at the intersection of the Mountain Road (USFS 40) and the elk drift fence; then east along the elk drift fence to its end at the east section line of Section 2, T9N, R43E; then due south along said section line to Charley Creek, and east along Charley Creek to Asotin Creek; then south along Asotin Creek to the South Fork Asotin Creek Road; then south along South Fork of Asotin Creek Road to Campbell Grade Road; then east on the Campbell Grade Road to the Cloverland Road; then south on Cloverland Road to its junction with the U.S. Forest Boundary fence; then east and south on the U.S. Forest Boundary fence past Big Butte to the Big Butte-Mt. Misery Road (USFS 4304, 43, 44) then west on the Big Butte-Mt. Misery Road to the Mountain Road (USFS 40); then northwest on the Mountain Road to the National Forest Boundary, and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 178-PEOLA (Garfield and Asotin counties): Beginning at Zumwalt on U.S. Highway 12; then east on U.S. Highway 12 to the mouth of Alpowa Creek on the Snake River; then east and south along the Snake River to the mouth of Asotin Creek; then west along Asotin Creek to Charley Creek; then west along Charley Creek to the unit boundary marker at the east section line of Section 2, T9N, R43E; then north on said section line to the end of the elk drift fence; then west along the elk drift fence to the Tucannon River Road; then north on the Tucannon River Road to Blind Grade; then up Blind Grade to the Linville Gulch Road; then north on the Linville Gulch Road to Highway 12 at Zumwalt and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 181-COUSE (Asotin County): Beginning at Asotin and the mouth of Asotin Creek on the Snake River; then south along the Snake River (Washington-Idaho State line) to the Grande Ronde River; then west along the Grande Ronde River to State Highway 129; then northwest on State Highway 129 to Anatone; then west and south on the Mill Road-Bennett Ridge Road-West Mountain Road (#1290) to the National Forest Boundary at Big Butte; then north along the U.S. Forest Boundary fence to the Cloverland Road; then northeast on the Cloverland Road to the Campbell Grade Road; then west on the Campbell Grade Road to the South Fork Asotin Creek Road; then northeast on the South Fork Asotin Creek Road to Asotin Creek; then northeast along Asotin Creek to the Snake River at Asotin and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 184-JOSEPH (Asotin County): Beginning on the Washington-Oregon State line and the Joseph Creek Road; then northeast on the Joseph Creek Road to the second bridge on Joseph Creek; then northeast along Joseph Creek to the mouth of Joseph Creek and the Grande Ronde River; then east along the Grande Ronde River to the Snake River (Washington-Idaho State line) then south along the Snake River to the Washington-Oregon State line; then west on the

state line to the Joseph Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 185-BLACK BUTTE (Asotin County): Beginning on the Washington-Oregon State line and State Highway 129; then north on State Highway 129 to the Grande Ronde River; then east along the Grande Ronde River to the mouth of Joseph Creek; then southwest along Joseph Creek to the first bridge and the Joseph Creek Road; then southwest on the Joseph Creek Road to the Washington-Oregon State line; then east on the state line to State Highway 129 and the point of beginning. (See Washington Atlas & Gazetteer)

WSR 94-04-056
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:46 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02203 Region three.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994
Rich Poelker
Administrative Rules Officer

NEW SECTION**WAC 232-28-02203 Region three.**

GMU 300-MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; then northwest along the north shore of Lake Chelan to the Stehekin River; then northwest along the Stehekin River to the ridge between Rainbow Creek and Boulder Creek; then north on the ridge to McAlester Mountain on the Chelan-Okanogan County line; then southeast on the county line along the Sawtooth Ridge separating the Chelan and Methow-Twisp River drainages to Fox Peak and USFS Road 8020; then southeast on USFS Road 8020 to the Anatoine Creek Road (USFS Road 8140); then southeast on the Anatoine Creek Road to Apple Acres Road; then northeast on Apple Acres Road to U.S. Highway 97; then northeast on U.S. Highway 97 to Wells Dam and the Columbia River; then southwest along the Columbia River (Chelan-Douglas County line) to the Chelan River; then northwest along the Chelan River to the town of Chelan and the point of beginning. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

GMU 301-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; then southeast along the south shore of Lake Chelan to the south boundary of the Chelan National Recreation Area Boundary (south of Riddle Creek); then southwest on the Recreation Area Boundary to the Glacier Peak Wilderness Boundary; then southwest on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; then north on the Pacific Crest Trail to White Pass and the Chelan-Snohomish County line; then north on the county line to Hurry-up Peak near Trapper Lake and the Glacier Peak Wilderness Boundary; then east on the wilderness boundary to Agnes Creek and the Lake Chelan National Recreation Area Boundary; then northeast on the recreation boundary to Hock Mountain and the Chelan-Okanogan County line; then southeast on the county line to McAlester Mountain and the ridge between Rainbow Creek and Boulder Creek; then southwest on the ridge to the Stehekin River and the point of beginning. (See Wenatchee National Forest map and the Glacier Peak Wilderness Forest map)

GMU 302-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); then east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary and the point of beginning. (See Wenatchee National Forest map and the Alpine Lakes Wilderness map)

GMU 304-CHIWAWA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; then southeast and north on the wilderness boundary to the Entiat River; then southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); then northwest on the Mad River Road to the USFS Road 5800; then southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); then southwest on the Eagle Creek Road to State Highway 209 north of Leavenworth; then north on State Highway 209 to State Highway 207 near Lake Wenatchee; then south on State Highway 207 to U.S. Highway 2 at

Coles Corner; then west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; then north on the Pacific Crest Trail to Kodak Peak and the point of beginning. (See Wenatchee National Forest map)

GMU 306-SLIDE RIDGE (Chelan County): Beginning at the Lake Chelan National Recreation Boundary on the south shore of Lake Chelan near Riddle Creek; then southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; then southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); then south on the Slide Ridge Road to Stormy Mountain and Trail #1448; then northwest on Trail #1448 to Fourmile Ridge Trail #1445; then west on the Fourmile Ridge Trail to Fox Creek; then southwest along Fox Creek to the Entiat River; then northwest along the Entiat River to the Glacier Peak Wilderness Boundary; then north on the wilderness boundary to Lake Chelan, the Lake Chelan National Recreation Boundary and the point of beginning. (See Wenatchee National Forest map)

GMU 308-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; then southeast along Lake Chelan and the Chelan River to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River; then northwest along the Entiat River to Fox Creek; then northeast along Fox Creek to the Fourmile Ridge Trail #1445; then east on the Fourmile Ridge Trail to Trail #1448; then southeast on Trail #1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); then north on the Slide Ridge Road to Twenty-five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan and the point of beginning. (See Wenatchee National Forest map)

GMU 314-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colockum Creek; then west along Colockum Creek and the Colockum Pass Road (WDW Road 10) to the Naneum Ridge Road (WDW Road 9); then northwest on the Naneum Ridge Road to Wenatchee Mountain; then northwest along the ridge past Mission Peak to the Liberty-Beehive Road (USFS Road 9712); then northwest on the Liberty-Beehive Road to USFS Road 9716; then north on USFS Road 9716 to U.S. Highway 97 at Swank Pass; then northwest on the Kittitas-Chelan County line and Trail #1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning. (See Wenatchee National Forest map and Department of Wildlife Naneum Green Dot map)

GMU 316-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; then east on U.S. Highway 2 to Coles Corner and State Highway 207; then north on State Highway 207 to State Highway 209 near Lake Wenatchee; then southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); then northeast on Eagle Creek Road to French Corral and USFS Road 5800; then northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); then southeast on the Mad River Road

to Ardenvoir and the Entiat River; then southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; then northwest along the Wenatchee River to Leavenworth and Icicle Creek; then south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; then north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; then north on the Pacific Crest Trail to Stevens Pass and the point of beginning. (See Wenatchee National Forest map)

GMU 328-NANEUM (Kittitas and Chelan counties): Beginning at Swauk Pass on U.S. Highway 97 and USFS Road 9716; then east on USFS Road 9716 to the Liberty-Beehive Road (USFS 9712); then east on the Liberty-Beehive Road to the west boundary of Section 22 (T21N, R19E); then southeast along the ridge past Mission Peak to Wenatchee Mountain and Naneum Ridge Road (WDW Road 9); then southeast on the Naneum Ridge Road to the Colockum Pass Road (WDW Road 10); then south on the Colockum Pass Road to the East Highline Canal; then northwest along the East Highline Canal to the Lower Green Canyon Road; then south on the Lower Green Canyon Road to U.S. Highway 97; then north on U.S. Highway 97 to Swauk Pass and the point of beginning. (See Wenatchee National Forest map and Department of Wildlife Naneum Green Dot map)

GMU 329-QUILOMENE (Kittitas and Chelan counties): Beginning on the Columbia River at the mouth of Colockum Creek; then south along the Columbia River to Davies Canyon; then west along Davies Canyon to Road 14; then south and west on Road 14 to the boundary sign in the northwest quarter of Section 17, Township 20 North, Range 22 East; then south to the boundary sign on Road 14 along the section lines between Sections 17, 18, 19 and 20; then east on Road 14 to Road 14.14; then east on Road 14.14 and north along the stock fence to the northern point of Cape Horn; then south along the top of the cliff and southeast to Road 14.14; then south on Roads 14.14, 14.17 and 14 to Tekison Creek; then south along Tekison Creek to the Columbia River; then south along the Columbia River to Vantage and Interstate Highway 90; then west on Interstate Highway 90 to the East Highline Canal; then north on the East Highline Canal to the Colockum Pass Road (Road 10); then north on the Colockum Pass Road to Colockum Creek; then northeast along Colockum Creek to the Columbia River and the point of beginning. (See Department of Wildlife Naneum Green Dot map)

GMU 330-WEST BAR (Kittitas County): Beginning on the Columbia River and Davies Canyon; then southeast along the Columbia River to the mouth of the Tekison Creek; then northwest along Tekison Creek to Road 14; then north on Road 14, 14.17, and 14.14 to the top of the Cape Horn Cliffs; then north along the top of the cliff to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west on Road 14.14 to Road 14 to the boundary sign between Sections 19 and 20 (T20N, R22S); then north on a line between Sections 19, 20 and 17, 18 to the boundary sign on Road 14 in the northwest quarter of Section 17; then east and north along Road 14 to Davies Canyon; then east along Davies Canyon to the Columbia

River and the point of beginning. (See Department of Wildlife Naneum Green Dot map)

GMU 334-ELLENSBURG (Kittitas County): Beginning on U.S. Highway 97 and the Lower Green Canyon Road; then north on the Lower Green Canyon Road to the East Highline Canal; then east and south along the canal past Interstate 90 to the pump station; then south and west along the uppermost of the canal to State Highway 821 and the Yakima River; then north along the Yakima River to the Damon Road; then south on Damon Road and Shushuskin Canyon to the South Branch Extension Canal; then west along the canal to the Manastash Road; then north along the canal to Taneum Creek; then east along Taneum Creek to the Yakima River; then northeast along the Yakima River to the Thorp Highway; then east on the Thorp Highway and State Highway 10 to U.S. Highway 97; then north along U.S. Highway 97 to the Lower Green Canyon Road and the point of beginning. (See Wenatchee National Forest map and the Department of Wildlife map) (This is a Kittitas County closure area for highpower rifle hunting of both deer and elk. Contact Kittitas County for more details.)

GMU 335-TEANAWAY (Kittitas County): Beginning at Snoqualmie Pass on the Pacific Crest Trail; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary; then east on the Alpine Wilderness Boundary to the Chelan-Kittitas County line; then southeast on the county line and Trail #1226 to Swauk Pass and U.S. Highway 97; then south on U.S. Highway 97 to State Highway 10; then northwest on State Highways 10, 970, 903 to Cle Elum and Interstate 90; then west on Interstate 90 to Snoqualmie Pass and the Pacific Crest Trail and the point of beginning. (See Wenatchee National Forest map)

GMU 336-TANEUM (Kittitas County): Beginning at the Pacific Crest Trail and Interstate 90 at Snoqualmie Pass; then east on Interstate 90 to Cle Elum and State Highway 903; then east on State Highways 903, 970 and 10 to the Thorp Highway; then southeast on the Thorp Highway to the Thorp Highway Bridge and the Yakima River; then southwest along the Yakima River (upstream) to Taneum Creek; then west along Taneum Creek to the South Fork Taneum Creek; then west along the South Fork Taneum Creek to Trail #1367; then west on Trail #1367 to Trail #1363; then south on Trail #1363 and south along Peaches Ridge to Trail #1388; then west on Trail #1388 to Blowout Mountain on the Pacific Crest Trail; then north on the Pacific Crest Trail to Snoqualmie Pass and the point of beginning. (See Wenatchee National Forest map)

GMU 340-MANASTASH (Kittitas County): Beginning at Quartz Mountain and Peaches Ridge (Trail #1363); then north and east on Trail #1363 to Trail #1367; then southeast on Trail #1367 to the South Fork Taneum Creek; then east along the South Fork Taneum Creek to Taneum Creek; then east along Taneum Creek to the South Branch Highline Canal; then southeast along the South Branch Highline Canal to the Wenas-Ellensburg Road (at Shushuskin Canyon); then north on the Wenas-Ellensburg Road to the Damon Road; then north on the Damon Road to the Yakima River; then south along the Yakima River to Umtanum Creek; then west along Umtanum Creek to the Wenas-Ellensburg Road; then west on the Wenas-Ellensburg Road to Ellensburg Pass and

the Observatory Road (Section 6, T16N, R17E); then north on the Observatory Road to Manastash Ridge (Section 20, T17N, R17E, W.M.); then northwest along the Manastash Ridge to Trail #1388; then northwest on Trail #1388 to Quartz Mountain and Peaches Ridge Trail and the point of beginning. (See Wenatchee National Forest map)

GMU 342-UMTANUM (Kittitas and Yakima counties): Beginning at Manastash Ridge on USFS Trail 1388; then east along the Manastash Ridge to the Observatory Road in Section 20, T17N, R17E, W.M.; then south on the Observatory Road to the Wenas-Ellensburg Road near Ellensburg Pass (Section 6, T16N, R17E, W.M.); then east on the Wenas-Ellensburg Road to Umtanum Creek; then east along the Umtanum Creek to the Yakima River; then south along the Yakima River to Yakima and U.S. Highway 12; then northwest on U.S. Highway 12 to State Highway 410; then northwest on State Highway 410 to USFS Road 1701; then north on USFS Road 1701 to USFS Trail 1388 to the point of beginning. (See Wenatchee National Forest map and Washington State Atlas & Gazetteer)

GMU 346-NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; then east on USFS Trail 1388 to USFS Road 1701; then south on USFS Road 1701 to State Highway 410; then northwest and southwest on State Highway 410 to the Pacific Crest Trail near Chinook Pass; then north on the Pacific Crest Trail to Blowout Mountain and the point of beginning. (See Wenatchee National Forest map)

GMU 352-NILE (Yakima County): Beginning on the Bumping Lake Road and State Highway 410; then east and south on State Highway 410 to Nile and USFS Road 1500; then west on USFS Road 1500 to the McDaniel Lake Road (USFS Road 1502); then west on the McDaniel Lake Road to the North Fork and the South Fork of Rattlesnake Creek; then along the North Fork Rattlesnake Creek to the USFS Richmond Mine Trail #973; then north on the Richmond Mine Trail #973 to the Bumping Lake Road; then north on the Bumping Lake Road to State Highway 410 and the point of beginning. (See Wenatchee National Forest map)

GMU 356-BUMPING (Yakima County): Beginning on the Pacific Crest Trail and State Highway 410 at Chinook Pass; then northeast on State Highway 410 to the Bumping Lake Road; then southwest on the Bumping Lake Road to the USFS Richmond Mine Trail #973; then southeast on the Richmond Mine Trail to the North Fork Rattlesnake Creek; then southeast along the North Fork Rattlesnake Creek to the McDaniel Lake Road (USFS Road 1502); then southeast on the McDaniel Lake Road to USFS Road 1500; then south on USFS Road 1500 to State Highway 12; then west on Highway 12 to the Pacific Crest Trail at White Pass; then north on the Pacific Crest Trail to Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.) (See Wenatchee National Forest Recreation map)

GMU 360-BETHEL (Yakima County): Beginning on USFS 1500 and Highway 410 at Nile; then southeast on Highway 410 to Highway 12; then southwest on Highway 12 to USFS 1500; then north and east on USFS 1500 to Nile

and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 364-RIMROCK (Yakima County): Beginning on the Pacific Crest Trail and Highway 12 at White Pass; then east on Highway 12 to Windy Point and the Jump Off Road (USFS 1302); then southwest on Jump Off Road to Divide Ridge Trail #1127 at Jump Off Lookout; then southwest on Divide Ridge Trail to Strobach Springs; then west to Blue Slide Lookout; then south on the jeep trail to Blue Lake; then south on the jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west on the Yakima Indian Reservation Boundary to the Pacific Crest Trail; then north on the Pacific Crest Trail to Highway 12 at White Pass and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 366-RIMROCK-COWICHE (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche). (See Wenatchee National Forest Recreation map)

GMU 368-COWICHE (Yakima County): Beginning on Highway 12 and Jump Off Road near Windy Point; then northeast and southeast on Highway 12 to the Yakima River; then south along the Yakima River to the Yakima Indian Reservation Boundary south of Union Gap; then west on the reservation boundary to Darland Mountain; then north on the jeep trail past Blue Lake to Blue Slide Lookout; then northeast on the jeep trail to Strobach Springs; then northeast from Strobach Springs on Divide Ridge Trail #1127; then northeast on the Divide Ridge Trail #1127 to the Jump Off Lookout and the Jump Off Road (USFS Road #1302); then northeast on the Jump Off Road to Highway 12 and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 370-PRIEST RAPIDS (Kittitas, Yakima and Benton counties): Beginning one mile south of Thrall and Highway 821 at the Yakima River and the East High Canal; then east along the East High Canal to Interstate Highway 90; then east on Interstate Highway 90 to Vantage and the Columbia River; then south along the Columbia River (Kittitas, Yakima and Grant County line) to the west boundary of the Hanford Nuclear Reservation; then south and east on the boundary of the Hanford Nuclear Reservation to the Columbia River north of Richland; then south and west along the Columbia River (Benton, Walla Walla County line) to Alderdale; then north on the Alderdale Road to the Klickitat-Yakima County line; then west on the county line to the Yakima Indian Reservation Boundary; then northeast on the reservation boundary to the Mabton-Sunnyside Road; then north on the Mabton-Sunnyside Road to the Yakima River; then northwest along the Yakima River to the East High Canal and the point of beginning. The Hanford Nuclear Reservation is closed to all unauthorized public entry. (See Washington Atlas & Gazetteer)

WSR 94-04-057
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:46 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02202 Region two.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02202 Region two.

GMU 200-TUNK (Okanogan and Ferry counties): Beginning at Tonasket and State Highway 20; then east on State Highway 20 to Republic and State Highway 21; then south on State Highway 21 to the north boundary of the Colville Indian Reservation; then west on the reservation boundary to the Okanogan River; then north along the Okanogan River to Tonasket and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 203-PASAYTEN (Okanogan and Whatcom counties): Beginning at the western boundary of the Pasayten Wilderness and the Washington-Canadian border near Princess Creek; then east along the Canadian border to the eastern boundary of the Pasayten Wilderness near Goodenough Peak; then south on the Pasayten Wilderness Boundary to Trail #341; then south on Trail #341 to the Iron Gate Road and Trail #343; then west on Trail #343 to Trail #342; then southwest on Trail #342 to the Pasayten Wilder-

ness Boundary; then west on the wilderness boundary to the Hidden Lakes Trail #477; then west on Hidden Lakes Trail to Drake Creek; then southwest along Drake Creek to the Lost River Gorge; then southwest along the Lost River Gorge to the Pasayten Wilderness Boundary; then west on the Pasayten Wilderness Boundary to the Robinson Creek Trail #478; then north on the Robinson Creek Trail to the Ferguson Lake Trail; then west to Silver Lake and west to the West Fork of the Pasayten River; then west to Oregon Basin and the western boundary of the Pasayten Wilderness; then north on the wilderness boundary to the Washington-Canadian border near Princess Creek and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 206-BONAPARTE (Okanogan and Ferry counties): Beginning on the eastern shore of Osoyoos Lake and the Washington-Canadian border; then east on the border to the Kettle River near Ferry customs office; then south along the Kettle River to the mouth of Toroda Creek at Toroda; then west along Toroda Creek to the Toroda Creek Road (County Roads 502 and 9495); then west and south on the Toroda Creek Road to State Highway 20 at Wauconda; then west on State Highway 20 to the Okanogan River at Tonasket; then north along the Okanogan River and the eastern shore of Osoyoos Lake to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 209-WANNACUT (Okanogan County): Beginning at the Canadian border station near Nighthawk on the Washington-Canadian border; then east on the border to the west shore of Lake Osoyoos; then south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket and County Road 7 (#9400); then south on County Road 7 to the North Pine Creek-Aeneas Lake Road (#9437) then southwest on the Pine Creek-Aeneas Lake Road to the Horse Springs Coulee Road (#4271); then northwest on the Horse Springs Coulee Road to the Loomis-Oroville Highway (#9425) near Spectacle Lake; then west on the Loomis-Oroville Highway to Loomis; then north on the Loomis-Oroville Highway past Palmer Lake to Nighthawk and the Allemandi Road; then north on the Allemandi Road to the Similkameen Road; then north on the Similkameen Road to the border station on the Washington-Canadian border and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 215-SINLAHEKIN (Okanogan County): Beginning at the eastern boundary of the Pasayten Wilderness and the Washington-Canadian border; then east on the border to the border station near Nighthawk and the Similkameen Road; then southeast on the Similkameen Road to the Allemandi Road; then south on the Allemandi Road to Nighthawk and the Loomis-Oroville Road (USFS Road 9425); then south on the Loomis-Oroville Road through Loomis to the Horse Springs Coulee Road (USFS Road 4371) near Spectacle Lake; then south on the Horse Springs Coulee Road to the Aeneas Lake-Pine Creek Road (USFS Road 9400); then northeast on the Aeneas Lake-Pine Creek Road to the Okanogan River; then south along the Okanogan River to the town of Riverside and U.S. Highway 97; then north on U.S. Highway 97 to the South Pine Creek-Fish Lake Road (USFS Road 9410); then west on the South Pine Creek-Fish Lake Road along the south shore of Fish Lake to the Conconully-

Sinlahekin Road (USFS Road 4015); then southwest on the Conconully-Sinlahekin Road along the north shore of Conconully Lake to Conconully and the Salmon Creek North Fork Road (USFS Roads 2361, 38, and 2820); then north on the Salmon Creek North Fork Road over Lone Frank Pass to USFS Road 39; then north on USFS Road 39 to Long Swamp and the Middle Fork Toats Coulee Road; then east on the Middle Fork Toats Coulee Road (USFS Road 39) to Iron Gate Road (USFS Road 500); then northwest on Iron Gate Road to its end; then north and east on Trails #533 and #341 to the eastern boundary of the Pasayten Wilderness; then north on the wilderness boundary to the Washington-Canadian border and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 218-CHEWUCK (Okanogan County): Beginning at Oregon Basin on the Okanogan-Whatcom County line; then southeast to Silver Lake; then east to the Ferguson Lake Trail and the Middle Fork Trail #478; then south on the Trail #478 to the Pasayten Wilderness Boundary; then east on the wilderness boundary to Lost River; then northeast along Lost River and Drake Creek to Hidden Lake Trail #477; then east on the Hidden Lake Trail #477 to the Pasayten Wilderness Boundary at Eightmile Pass; then northeast on the wilderness boundary to Trail #342 near Hicky Hump; then north on Trail #342 to Trail #343 at Two Bear camp; then east on Trail #343 to the Iron Gate Road (USFS Road 500); then south on the Iron Gate Road to the Middle Fork Toats Coulee Creek (USFS Road 39); then west and south on the Middle Fork Toats Coulee Creek Road past Long Swamp to the Boulder Creek Road (USFS Road 37); then southwest on Boulder Creek Road to the East Chewuch River Road (USFS Road 9137); then south on the East Chewuch River Road to Winthrop and State Highway 20; then northwest on State Highway 20 to the Okanogan County line; then northwest on the Okanogan County line through Harts Pass to the Oregon Basin and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 224-PEARRYGIN (Okanogan County): Beginning at the North Fork Boulder Creek Road (USFS Road 39) and USFS Road 3820; then south on Road 3820 through Lone Frank Pass to the North Fork Salmon Creek Road (USFS Road 38); then southeast on the North Fork Salmon Creek Road to the County Road 2361; then southeast on County Road 2361 to County Road 2017 at Conconully; then southwest on County Road 2017 to the North Summit Road (USFS Road 42); then southwest on the North Summit Road to State Highway 20 at Loup Loup Summit; then west on State Highway 20 through Twisp to the East Chewuch River Road at Winthrop; then north on the East Chewuch River Road to the Boulder Creek Road (USFS Road 37); then northeast on the Boulder Creek Road to the Middle Fork Boulder Creek Road (USFS Road 39); then northeast on the Middle Fork Boulder Creek Road to USFS Road 3820 and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 231-GARDNER (Okanogan County): Beginning at the Okanogan County line and the North Cascade Highway (State Highway 20); then northeast on the North Cascade Highway, south through the Methow Valley, south through Winthrop to the Twisp River Road at Twisp; then east on

the Twisp River Road to North Fork Twisp River Trail #432; then north on Trail #432 to Trail #426; then north on Trail #426 to the Okanogan County line at Copper Pass; then north on the county line to the North Cascade Highway and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 233-POGUE (Okanogan County): Beginning at the town of Conconully; then north on the Sinlahekin Road (USFS Road 4015) to the Fish Lake Road; then east on the Fish Lake Road along the south end of Fish Lake to the South Pine Creek Road (USFS Road 9410); then east on the South Pine Creek Road to U.S. Highway 97; then south on U.S. Highway 97 to the town of Riverside and the Okanogan River; then south along the Okanogan River through Omak to the town of Okanogan and State Highway 20; then west on State Highway 20 near Loup Loup Summit and the North Summit Road (USFS Road 42); then north on the North Summit Road to County Road 2017; then north on County Road 2017 to Conconully and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 239-CHILIWIST (Okanogan County): Beginning at the intersection of State Highway 153 and State Highway 20 south of the town of Twisp; then east on State Highway 20 past Loup Loup Summit to the town of Okanogan and the Okanogan River; then south along the Okanogan River to the Columbia River and the Okanogan County south boundary; then west along the Columbia River to Pateros and State Highway 153; then north on State Highway 153 to State Highway 20 and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 242-ALTA (Okanogan County): Beginning at Copper Pass on the Okanogan-Chelan County line and the North Fork Twisp River Trail #426; then southeast along the North Fork Twisp River Trail to Roads End Campground and the Twisp River Road (County Road 9114 and USFS Road 4440); then east on the Twisp River Road to Twisp and State Highway 153; then south on State Highway 153 to Pateros and the Columbia River; then south along Lake Pateros to Wells Dam and U.S. Highway 97; then south on U.S. Highway 97 to Apple Acres Road (USFS Road 8140); then west on Apple Acres Road to Antoine Creek Road (USFS Road 8140); then northwest on the Antoine Creek Road to USFS Road 8020; then north on the USFS Road 8020 to its junction with the South Navarre Road and the South Fork Gold Creek Road (USFS Road 8200 and 4330); then north on the South Fork Gold Creek Road to the Okanogan-Chelan County line; then northwest on the Okanogan-Chelan County line to Copper Pass and the point of beginning. (See Okanogan Forest Travel Plan)

GMU 248-BIG BEND (Douglas and Grant counties): Beginning on State Highway 17 at the Chalk Hills Road (Road K N.E.); then north on the Chalk Hills Road (K & L N.E.) for 4 miles to the east line of Range 26 East; then north on the east line of Range 26 to the Columbia River; then east along the Columbia River to Grand Coulee Dam and the Feeder Canal; then southwest along the Feeder Canal to Banks Lake; then south along the west shore of Banks Lake to a point due east from Mold Road (Road 9 N.E.); then west from that point on Mold Road through Mold to State Highway 17; then north along State Highway 17 to

Sim's Corner and State Highway 172; then west on State Highway 172 through Mansfield to Mathieson Road (Road B N.E.); then north on the Mathieson Road and the West Foster Creek Road (Bridgeport Hill Road) to State Highway 17; then east on State Highway 17 to the Chalk Hills Road (Road K N.E.) and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 254-SAINT ANDREWS (Douglas and Grant counties): Beginning at Mansfield on State Highway 172; then east on State Highway 172 to Sim's Corner and State Highway 17; then south on State Highway 17 to Buckeye Road (Road 9 N.E.); then east on the Buckeye Road to Mold and the Mold Road; then east on the Mold Road and continuing due east to the west shore of Banks Lake; then south along the west shore of Banks Lake to U.S. Highway 2; then west on U.S. Highway 2 to Farmer and State Highway 172; then north and east on State Highway 172 to Mansfield and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 260-FOSTER CREEK (Douglas County): Beginning at Brewster and the Douglas-Okanogan County line; then east on the county line (Columbia River) past Bridgeport to the east line of Range 26 East; then south on the east line of Range 26 East to Road L N.E.; then south on Road L N.E. to the Chalk Hills Road (K & L N.E.); then southwest on the Chalk Hills Road to State Highway 17; then west on State Highway 17 to the Bridgeport Hill Road; then south on the Bridgeport Hill Road to the Dyer Hill Road; then north on the Dyer Hill Road to Dyer and the Bonita Flat Road; then west on the Bonita Flat Road to the Columbia River (opposite the Okanogan-Chelan County line); then north along the river to Brewster and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 262-WITHROW (Douglas County): Beginning at Dyer and the Dyer Hill Road; then south on the Dyer Hill Road to the Bridgeport Hill Road; then south 3/4 mile on the Bridgeport Hill Road to Road 18 N.E.; then east on Road 18 N.E. to the Mathieson Road (B N.E.); then south on the Mathieson Road to State Highway 172; then west and south on State Highway 172 to Farmer and U.S. Highway 2; then west on U.S. Highway 2 through Waterville to Orondo and the Douglas-Chelan County line; then north on the county line (Columbia River) past the Wells Dam to the Bonita Flat Road (opposite the Okanogan-Chelan County line); then east on the Bonita Flat Road to Dyer and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 266-BADGER (Douglas County): Beginning at Orondo and U.S. Highway 2; then east on U.S. Highway 2 through Waterville and Douglas to the Westerman Road (K S.W.); then south on the Westerman Road to Alston and the Alston Road; then west on the Alston Road to the Titchenal Canyon Road; then southwest on the Titchenal Canyon Road to the Sheehan Road; then south on the Sheehan Road to the Rock Island Grade Road; then southwest on the Rock Island Grade Road to the Rock Island Dam and the Douglas-Chelan County line (Columbia River); then north on the county line through Wenatchee to Orondo and the point of beginning, (includes Turtle Rock Island). (See Washington Atlas & Gazetteer)

GMU 269-MOSES COULEE (Douglas and Grant counties): Beginning on U.S. Highway 2 and the Westerman Road (K S.W.); then east on U.S. Highway 2 to the Moses Coulee Road; then south on the Moses Coulee Road to the Grant-Douglas County line and the Sagebrush Flat Road; then south on the Sagebrush Flat Road to J.N.W. Road; then south on J.N.W. to 20 N.W. Road; then west on 20 N.W. Road to the Overen Road; then southwest on the Overen Road to the Baird Springs Road; then southwest on the Baird Springs Road across State Highway 28 to the Crescent Bar Road; then south along the Crescent Bar Road to the Douglas-Kittitas County line (Columbia River); then north on the county line to the Rock Island Dam and the Rock Island Grade Road; then north on Rock Island Grade Road to the Sheehan Road; then north on the Sheehan Road to the Titchenal Canyon Road; then north on the Titchenal Road Canyon Road to the Alston Road; then east on the Alston Road through Alston to the Westerman Road (K S.W.); then north on the Westerman Road to U.S. Highway 2 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 272-BEEZLEY (Grant and Douglas counties): Beginning at the junction of Grant, Lincoln and Okanogan County lines near the town of Grand Coulee; then south on the Grant County line to Interstate 90; then west on Interstate 90 to the Grant-Kittitas County line (Columbia River); then north on the county line to the Crescent Bar Road; then northeast on the Crescent Bar Road to the Baird Springs Road near Trinidad; then northeast on the Baird Springs Road across State Highway 28 to the Overen Road; then northeast on the Overen Road to the 20 N.W. Road; then east on the 20 N.W. Road to the J.N.W. Road; then north on the J.N.W. Road to the Sagebrush Flats Road; then north on the Sagebrush Flats Road to the Grant-Douglas County line and the Moses Coulee Road; then north on the Moses Coulee Road to U.S. Highway 2; then east on U.S. Highway 2 to the west shore of Banks Lake; then north along the west shore of Banks Lake to the feeder canal and to Grand Coulee Dam; then up river to the Grant-Lincoln County line and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 278-WAHLUKE (Grand and Adams counties): Beginning at the Vantage Bridge on Interstate 90 and the Grant-Kittitas County line (Columbia River); then northeast and east on Interstate 90 to the Grant-Adams County line; then south and west along the Grant-Adams County line to State Highway 17; then south on State Highway 17 to State Highway 26; then west on State Highway 26 to State Highway 24; then south and west on State Highway 24 to the Vernita Bridge and the Columbia River (Grant County line); then west and north along the Columbia River to the Vantage Bridge on Interstate 90 and the point of beginning. (See the Washington Atlas & Gazetteer)

GMU 281-RINGOLD (Franklin, Adams and Grant counties): Beginning at the Vernita Bridge on the west shore of the Columbia River and State Highway 24; then north and east on State Highway 24 to State Highway 26 at Othello; then east on State Highway 26 to State Highway 17; then south on State Highway 17 to U.S. Highway 395; then south on U.S. Highway 395 through Pasco and the west

shore of the Columbia River (Franklin-Benton County line); then north along the Columbia River (including all islands) to the Vernita Bridge and the point of beginning. The Hanford Nuclear Site and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry. (See Washington Atlas & Gazetteer)

GMU 284-KAHLOTUS (Adams and Franklin counties): Beginning on State Highway 17 and the Adams-Grant County line (12 S.E. Road); then east on the county line (12 S.E. Road) and north (X S.E. Road); then east on the Adams-Lincoln County line (Davis Road) to the Whitman County line; then south on the Adams-Whitman County line (Palouse River); then south on the Franklin-Whitman County line (Palouse River) to the Franklin-Columbia-Walla Walla County line (Snake River); then west on the Franklin-Walla Walla County line (Snake River) to the Walla Walla-Benton County line (Columbia River); then northwest on the county line to the U.S. Highway 395 bridge between Pasco and Kennewick; then north on U.S. Highway 395 to State Highway 17; then north on State Highway 17 to the Adams-Grant County line (12 S.E. Road) and the point of beginning. (See Washington Atlas & Gazetteer)

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

WSR 94-04-058
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed January 31, 1994, 9:47 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02204 Region four.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02204 Region four.

GMU 405-CHUCKANUT (Whatcom and Skagit counties): Beginning at the northwest corner of Whatcom County and the Canadian border; then east on the Canadian border to the Silver Lake Road; then south on the Silver Lake Road to the Mount Baker Highway 542; then southwest on the Mount Baker Highway 542 to the Mosquito Lake Road; then south on the Mosquito Lake Road to Valley Highway 9; then south on Valley Highway 9 through Sedro Woolley to the town of Arlington and the Stillaguamish River; then west along the Stillaguamish River through Stanwood and West Pass to Skagit Bay (Snohomish, Skagit, Island County line); then west and north through Skagit Bay, Deception Pass, Rosario Strait and Bellingham Channel to Samish Bay near Edison; then north along the shoreline to the Whatcom County line; then north on the county line to the Canadian border and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 410-ISLANDS (San Juan and Island counties): Beginning at the north corner of San Juan-Whatcom County line; then southeast on the county line to the Skagit-Whatcom County line; then east on the county line to the shore of Samish Bay; then south on the shoreline near Edison; then west through Samish Bay and south through Bellingham Channel to the Skagit-San Juan County line; then south through Rosario Strait on the San Juan-Skagit County line to the Island County line; then east on the Skagit-Island County line through Deception Pass and south through Skagit Bay; then southeast on the Island-Snohomish County line through Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; then northwest on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; then west on the San Juan-Jefferson-Clallam County lines to the Canadian border; then north on the Canadian border through Middle Bank, Haro Strait, and Boundary Pass to the north corner of San Juan-Whatcom County line and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 418-NOOKSACK (Whatcom and Skagit counties): Beginning at the Silver Lake Road and the Canadian border; then east on the Canadian border to the North Cascades National Park Boundary; then south on the North Cascades National Park Boundary to the range line between Range 9 and 10 East; then south on this range line to Jackman Creek; then south along Jackman Creek to the Skagit River; then west along the main channel of the Skagit River to Highway

9; then north along Highway 9 to its intersection with Highway 20 (West Sedro Woolley); then east along Highway 20 to its intersection with Valley Highway 9 (East Sedro Woolley); then north along Valley Highway 9, to Mosquito Lake Road; then north on the Mosquito Lake Road to Mount Baker Highway 542; then north on Mount Baker Highway 542 to the Silver Lake Road; then north on the Silver Lake Road and the Canadian border to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 426-DIABLO (Skagit and Whatcom counties): Beginning at the Canadian border and the west boundary of the Ross Lake National Recreation Area; then south, on the Ross Lake National Recreation Boundary across the Skagit River and the North Cascades Highway; then north on the Ross Lake National Recreation Boundary to two miles east of Panther Creek; then south on the North Cascades National Park Boundary to Fisher Point; then east on the Skagit-Chelan County line across State Highway 2 to the Pacific Crest Trail; then north on the Pacific Crest Trail to Jims Pass, Oregon Basin and the Mt. Baker-Snoqualmie National Forest; then west on the Mt. Baker-Snoqualmie National Forest Boundary to the Ross Lake National Recreation Boundary; then north on the east boundary of the Ross Lake National Recreation Area to the Canadian border; then west on the Canadian border to the west boundary of the Ross Lake National Recreation Area and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 433-CAVANAUGH (Skagit and Snohomish counties): Beginning at the intersection of State Highway 9 and the Skagit River (south of Sedro Woolley); then east along the main channel of the Skagit River to the Sauk Valley Road (near Rockport); then south on the Sauk Valley Road to the Arlington-Darrington Highway (SR 530) at Darrington; then west on the Arlington-Darrington Highway (SR 530) to State Highway 9 (at Arlington); then north on State Highway 9 to the Skagit River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 440-SUIATTLE (Skagit and Snohomish counties): Beginning at State Highway 20 and Jackman Creek east of Concrete; then northeast along Jackman Creek to the range line between Range 9 and 10 East; then north on the range line to the boundary of the North Cascades National Park; then north and east on the North Cascades National Park Boundary to the Ross Lake National Recreation Area Boundary; then south on the Ross Lake National Recreation Area Boundary across the North Cascade Highway 20 and the Skagit River and east along the Ross Lake National Recreation Area to the North Cascades National Park Boundary near Big Devil Peak; then southeast on the North Cascades National Park Boundary to the Cascade River Road; then south on the Cascade River Road to Forest Road 1590 (FR1590); then south on FR1590 to the north boundary of Glacier Peak Wilderness Area; then west and south on Glacier Peak Wilderness Area Boundary to the Suiattle River; then west along the Suiattle River to State Highway 530 (Sauk Valley Road); then north on State Highway 530 to Rockport and State Highway 20; then west on State Highway 20 to Jackman Creek and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 442-TULALIP (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River near Stanwood; then east along the Stillaguamish River to Arlington and State Highway 530; then northeast on State Highway 530 to the Trafton School at Trafton; then southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; then southwest on the transmission line to the Jordan Road in Sec. 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls and the Menzel Lake Road; then south on the Menzel Lake Road past Lake Roesiger to the Woods Creek Road; then south on the Woods Creek Road to Monroe and Highway 203; then south on Highway 203 to the Snoqualmie River at Duvall; then north along the Snoqualmie River to the Snohomish River; then west along the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River near Stanwood and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties): Beginning at Trafton on the Highway 530 (Arlington-Darrington Highway); then northeast on Highway 530 to Darrington; then north on Highway 530 (Sauk Valley Road - Bennets Store Road) to the Suiattle River; then east along the Suiattle River to the Glacier Peak Wilderness Area Boundary; then south on the Glacier Peak Wilderness Area Boundary to June Mountain and USFS Trail #650; then west on the USFS Trail #650 on the crest between Sloan Creek and the North Fork Skykomish River Drainages to Curry Gap and the Quartz Creek Trail #1050; then south on the Quartz Creek Trail #1050 and #1054 to West Cady Creek; then south along West Cady Creek through Section 36, T28N, R12E to Meadow Creek; then south along Meadow Creek to Rapid River; then east along Rapid River to Lake Janus and the Pacific Crest Trail; then south on the Pacific Crest Trail to Stevens Pass and Highway 2; then west on Highway 2 to Monroe and the Woods Creek Road; then north on the Woods Creek Road past Lake Roesiger to the Menzel Lake Road; then north on the Menzel Lake Road to Granite Falls and the Jordan Road; then northwest on the Jordan Road through Jordan to the City of Seattle power transmission lines; then northeast on the transmission lines to the Jim Creek-Trafton Road (242nd St. N.E.); then west on the Jim Creek-Trafton Road to Trafton and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 450-CASCADE (Skagit and Snohomish counties): Beginning on the Glacier Peak Wilderness Boundary one mile north of Jordan Lakes on the Township line between T34 & 35N; then east on the Wilderness Boundary to Forest Road 1590 (FR1590); then north on FR1590 to the Cascade River Road; then north on Cascade River Road to the North Cascades National Park Boundary; then east on the North Cascades National Park Boundary to the Pacific Crest Trail Boundary; then south on the Pacific Crest Trail to Lake Janus and the Rapid River; then northwest along the Rapid River to Meadow Creek; then north along Meadow Creek to West Cady Creek; then northwest along West Cady Creek near Excelsior Mountain and USFS Trail #1054; then north on USFS Trail #1054 and the Quartz Creek Trail (USFS #1050) to Curry Gap and USFS Trail #650; then east on USFS Trail #650 to June Mountain and the Glacier Peak

Wilderness Boundary; then north on the Glacier Peak Wilderness Boundary across the Suitttle River to Jordan Lakes on Township line between T34 & 35N and the point of beginning. (See Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest maps)

GMU 454-ISSAQUAH (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; then southeast along the Snohomish River to the Snoqualmie River; then southeast along the Snoqualmie River to Duvall and State Highway 203; then south on State Highway 203 through Fall City to Preston and Interstate Highway 90; then east on Interstate Highway 90 to State Highway 18; then south on State Highway 18 to the Raging River; then southeast along the Raging River to the City of Seattle Cedar River Watershed; then west, south and east on the Cedar River Watershed to the City of Tacoma Green River Watershed; then south on the Green River Watershed to Forest Road 7110 near Lynn Lake; then southwest on Forest Road 7110 to U.S. Highway 410; then west on U.S. Highway 410 to Enumclaw and State Highway 164; then west on State Highway 164 to Auburn and State Highway 18; then west on State Highway 18 to U.S. Highway 99; then north on U.S. Highway 99 to Redondo Beach; then due west to Puget Sound; then north along Puget Sound to the mouth of the Snohomish River and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 460-SNOQUALMIE (King and Snohomish counties): Beginning at Monroe on State Highway 203 and U.S. Highway 2; then east on U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; then south on the Pacific Crest Trail to the City of Seattle Cedar River Watershed; then west on the Cedar River Watershed to the Raging River; then north along the Raging River to State Highway 18; then north on State Highway 18 to Interstate Highway 90; then west on Interstate Highway 90 to the Preston-Fall City Road; then north on the Preston-Fall City Road to State Highway 203; then north on State Highway 203 to Monroe and the point of beginning. (See Mt. Baker-Snoqualmie National Forest map)

GMU 466-STAMPEDE (King County): Beginning on the Pacific Crest Trail (USFS Trail #2000) and the east boundary of the City of Seattle Cedar River Watershed; then south on the Pacific Crest Trail past Blowout Mountain to Pyramid Peak, at Windy Gap; then northwest on USFS Roads 7036 and 7030 to USFS Road 7032 to Trail 1172; then northwest on USFS Trail #1172 to the Chambers Creek Road (USFS Road 7012); north on the Chambers Creek Road to the City of Tacoma Green River Watershed Boundary; then north on the Green River Watershed Boundary to the Pacific Crest Trail and the point of beginning. (See Mt. Baker-Snoqualmie National Forest map)

GMU 472-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (Forest Road 7110) and the City of Tacoma Green River Watershed Boundary; then east on the Green River Watershed Boundary and USFS Trail 1172 to USFS Road 7032; then east along USFS Road 7032 to USFS Road 7030; then southeast along USFS Road 7030 and USFS Road 7036 to the Pacific Crest Trail north of Pyramid Peak; then south on the Pacific Crest

Trail to the Mount Rainier National Park Boundary at Chinook Pass; then north and west on the park boundary to the Carbon River; then northwest along the Carbon River to Bonneville Power Transmission Line; then northeast along the transmission line to South Prairie Creek; then north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); then east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); then southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; then northeast on the transmission lines to State Highway 410; then east on State Highway 410 to Forest Road 7110; then north on Forest Road 7110 to the City of Tacoma Green River Watershed and the point of beginning. (See Washington Atlas & Gazetteer, U.S. Forest Service White River-Norse Peak Wilderness map, and Champion Timberlands Visitors Recreation map)

GMU 478-MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River bridge on the Orville Road E.; then northeast on the Bonneville Power Transmission Line to the Fisk Road; then southeast on the Fisk Road to Champion's 12 Road; then northeast on Champion's 12 Road to the Carbonado-Electron powerline; then northeast on the powerline to the Carbon River; then southeast along the Carbon River to the west boundary of Mt. Rainier National Park; then south on the park boundary to the Nisqually River; then west on the Nisqually River (Pierce-Lewis County line) to Weyerhaeuser 1000 (Main Line); then northeast on the Weyerhaeuser 1000 to Highway 161 (Eatonville-LaGrande Road); then northeast on Highway 161 through Eatonville to Orville Road E. (Kapowsin-Eatonville Road); then north on the Orville Road E. to the Puyallup River bridge and the point of beginning. (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

GMU 480-SOUTH ISLANDS (Pierce County): All of Anderson, Ketron, McNeil, Gertrude, and Pitt Islands. "Special firearm restrictions for these islands." Hunting is closed on Gertrude, Pitt and McNeil Islands. (See Washington Atlas & Gazetteer)

GMU 484-PUYALLUP (Pierce and King counties): Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; then southeast on Redondo Way South to Pacific Highway South (Old Highway 99); then south on the Pacific Highway South to Auburn and State Highway 18; then east on State Highway 18 to State Highway 164; then southeast on State Highway 164 to Enumclaw and State Highway 410 (Chinook Pass Highway); then east on State Highway 410 to the second set of Bonneville Power Transmission Lines near the Mud Mountain Dam Road; then southwest on the transmission lines to the White River; then northwest along the White River to the Champion ownership line (along west line of Section 6, T19N, R7E); then west and south along the Champion ownership line to South Prairie Creek (Section 14, T19N, R6E); then south along South Prairie Creek to the intersection with the Bonneville Power Line; then southwest on this transmission line to the Carbon River; then southeast on the

Carbon River to the Carbonado/Electron powerline; then southwest on the powerline to the Champion 12 Road; then southwest on the Champion Road to Fisk Road; then northwest on the Fisk Road to the Bonneville Power Transmission Line; then southwest on this transmission line to the Puyallup River bridge and the Orville Road E.; then south on the Orville Road E. to State Highway 161; then south on the Weyerhaeuser 1000 line to the Nisqually River (Pierce-Thurston County line); then northwest along the Nisqually River to Puget Sound; then north along the shore of Puget Sound to Redondo and the point of beginning. (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

GMU 485-GREEN RIVER (King County): Beginning at the northwest corner of the Green River Watershed; then east on the boundary between the Green River Watershed and the Cedar River Watershed to the USFS Road 5060; then south on the USFS Road 5060 to the USFS Road 5063; then south on the USFS Road 5063 to USFS Road 7012 near Champion Creek; then south on USFS Road 7012 to USFS Trail 1172 and the south boundary of the Green River Watershed; then west on the Green River Watershed Boundary over Huckleberry Mountain and Grass Mountain and across the Green River to the northwest corner of the Green River Watershed and the point of beginning. (See U.S. Forest Service White River-Norse Peak Wilderness map)

GMU 490-CEDAR RIVER (King County): Beginning at the Cedar River and the west boundary of the City of Seattle Cedar River Watershed; then north and east on the watershed boundary to the Pacific Crest Trail; then south on the Pacific Crest Trail past Yakima Pass to the boundary of the Cedar River Watershed; then west and north on the Cedar River Watershed Boundary to the Cedar River and the point of beginning. (See Mt. Baker-Snoqualmie National Forest map)

WSR 94-04-059
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:48 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02205 Region five.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02205 Region five.

GMU 501-Lincoln (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6; then west on State Highway 6 to the Stevens Road; then northwest on Stevens Road to Elk Creek Road (Doty); then west on Elk Creek Road to the 7000 Road; then west on the 7000 Rd. to the 7800 Rd.; then west on the 7800 Rd. to the 720 Rd.; then northeast on the 720 Rd. to Garrard Creek Road; then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12; then east on U.S. 12 to Interstate 5; then south on Interstate 5 to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 504-Stella (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River; then west down the Columbia to the mouth of Germany Creek; then north up Germany Creek to State Highway 4; then east on Highway 4 to Germany Creek Road; then north on Germany Creek Road to IP 1000 Road; then north on IP 1000 to the IP 1050 Road; then east on IP 1050 Road to the 2200 Rd.; then east and south to the 2000 Rd.; then south on the 2000 Rd. to the Delameter Road (Woodside Road); then east on Delameter Road to State Highway 411; then north on Highway 411 to PH 10 Road (Four Corners); then east to Cowlitz River; then south down the Cowlitz River to the Columbia River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 505-Mossyrock (Lewis County): Beginning on Interstate 5 and the Cowlitz River; then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge; then east on Highway 12 to Winston Creek Road; then south and east to Longbell Road and Perkins Road; then northeast on Perkins Road to Swofford Road; then north on Swofford Road to Ajlune Road; then east on Ajlune Road to Riffe Lake; then east along the south shore to the Cowlitz

River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge; then south and east to the C Line Road; then east to the Bennet Road; then east to U.S. Highway 12; then west on Highway 12 to State Highway 7 (Morton); then north on State Highway 7 to State Highway 508; then west on Highway 508 to Centralia/Alpha Road; then west and north on Centralia/Alpha Road to Salzer Valley Road; then west to Summa Street and Kresky Road; then north on Kresky Road to Tower Street; then on Tower Street to State Highway 507; then west on Highway 507 Cherry, Alder and Mellen streets to Interstate 5; then south on Interstate 5 to the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 506-Willapa Hills (Wahkiakum, Pacific and Lewis counties): Beginning at Pe Ell and the Muller Road; then south on the Muller Road to the 1000 Road; then south on the 1000 Road to the 1800 Road; then south on the 1800 Road to the 500 Road; then southeast on the 500 Road to State Highway 407 (Elochoman Valley Road); then south on State Highway 407 (Elochoman Valley Road) to State Highway 4; then east on State Highway 4 to State Highway 409; then south on State Highway 409 to the Columbia River/Puget Island Bridge; then west along Columbia River to the mouth of the Deep River; then north along the Deep River to State Highway 4; then northwest on State Highway 4 to the Salmon Creek Road; then north on the Salmon Creek Road to the Bonneville Powerline Road; then north on the Bonneville Powerline Road to State Highway 6; then east on State Highway 6 to the town of Pe Ell and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "Willapa Hills")

GMU 510-Stormking (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Rd.; then north on USFS 47 to USFS 85; then west on USFS 85 to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Rd.; then northwest on the USFS 85 Rd. to Catt Creek; then north on Catt Creek to the Nisqually River; then west down the Nisqually River to State Highway 7; then south on Highway 7 to U.S. Highway 12 (Morton); then east on Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map)

GMU 512-Sawtooth (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Rd.; then north on USFS 47 Rd. to USFS 85 Rd.; then west on USFS 85 to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Rd.; then north on 85 Rd. to Catt Creek; then northwest down Catt Creek to the Nisqually River; then east up the Nisqually River to Horse Creek; then east up Horse Creek to USFS 52 Rd. (Skate Creek Road); then southeast on USFS 52 to the Cowlitz River; then southwest down the Cowlitz River to Smith Creek; then up Smith Creek to U.S. Highway 12; then west on U.S. Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map and/or Washington Atlas & Gazetteer)

GMU 514-Tatoosh (Lewis County): Beginning at USFS 52 Rd. (Skate Creek) and the Cowlitz River (at Packwood); then northwest on USFS 52 Rd. to Horse Creek; then down Horse Creek to the Nisqually River and the southern boundary of Mt. Rainier National Park; then north and east along the Nisqually River and south park boundary to the Cascade Crest Trail; then south along the Cascade Crest Trail to U.S. Highway 12; then northwest and southwest on Highway 12 to USFS 1270 Rd.; then north on USFS 1270 to the Cowlitz River; then southwest down the Cowlitz River to the USFS 52 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 516-Packwood (Lewis and Skamania counties): Beginning at the mouth of Cispus River; then east up the Cispus River to the USFS 56 Rd. (Midway G.S. Road); then east on the USFS 56 Rd. to the USFS 5603 Rd.; then east on the USFS 5603 to the Yakima Indian Reservation Boundary and the Cascade Crest; then north along the reservation boundary to Cispus Pass and the Cascade Crest Trail; then north along the Cascade Crest Trail to the U.S. Highway 12 (White Pass); then northwest and southwest on Highway 12 to USFS 1270 Rd. (Sec. 31, T14N, R10E); then north on USFS 1270 to the Cowlitz River; then southwest down the Cowlitz River to the mouth of Smith Creek; then south up Smith Creek to U.S. Highway 12; then southwest down Highway 12 to Bennet Road; then west on the Bennet Road to the C Line Road; then west to the USFS 23 Rd. (Cispus Road); then west and north to the Cowlitz River; then west down the Cowlitz River to the mouth of the Cispus River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 520-Winston (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River; then south down the Cowlitz River to the Toutle River; then east up the Toutle River to the North Fork Toutle River; then up the North Fork Toutle River to the Green River; then east up the Green River to USFS 2612 Rd.; then east on 2612 to USFS 26 Rd. (Ryan Lake Road); then north on USFS 26 Rd. to the Cispus River; then west down the Cispus to the Cowlitz River; then west down the Cowlitz River to Riffe Lake; then west along the south shore to Ajlune Road; then west to Swofford Road; then south on Swofford Road to Perkins Road; then southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road; then northwest on Winston Creek Road to State Highway 12; then west on State Highway 12 to the Mayfield Lake bridge; then southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 522-Loo-wit (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; then southeast up the North Fork Toutle River to the Weyerhaeuser 3001 Rd.; then southeast along the 3001, 3000, and 3090 roads to the headwaters of the South Fork Castle Creek; then due south to the South Fork Toutle River; then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon; then down Ape Canyon Creek to the USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Rd.; then

north along USFS 99 to USFS 26; then north to Strawberry Lake Creek; then west down Strawberry Lake Creek to the Green River; then across the Green River to Grizzly Creek; then up Grizzly Creek to Grizzly Lake; then west up the western inlet to its headwaters; then west to the headwaters of Coldwater Creek; then west down Coldwater Creek to Coldwater Lake; then southwest along the northwest shore to the old Weyerhaeuser 3500 Rd.; then west along the 3500, 3530, 3540, 3130, and 3120 roads to the intersection with Hoffstadt Creek; then down Hoffstadt Creek to the North Fork Toutle River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 524-Margaret (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River; then southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek; then up Hoffstadt Creek to the 3120 Rd.; then east along the 3120, 3130, 3540, 3530 and 3500 roads to Coldwater Lake; then northeast along the northwest shoreline to Coldwater Creek; then up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake; then east down the west inlet creek to Grizzly Lake; then down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek; then up Strawberry Lake Creek to the USFS 26 Rd. (Ryan Lake Road); then north on the USFS 26 Rd. to the USFS 2612 Rd.; then west on USFS 2612 Rd. to the Green River; then down the Green River to its mouth and point of beginning. (See Gifford Pinchot National Forest map)

GMU 530-Ryderwood (Cowlitz, Lewis and Wahkiakum counties): Beginning south of the town of Doty on State Highway 6; then east on State Highway 6 to Chehalis and Interstate 5; then south on Interstate 5 to the Cowlitz River; then south along the Cowlitz River to Castle Rock and the PH 10 Road (Four Corners); then west on the PH 10 Road to State Highway 411; then south on State Highway 411 to Delameter Road (Woodside Drive); then southwest on Delameter Road to the 2000 Road; then west on the 2000 Road to the 2200 Road; then north and west on the 2200 Road to the IP 1050 Road; then west on the IP 1050 Road to the IP 1000 Road; then south on the IP 1000 Road to the Germany Creek Road; then south on the Germany Creek Road to State Highway 4; then west on State Highway 4 to Germany Creek; then south along Germany Creek to its mouth at the Columbia River; then west along the Columbia River and the Cathlamet Channel to the Puget Island Bridge on State Highway 409; then north on State Highway 409 to State Highway 4; then west on State Highway 4 to State Highway 407 (Elochoman Valley Road); then northwest on State Highway 407 (Elochoman Valley Road) to the 500 Road; then west on the 500 Road to the 1800 Road; then north on the 1800 Road to the 1000 Road; then north on the 1000 Road to the Muller Road; then north on Muller Road to Pe Ell and State Highway 6; then north on State Highway 6 to south of Doty and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "Willapa Hills")

GMU 550-Coweeman (Cowlitz County): Beginning at the mouth of the Cowlitz River; then north to the Toutle River; then east along the Toutle River to the South Fork Toutle River; then up the South Fork Toutle to the 4950 Rd.; then

south and east on the 4950 Rd. to the 235 Rd.; then south on the 235, 200, 245, 134, 133, 130 and 1680 roads to the 1600 Rd.; then southeast along the 1600 and 1400 roads to the Kalama/Coweeman summit; then south along the 1420 Rd. to the 1425 Rd.; then southwest along the 1425 Rd. to the 6400 Rd.; then southwest down the 6400 Rd. to the 6000 Rd.; then east to the 6450 Rd.; then southeast approximately one mile on the 6450 Rd. to the Arnold Creek Road; then southeast on Arnold Creek Road to Dubois Road; then to State Highway 503; then west on State Highway 503 to Cape Horn Creek; then down Cape Horn Creek to Merwin Reservoir and the Lewis River; then down the Lewis River to the Columbia River; then down the Columbia River to the mouth of the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 554-Yale (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek; then east on Highway 503 to 6690 Rd. (Rock Creek Road); then northeast on the 6690 and 6696 roads to West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on Highway 503 to Dog Creek; then down Dog Creek to Yale Reservoir; then south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek; then up Cape Horn Creek to State Highway 503 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 556-Toutle (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. (Merrill Lake Road) intersection; then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd.; then northeast on the 7200 Rd. to the 7400 Rd.; then northwest on the 7400 Rd. to the 5500 Rd.; then east and north on the 5500 and 5670 roads to the South Fork Toutle River; then east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Sec. 1, T8N, R4E); then north to the headwaters of South Fork Castle Creek; then down South Fork Castle Creek to Weyerhaeuser 3092 Rd.; then west on the 3092 Rd. to 3090 Rd.; then northwest on the 3090, 3000 and 3001 roads to the North Fork Toutle River; then down the North Fork Toutle River to the South Fork Toutle River; then southeast up the South Fork Toutle River to the 4950 Rd.; then south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 roads to the 1600 road; then southeast on the 1600 and 1400 roads to the Kalama/Coweeman summit; then south on the 1420 Rd. to the 1425 Rd.; then southwest along the 1425 Rd. to the 6400 Rd.; then southwest on the 6400 Rd. to the 6000 Rd.; then east up the 6000 Rd. to the 6450 Rd.; then southwest on the 6450 Rd. approximately one mile to the Arnold Creek Road; then southeast on Arnold Creek and Dubois roads to State Highway 503; then east on State Highway 503 to the 6690 Rd. (Rock Creek Road); then northeast on the 6690 and 6696 roads to the West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on State Highway 503 to USFS 81 Rd. and point of beginning. (See Washington Atlas & Gazetteer)

GMU 558-Marble (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. intersection; then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd.; then northeast on the 7200 Rd. to the 7400 Rd.; then northwest on the 7400 Rd. to the 5500 Rd.; then east and north on the 5500 and 5670 roads to the

South Fork Toutle River; then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon; then east down Ape Canyon Creek to Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Rd.; then northeast on USFS 99 Rd. to USFS 25 Rd.; then south on USFS 25 Rd. to the Muddy River; then south down the Muddy River to the North Fork Lewis River; then west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek; then north up Dog Creek to State Highway 503; then southwest to USFS 81 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 560-Lewis River (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Rd.; then north to USFS 17 Road (Mt. Adams Recreational Road); then northeast to USFS 82 Road; then northeast on the USFS 82 Rd. to the Yakima Indian Reservation Boundary (Sec. 16, T7N, R11E); then north along reservation boundary (Cascade Crest) to USFS 5603 Rd.; then west to the USFS 56 Rd.; then west to the Cispus River; then northwest down the Cispus River to the USFS 26 Rd. (Ryan Lake Road); then west and south on the USFS 26 Rd. to USFS 99 Rd.; then northeast to the USFS 25 Rd.; then south to Muddy River; then south down the Muddy River to the North Fork Lewis River; then west to the USFS 90 Rd. bridge (Eagle Cliff); then east on USFS 90 Rd. to USFS 51 Rd.; then southeast to USFS 30 Rd.; then northeast on the USFS 30 Rd. to USFS 24 Rd.; then southeast to the State Highway 141; then northeast on State Highway 141 to Trout Lake and point of beginning. (See Gifford Pinchot National Forest map)

GMU 564-Battle Ground (Clark and Skamania counties): Beginning on the Interstate 5 at the Lewis River Bridge and the Lewis River; then northeast along the Lewis River (Cowlitz-Clark County line) to the Merwin Dam; then on a southeast line to the transmission line; then south on the transmission line to the County Road 20; then southeast on County Road 20 to the Pup Creek Road; then southeast on Pup Creek Road to County Road 16; then southeast on County Road 16 through Yacolt to County Road 12; then southeast on County Road 12 to Dole Valley Road; then south on the Dole Valley Road to Rock Creek Road; then southeast and south on the DNR 1000 Road to DNR 1500 Road; then east on DNR 1500 Road to N.E. 412th Ave.; then south on N.E. 412th Ave. to Skye Road; then east and south on the Skye Road to Washougal River Road; then south on Washougal River Road to State Highway 140; then southeast on State Highway 140 to Cape Horn Road; then south on Cape Horn Road to the Columbia River; then west down the Columbia River (including islands in Washington) to the Lewis River; then north along the Lewis River to the Interstate 5 Bridge and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "St. Helens West")

GMU 568-Washougal (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River and Lake Merwin; then northeast along Lake Merwin (Cowlitz-Clark County line) to Canyon Creek; then southeast along Canyon Creek to N.E. Healy Road; then east on N.E. Healy Road to USFS Road 54; then east on USFS Road 54 to USFS Road

37; then northwest on USFS Road 37 to USFS Road 53; then south on USFS Road 53 to USFS Road 4205 (Gumboat Road); then south on USFS Road 4205 to USFS Road 42 (Green Fork Road); then southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; then east on USFS Road 41 to USFS Road 406 at Lookout Mountain; then southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; then due east on the National Forest Boundary to Rock Creek; then southeast along Rock Creek to Stevenson and the Columbia River; then west down the Columbia River (including the islands in Washington) to the Cape Horn Road; then north on the Cape Horn Road to State Highway 140; then west on State Highway 140 to the Washougal River Road; then northwest on the Washougal River Road to the Skye Road; then northwest on the Skye Road to N.E. 412th Ave.; then northwest on DNR 1500 Road to DNR 1000 Road; then north and west on DNR 1000 Road to Dole Valley Road; then north on the Dole Valley Road to County Road 12; then northwest on County Road 12 to Moulton and County Road 16; then northwest on County Road 16 through Yacolt and Amboy to the Pup Creek Road; then northwest on the Pup Creek Road to County Road 20; then north on County Road 20 to the transmission line; then north on the transmission line to Merwin Dam on the Lewis River and the point of beginning. (See Gifford Pinchot National Forest map and Washington Atlas & Gazetteer)

GMU 572-Siouxon (Skamania and Clark counties): Beginning at the Yale Dam and Yale Lake; then north along Yale Lake (Cowlitz-Clark County line) to the North Fork Lewis River and Lewis River (old river bed); then northeast along the Lewis River to the Swift Creek Reservoir; then east along the Swift Creek Reservoir to Eagle Cliff Bridge and USFS Road 90; then east on USFS Road 90 to USFS 51 (Curly Creek Road); then southeast on USFS Road 51 to USFS Road 30; then north on USFS Road 30 to USFS Road 24 (Twin Butte Road); then south on USFS Road 24 to USFS Road 60 (Carson Guler Road); then southwest on USFS Road 60 to USFS Road 65 (Panther Creek Road); then southwest on USFS Road 65 to the Wind River Highway; then northwest on the Wind River Highway to Stabler; then west on Hemlock Road to USFS Road 41 (Sunset-Hemlock Road); then west on the USFS Road 41 to Sunset Falls and USFS Road 42 (Green Fork Road); then northeast on USFS Road 42 to USFS Road 4205 (Gunboat Road); then north on USFS Road 4205 to USFS Road 53; then northwest on USFS Road 53 to USFS Road 54 (N.E. Healy Road); then west on USFS Road 54 to Canyon Creek; then north along Canyon Creek to the Lewis River; then northeast along the Lewis River to the Yale Dam and the point of beginning. (See Gifford Pinchot National Forest map, and Forest Protection map "St. Helens West")

GMU 574-Wind River (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); then east on USFS Road 41 to Stabler; then east on the Hemlock Road to the Wind River Road; then southeast on the Wind River Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to Old State Road; then east to the USFS Road 60 (Carson-Guler Road); then northeast on USFS Road 60 to USFS Road 24 and State Highway 141 to USFS Road 86; then south on USFS Road

86 to USFS Road 1840; then south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); then south on USFS Road 18 to Willard and the Little White Salmon River; then south on the Little White Salmon River to the Columbia River; then west along the Columbia River to the mouth of Rock Creek; then northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; then on the south boundary of Gifford Pinchot National Forest due west to USFS Road 4100-406; then northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning. (See Washington Atlas & Gazetteer, Gifford Pinchot National Forest map)

GMU 576-White Salmon (Klickitat, Yakima and Skamania counties): Beginning at the mouth of the Klickitat River (Lyle) to the Fisher Hill Bridge; then north along the Fisher Hill Road (P-2000) to the Gravel Pit Road; then west to the B-Z Corners-Glenwood Road; then southwest to Highway 141 (B-Z Corners); then north to Trout Lake; then west on Highway 141 to USFS 86 Rd.; then south to the USFS 1840 Rd.; then south on the USFS 1840 Rd. to the USFS 18 Rd. (Oklahoma Road); then south on the 18 Rd. to Willard and the Little White Salmon River; then south down the Little White Salmon River to the Columbia River; then east up the Columbia River to the Klickitat River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 580-Sixprong (Klickitat and Yakima counties): Beginning on State Highway 14 at Sundale; then east to the Goldendale-Goodnoe Hills Road; then northwest along Goldendale-Goodnoe Hills Road to Dot Road; then north along the Dot Road to Cleveland; then along the Goldendale-Bickleton Road to the Yakima County line; then east along the Yakima County line to Alderdale Road; then southeast along the Alderdale Road to State Highway 14 and Columbia River; then west along the state line to Sundale and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 584-Goodnoe (Klickitat County): Beginning at the U.S. Highway 97 bridge on the Columbia River (Maryhill); then north on Highway 97 to Satus Pass and the Yakima Indian Reservation; then east along south reservation boundary to the Yakima County line; then east to Goldendale/Bickleton Road; then southwest to Cleveland and Dot Road; then south to Goldendale/Goodnoe Hills Road; then southeast to State Highway 14; then west to Sundale and mouth of Chapman Creek; then west down the Columbia River to U.S. Highway 97 bridge and point of beginning. (See Washington Atlas & Gazetteer)

GMU 586-Glenwood (Klickitat County): Beginning at B-Z Corners and State Highway 141; then north on State Highway 141 to Trout Lake and the USFS 80 Rd.; then north to the USFS 17 Rd.; then northeast to USFS 82 Rd.; then northeast on USFS 82 Rd., to the Yakima Indian Reservation Boundary (Sec. 16, T7N, R11E); then south along the reservation boundary to King Mountain and the southwest corner of the reservation (Sec. 27, T7N, R11E); then east along boundary (approximately one mile) to the end of King Mountain Road; then north to the northern boundary of the reservation at Sec. 2, T7N, R11E; then east to the northeastern corner of Section 4, T7N, R12E; then southeast along boundary to Summit Creek Primary Road; then south to the Glenwood/Goldendale Road; then northwest

on the Glenwood/Goldendale Road to the Gravel Pit Road; then south on the Lakeside Road to the B-Z Corners/Glenwood Road; then southwest to B-Z Corners and point of beginning. (See Washington Atlas & Gazetteer and DNR Mt. Adams Quadrangle map)

GMU 588-Grayback (Klickitat County): Beginning at Highway 97 bridge across Columbia River (Maryhill); then west down the Columbia River to Lyle and the mouth of the Klickitat River; then up the Klickitat River to the Fisher Hill Bridge; then north along the Fisher Hill Road (P-2000) to the Lakeside Road; then north on the Lakeside Road to the Gravel Pit Road; then northwest to the Glenwood/Goldendale Road; then east and southeast on the Glenwood/Goldendale Road to the Summit Creek Primary Road; then northeast to the Yakima Indian Reservation Boundary; then east along the southern boundary of the reservation to Highway 97 (Satus Pass Highway); then south on Highway 97 to Maryhill and point of beginning. (See Washington Atlas & Gazetteer)

WSR 94-04-060
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:49 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02206 Region six.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02206 Region six.

GMU 601-HOKO (Clallam County): Beginning on the Makah Indian Reservation Boundary and the Strait of Juan de Fuca; then southeast along the shore of the Strait of Juan de Fuca to the mouth of the Hoko River; then south along the Hoko River to State Highway 112; then southeast on State Highway 112 to the Hoko-Ozette Road; then southwest on the Hoko-Ozette Road to the Olympic National Park Boundary near Ozette; then north on the Olympic National Park Boundary to the Makah Indian Reservation Boundary; then east and north on the Makah Indian Reservation Boundary to the Strait of Juan de Fuca and the point of beginning. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 602-DICKEY (Clallam County): Beginning at the mouth of the Hoko River and the Strait of Juan de Fuca; then southeast along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River; then south along the Clallam River to State Highway 112; then south on State Highway 112 to the Burnt Mountain Road; then south on the Burnt Mountain Road to Sappho and U.S. Highway 101; then southwest on U.S. Highway 101 to the LaPush Road; then southwest on the LaPush Road to the Olympic National Park Boundary; then north on the Olympic National Park Boundary to the Hoko-Ozette Road; then northeast on the Hoko-Ozette Road to the Strait of Juan de Fuca and the point of beginning. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 603-PYSHT (Clallam County): Beginning at the mouth of the Clallam River and the Strait of Juan de Fuca; then east along the shore of the Strait of Juan de Fuca to the mouth of the Elwha River; then south along the Elwha River to the Olympic National Park Boundary; then west on the Olympic National Park Boundary to one mile west of Lake Crescent; then south on the Olympic National Park Boundary to U.S. Highway 101; then west on U.S. Highway 101 to the Burnt Mountain Road; then north on the Burnt Mountain Road to State Highway 112; then north on State Highway 112 to the Clallam River; then north along the Clallam River to its mouth and the point of beginning, EXCEPT that part of the lower Elwha Indian Reservation within this boundary. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 607-SOLEDUCK (Clallam County): Beginning at Sappho and U.S. Highway 101; then east on U.S. Highway 101 to the Olympic National Park Boundary; then south and west on the Olympic National Park Boundary to the Bogachiel River; then west along the Bogachiel River to U.S. Highway 101; then north on U.S. Highway 101 through Forks to Sappho and the point of beginning. (See Olympic

National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 612-GOODMAN (Jefferson and Clallam counties): Beginning two miles east of LaPush on the Olympic National Park Boundary and the LaPush Road; then northeast on the LaPush Road to U.S. Highway 101 at Forks; then south on U.S. Highway 101 across the Hoh River and west to Olympic National Park Boundary; then north on the Olympic National Park Boundary to the LaPush Road and the point of beginning. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 615-CLEARWATER (Jefferson County): Beginning on U.S. Highway 101 and the Bogachiel River; then east along the Bogachiel River to the Olympic National Park Boundary; then southeast and west on the Olympic National Park Boundary to the Quinault Indian Reservation Boundary; then west on the Quinault Indian Reservation Boundary to U.S. Highway 101; then north and east on U.S. Highway 101 to the Bogachiel River and the point of beginning. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

GMU 618-MATHENY (Jefferson and Grays Harbor counties): Those lands between the Queets and Quinault Rivers that are outside Olympic National Park and outside the Quinault Indian Reservation. (See the Olympic National Forest map)

GMU 621-OLYMPIC (Jefferson, Clallam and Mason counties): Beginning at the Olympic National Park Boundary and the Elwha River; then north along the Elwha River to U.S. Highway 101; then east on U.S. Highway 101 through Port Angeles, and Sequim to Quilcene and the Chimacum Center Road; then north on the Chimacum Center Road to the East Quilcene Road; then east on the East Quilcene Road to Quilcene Bay; then south along the shore of Quilcene Bay to Dabob Bay; then south along the shore of Dabob Bay to Hood Canal; then southwest along the shore of Hood Canal to U.S. Highway 101 at Hoodsport; then west across U.S. Highway 101 to the Power Dam Road; then west on the Power Dam Road to the Lake Cushman Road; then northwest on the Lake Cushman Road to Lake Cushman; then northwest on the west shore of Lake Cushman to the North Fork Skokomish River; then north along the North Fork Skokomish River to the Olympic National Park Boundary; then north and west on the Olympic National Park Boundary to the Elwha River and the point of beginning. (See Olympic National Forest, Olympic National Park map and Washington Atlas & Gazetteer)

GMU 624-COYLE (Clallam and Jefferson counties): Beginning at the mouth of the Elwha River and the Strait of Juan de Fuca; then east along the shore including islands and spits to Admiralty Inlet and Puget Sound; then south along the shore of Admiralty Inlet and Puget Sound to Hood Canal; (Including Marrowstone Island and Indian Island) then southwest along the shore of Hood Canal to Dabob Bay; then north along the shore of Dabob Bay and Quilcene Bay to East Quilcene; then west on the East Quilcene Road to the Chimacum Center Road; then south on the Chimacum Center Road to U.S. Highway 101; then north and west on U.S. Highway 101 through Sequim and Port Angeles to the

Elwha River; then north along the Elwha River to its mouth and the Strait of Juan de Fuca and the point of beginning. (See Olympic National Forest, Olympic National Park map and Washington Atlas & Gazetteer)

GMU 627-KITSAP (Kitsap, Mason, Pierce and King counties): Beginning at the Hood Canal Bridge; then north along the shore of Hood Canal to Admiralty Inlet, and Puget Sound; then south along the shore of Puget Sound, including Bainbridge Island, Blake Island, Vashon Island, and Murry Island to Dalco Passage; then south along the shore of Carr Inlet; including Fox Island; through Pitt Passage and Drayton Passage to Nisqually Reach (Pierce-Thurston County line); then northwest along the Nisqually Reach and the Pierce County line to North Bay; then along the east shore of North Bay to the town of Allyn and State Highway 3; then north on State Highway 3 to Belfair; then north on the Old Belfair Highway to the Bear Creek-Dewatto Road; then west on the Bear Creek-Dewatto Road to the Dewatto Road west; then north along the Dewatto Road to its intersection with the Albert Pfundt Road; then north on the Albert Pfundt Road to the easternmost point of Anderson Cove; then north from Anderson Cove along the east shore of Hood Canal to the Hood Canal Bridge and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 633-MASON (Mason and Kitsap counties): Beginning at the easternmost point of Anderson Cove and south on the Albert Pfundt Road to the west Dewatto Road; then south on the West Dewatto Road to the Bear Creek-Dewatto Road; then east along the Bear Creek-Dewatto Road to the Old Belfair Highway; then south on the Old Belfair Highway to Belfair; then south on State Highway 3 to Allyn and North Bay; then south along the west shore of North Bay including Reach and Stretch Islands, to Case Inlet and the Mason-Pierce-Thurston County line intersection; then west through Dana Passage to Squaxin Passage; then northwest through Squaxin Passage including Hope and Squaxin Islands following the Mason County line; then southwest through Totten Inlet to Oyster Bay and U.S. Highway 101; then north on U.S. Highway 101 to Hoodspport; then east across Hood Canal to Cougar Spit; then north along the east shore of Hood Canal to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 636-SKOKOMISH (Grays Harbor and Mason counties): Beginning on the Olympic Park Boundary and the North Fork Skokomish River; then south along the North Fork Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam and the Power Dam Road; then east on the Power Dam Road to Lake Cushman-Hoodspport Road; then southeast on to the Lake Cushman-Hoodspport Road to U.S. Highway 101 at Hoodspport; then south on U.S. Highway 101 to Shelton and the Shelton-Matlock Road (County Road 9010); then west on to the Shelton-Matlock Road to Matlock and the Deckerville Road; then west on the Deckerville Road to the Middle Satsop Road; then west and south on the Middle Satsop Road to the Cougar Smith Road; then west on the Cougar Smith Road to the Wynoochee Road (USFS 22 Road); then northwest and southwest on USFS 22 Road to the USFS 2204 Road (refer to USFS map, DeLorme has incorrect road numbers); then north on the 2204 and 2204-

200 Road to Olympic Park Boundary; then east on the Olympic Park Boundary to the point of beginning. (See Washington Atlas & Gazetteer and Olympic National Forest map)

GMU 638-QUINALT RIDGE (Grays Harbor and Jefferson counties): Beginning on the Olympic National Park Boundary at the northwest corner of Lake Quinalt; then northeast on the Olympic National Park Boundary at the northwest corner of Lake Quinalt; then northeast on the Olympic National Park Boundary to the 2204-200 Spur Road and USFS 2204 Road; then southwest on USFS 2204 Road to USFS 22 Road (Donkey Creek Road); then west on the Donkey Creek Road to U.S. Highway 101; then north on U.S. Highway 101 to the Quinalt Indian Reservation Boundary; then northeast on the reservation boundary to Lake Quinalt; then northeast along the south shore of Lake Quinalt to the Olympic National Park Boundary and the point of beginning. (See Olympic National Forest map)

GMU 642-COPALIS (Grays Harbor County): Beginning at the Quinalt Indian Reservation and U.S. Highway 101; then south on U.S. Highway 101 to the Hoquiam River; then south along the Hoquiam River to the City of Hoquiam and Grays Harbor; then west along the north shore of Grays Harbor to the Pacific Ocean; then north along the shore of the Pacific Ocean to the Quinalt Indian Reservation Boundary; then east and northeast along the Quinalt Indian Reservation to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 648-WYNOOCHEE (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Donkey Creek Road; then northeast along the Donkey Creek Road (Forest Service Road #22) to its junction with the Donkey Creek-Grisdale Road; continuing east on this road (Forest Service Road #22) to Camp Grisdale (south of Wynoochee Lake); then south along the Grisdale-Montesano Road (Forest Service Road #22) to the Cougar Smith Road; then east on the Cougar Smith Road to the West Fork of the Satsop River; then south down the West Fork and the main stream of the Satsop River to U.S. Highway 12; then west along U.S. Highway 12 to its junction with U.S. Highway 101 in Aberdeen; then west and north along U.S. Highway 101 to its junction with the Donkey Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 651-SATSOP (Grays Harbor, Mason and Thurston counties): Beginning at the U.S. Highway 12 bridge on the Satsop River; then upstream on the Satsop River to its junction with the West Fork of the Satsop River; then up the West Fork of the Satsop River to the Cougar Smith Road; then east on the Cougar Smith Road to the Middle Satsop Road; then east on the Middle Satsop and Matlock-Deckerville Roads to the town of Matlock; then east on the Shelton-Matlock Road (County Road 9010) to its junction with U.S. Highway 101; then south on U.S. Highway 101 to its junction with State Route 8; then west on State Route 8 to its junction with U.S. Highway 12; then west along Highway 12 to the Satsop River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 658-NORTH RIVER (Grays Harbor and Pacific counties): Beginning at the Pacific Ocean and the south

shore of Grays Harbor; then east along the south shore of Grays Harbor to Aberdeen and the mouth of the Chehalis River including Rennie Island; then east along the Chehalis River to the U.S. Highway 101 bridge and U.S. Highway 101; then south on U.S. Highway 101 to Raymond and the Willapa River; then west along the Willapa River to Willapa Bay; then west along Willapa Bay to the Pacific Ocean; then north along the Pacific Ocean to the south shore of Grays Harbor and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 660-MINOT PEAK (Grays Harbor and Pacific counties): Beginning at Aberdeen on U.S. Highway 12; then east and south on U.S. Highway 12 to Oakville and the Chehalis Indian Reservation Road; then south on the Reservation Road to the South Bank Road; then southeast on the South Bank Road to the Garrard Creek Road; then southwest on the Garrard Creek Road to the Oakville Brook Road; then west on the Oakville Brook Road to the North River Valley Road; then west on the North River Valley Road to the Smith Creek Road; then west on the Smith Creek Road to U.S. Highway 101; then north on U.S. Highway 101 to Aberdeen and U.S. Highway 12 and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 663-CAPITOL PEAK (Grays Harbor and Thurston counties): Beginning at Elma on State Highway 8; then east on State Highway 8 to U.S. Highway 101; then east on U.S. Highway 101 to the Delphi Road S.W.; then south on the Delphi Road S.W. to Waddell Creek Road S.W.; then south on the Waddell Creek Road S.W. to Littlerock and the Gate Mima Road S.W.; southwest on the Gate Mima Road S.W. to Gate and Moon Road S.W.; then south on Moon Road S.W. to U.S. Highway 12; then northwest on U.S. Highway 12 to Elma and State Highway 8 and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 666-DESCHUTES (Thurston County): Beginning on Highway 101 at the Mason-Thurston County line near Oyster Bay; then following the Thurston County line to the mouth of the Nisqually River; then south on the Nisqually River to the Old Pacific Highway; then southwest on the Old Pacific Highway (Mounts Road) to Highway 510; then southeast on Highway 510 to the Yelm Highway; then southwest and west on the Yelm Highway to Spurgeon Creek Road; then south on Spurgeon Creek Road to Rainier Road; then northwest on Rainier Road to Stedman Road; then west and south on Stedman Road to Waldrick Road; then west on Waldrick Road to Pacific Highway S.E. (Old Highway 99); then north on Pacific Highway S.E. (Old Highway 99) to McCorkle Road; then west on McCorkle Road to 113th Avenue; then west on 113th Avenue to Littlerock Road; then north on the Littlerock Road to 110th Avenue; then west on 110th Avenue to Delphi Road; then north on Delphi Road to U.S. Highway 101; then northwest on Highway 101 to the Mason-Thurston County line at Oyster Bay and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection map "Willapa Hills")

GMU 667-SKOOKUMCHUCK (Thurston and Lewis counties): Beginning on the Old Pacific Highway (Mounts Road) Bridge on the Nisqually River; then southeast along the Nisqually River to Alder Lake; then southeast along the north shore of Alder Lake to Elbe and State Highway 7; then south on State Highway 7 to Morton and State Highway 508; then west on State Highway 508 to the Centralia-Alpha Road; then west on the Centralia-Alpha Road to Pearl Street; then north on Pearl Street to State Highway 507; then northwest on State Highway 507 to Interstate 5; then north on Interstate 5 to U.S. Highway 12; then west on Highway 12 to Moon Road; then north on Moon Road to the Gate-Mima Road; then northeast on the Gate-Mima Road to Waddell Creek Road; then northeast on the Waddell Creek Road to the Delphi Road; then south on the Delphi Road to 110th Avenue; then east on 110th Avenue to the Littlerock Road; then south on the Littlerock Road to 113th Avenue; then east on 113th Avenue to McCorkle Road; then east on the McCorkle Road to Pacific Highway S.E. (Old Highway 99); then south on Pacific Highway to Waldrick Road; then east on Waldrick Road to Stedman Road; then north and east on Stedman Road to Rainier Road; then southeast on Rainier Road to Spurgeon Creek Road; then north on Spurgeon Creek Road to Yelm Highway; then east and northeast on Yelm Highway to Highway 510; then northwest on Highway 510 to Pacific Highway; then northeast on Pacific Highway to the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 669-PALIX (Pacific County): Beginning at Willapa Bay and the mouth of the Willapa River; then southeast along the Willapa River to Raymond and State Highway 6; then southeast on State Highway 6 to the Bonneville Powerline Road; then southwest on the Bonneville Powerline Road to Trap Creek A Line; then west on Trap Creek A Line to C2000 Line; then west on the C2000 Line to the Williams Creek A Line; then southwest on the Williams Creek A Line to the North Nemah A Line; then west on the North Nemah A Line to Williams Creek; then southwest along Williams Creek to North Nemah River; then west along North Nemah River to Willapa Bay; then north along the east shore of Willapa Bay to the mouth of the Willapa River and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 672-FALL RIVER (Pacific, Lewis and Grays Harbor counties): Beginning at Raymond and U.S. Highway 101; then north on U.S. Highway 101 to Smith Creek Road; then northeast on Smith Creek Road to the North River Valley Road; then east on North River Valley Road to the Oakville-Brook Road; then east on the Oakville-Brook Road to the Garrard Creek Road; then south on Garrard Creek Road to the 720 Road; then southwest on the 720 Road to the 7800 Road; then west on the 7800 Road to the 7000 Road; then south on the 7000 Road to the Elk Creek Road; then east on the Elk Creek Road to the Stevens Road (Doty Road); then east on the Stevens Road to State Highway 6; then south, west and northwest on State Highway 6 to Raymond, U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 678-NEMAH (Pacific and Wahkiakum counties): Beginning at Nemah and the mouth of the Nemah River; then east along the Nemah River to Williams Creek; then northeast along Williams Creek to the North Nemah A Line; then east on the North Nemah A Line to the Williams Creek A Line; then east on the Williams Creek A Line to the C2000 Line; then east on the C2000 Line to the Trap Creek A Line; then east on the Trap Creek A Line to the Bonneville Powerline Road; then south on the Powerline Road to the Salmon Creek Road; then southwest on the Salmon Creek Road to State Highway 4; then west on State Highway 4 to U.S. Highway 101 at Johnson's Landing; then west on U.S. Highway 101 to the Naselle River bridge and the Naselle River; then west along the Naselle River to Willapa Bay; then north along the east shore of Willapa Bay to the mouth of the Nemah River and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 681-BEAR RIVER (Pacific and Wahkiakum counties): Beginning at Willapa Bay and the mouth of the Naselle River; then southeast along the Naselle River to U.S. Highway 101 bridge; then east on U.S. Highway 101 to State Highway 4; then southeast on State Highway 4 to Deep River bridge; then south along the Deep River to the Columbia River; then west along the shore of the Columbia River to the mouth of the Wallacut River; then north along the Wallacut River to U.S. Highway 101; then northwest on U.S. Highway 101 to alternative U.S. Highway 101; then north and west on U.S. Highway 101 to Bear River; then west along Bear River to Willapa Bay; then north along the shore of Willapa Bay to the mouth of the Naselle River and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

GMU 684-LONG BEACH (Pacific County): All of the Long Beach Peninsula west of the mouth of Bear River; then south along Bear River to U.S. Highway 101; then southwest on U.S. Highway 101 to Alternate U.S. Highway 101; then south and west on U.S. Highway 101 to the Wallacut River; then south along the Wallacut River to the Columbia River. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

WSR 94-04-061

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed January 31, 1994, 9:50 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02210 Deer area descriptions.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02210 Deer area descriptions.

Deer Area No. 001 Champion North (Pierce County): Beginning at the point where the Bonneville Power Transmission Line crosses the Carbon River (about 14 miles northwest of Carbonado); then south and west up the Carbon River to where it intersects State Highway No. 165; then south and east along State Highway No. 165 to where it intersects the Mt. Rainier National Park Boundary; then south along said boundary to where it intersects the North Fork Puyallup River; then north and west down the North Fork Puyallup River and the Puyallup River to where it intersects the Bonneville Power Transmission Line (about three miles south of Orting); then north and east along said power transmission line to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 002 Champion South (Pierce County): Beginning at the point where Champion's 1 Road crosses the Puyallup River (approximately 1 1/2 miles N.E. of Kapowsin) then southeast up the Puyallup River to the confluence with Deer Creek; then south up Deer Creek to where it intersects the 243 Road; then northwest along the 243 Road to where it intersects the 24 Road; then southwest along the 24 Road to where it intersects the 3270 Road; then west along the 3270 Road to where it intersects the 327 Road; then southwest along the 327 Road to where it crosses Busy Wild Creek (near Lake Lorraine); then west down the Busy Wild Creek to its confluence with the North Fork Mashel River; then up the North Fork Mashel River (about 1 mile) to the point nearest the southernmost extension of the 311 Road (T16N, R6E, Sec. 19, S.W. 1/2 of S.W. 1/2);

then in a line to the 311 Road; then along 311 Road to where it intersects the 3113 Road; then north along the 3113 Road to where it intersects the 843 Road; then along the 843 Road to where it intersects the 84 Road; then along the 84 Road to where it intersects the 8 Road; then north along the 8 Road to where it intersects the 82 Road; then along the 82 Road to where it intersects the township line between Townships 16 & 17 North, W.M.; then west on said line to where it intersects the range line between Ranges 4 & 5 East, W.M.; then north on said line to northwest corner of Sec. 31, T17N, R5E; then east on section line between Sections 30 and 31, T17N, R5E to 1/4 corner (Champion ownership); then north from said corner along ownership line to the point closest to the southernmost extension of the 0-100 Road (approx. 3/4 mile); then in a northwest line to the 0-100 Road; then along the 0-100 Road to where it intersects with Ohop Creek; then northwest along Ohop Creek to where it empties into Lake Kapowsin; then northeast along the east shore of Lake Kapowsin to the point closest to the start of the 1 Road; then along the 1 Road to point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 010 Pyramid (Chelan County): That part of GMUs 306 and 304 beginning at the Glacier Peaks Wilderness and Lake Chelan; then south along Lake Chelan to Corral Creek Campground; then west to the intersection of Trail #1433 and Butte Trail #1440; then northwest along Butte Trail #1440 to South Pyramid Trail #1439; then southwest to intersection of Trail #1437; then due west to Trail #1434; then northwest to Trail #1435; then south to Trail #1400; then southeast to Garland Creek; then west to Garland Peak; then north along Trail #1408 to Trail #1515; then south to Trail #1530; then west to Trail #1509; then south to Trail #1527; then north to Estes Butte and continuing along the Glacier Peaks Wilderness Boundary to beginning. (See Wenatchee National Forest map)

Deer Area No. 030 Squaw Creek (Benton, Kittitas and Yakima counties): That portion of GMU 370 north of State Highway 24. (See Washington Atlas & Gazetteer)

Deer Area No. 031 Patterson (Benton and Klickitat counties): Beginning at the junction of Highway No. 14 at Patterson; then west on Highway No. 14 to Alderdale Road; then north on Alderdale Road (including section 22 of Township 5N, R23E) to Smith Road; then east on Smith Road to McKinley Springs Road; then northeast on McKinley Springs Road to Horrigan Road; then east on Horrigan Road to Highway No. 221; then south on Highway No. 221 to Highway No. 14 and point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 040 Foss River (King County in the Alpine Lakes Wilderness Area): Beginning at the intersection of the Dingford Creek Trail (USFS Trail 1005) and the Alpine Lakes Wilderness Area Boundary; then north along USFS Trail 1005 to Little Myrtle Lake; then in a northeast line approximately one-half mile to Marlene Lake; then down the tributary from Marlene Lake to its intersection with USFS Trail 1072 near Lake Dorothy; then north along USFS Trail 1072 to its intersection with the Alpine Lakes Wilderness Area Boundary; then north and east along the wilderness boundary to the Pacific Crest Trail at Hope Lake; then south along the Pacific Crest Trail to Ridge Lake; then

in a northwest direction approximately one-half mile to Gravel Lake; then down the Gravel Lake tributary to Goat Creek; then down Goat Creek to its intersection with Alpine Lakes Wilderness Area Boundary; then north and west along the wilderness area boundary to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 041 Pilchuck (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along Highway 530 to a point in Section 10, T32N, R7E where it intersects with the City of Seattle power transmission line; then southwest along the transmission line to the point where it crosses the divide between Jim Creek and the North Fork of Canyon Creek (Section 11, T31N, R7E); then down the North Fork of Canyon Creek and Canyon Creek to the South Fork Stillaguamish River; then down the Stillaguamish River to Jordan Road; then along Jordan Road to Granite Falls; then south along Menzel Lake Road to the Pilchuck River Road (P-5000); then east on P-5000 Road to Culmback Dam (Spada Lake); then southeast on Culmback Dam Road to Sultan Basin Road at Olney Pass; then south on Sultan Basin Road to Kellogg Lake Road to U.S. Highway 2 east of Sultan; then west on Highway 2 to Monroe; then south on Highway 203 to Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas & Gazetteer or Mount Baker/Snoqualmie National Forest map)

Deer Area No. 042 Tolt (King and Snohomish counties): Beginning at intersection of Highway 202 and the Tokul Creek Road S.E. (near Snoqualmie Falls); then north on Tokul Creek Road S.E. and onto S.E. 53rd Way then onto the S.E. 53rd Road; then along S.E. 53rd Road to its junction with the Weyerhaeuser mainline; then north on Weyerhaeuser mainline road through Gate 4 onto the Weyerhaeuser mainline truck road; then north on Weyerhaeuser mainline truck road (approximately 23 miles) to its junction with Proctor Creek Road; then north on Proctor Creek Road to its junction with Highway 2; then west on Highway 2 to its junction with Highway 203 at Monroe; then south on Highway 203 to its junction with Highway 202; then east along Highway 202 to the point of beginning. (See Washington Atlas & Gazetteer or Weyerhaeuser Recreational map and Thomas Brothers Guide)

Deer Area No. 060 Olympic Wilderness (Clallam, Jefferson, Grays Harbor and Mason counties): The Buckhorn, Colonel Bob, Mt. Skokomish, the Brothers and Wonder Mountain Wilderness areas of Olympic National Forest. (See Olympic National Forest map for these primitive roadless areas)

Deer Area No. 061 Marrowstone Island (Jefferson County): Marrowstone Island in Jefferson County. (See Washington Atlas & Gazetteer)

WSR 94-04-062
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed January 31, 1994, 9:51 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02220 Elk area descriptions.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02220 Elk area descriptions.

Elk Area No. 001 Trinidad (Grant, Douglas, Okanogan, Adams and Franklin counties): All of Douglas, Grant, Okanogan, Adams, and Franklin counties except closed in the corridor described as follows: Beginning at East Wenatchee and Highway 28 and proceeding along Highway 28 to Road "U" N.W. in Grant County; then south on Road "U" N.W. to Road "9" N.W.; then west on Road "9" N.W. to Ancient Lake Road; then south on the Ancient Lake Road to the northwest corner of Sec. 8, T19N, R23E W.M. (yellow cattle guard); then west to midstream of the Columbia River; then north up midstream of the Columbia River to East Wenatchee and the point of beginning. (See official road map of Douglas and Grant counties)

Elk Area No. 002 Caribou (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction at the USFS 3517 Road; then east and south along USFS 3517 Road and Lillard Hill Road to the Bonneville Powerlines; then east along the Bonneville Powerlines to the Colockum Pass-Brushy Road (cattle guard); then east along the Brushy Road to the Crossover Road; then south along the Crossover Road to the Perkins/Caribou junction; then east along the Perkins Road to the Beacon Ridge Road; then south along the Beacon Ridge Road to the Old Vantage Highway; then south along a county service road to Interstate 90; then west along Interstate 90 to the Highline Canal near the Stevens Road; then northwest along the Highline Canal to the point of beginning. (See Department of Wildlife map)

Elk Area No. 003 Kingsbury (Chelan and Kittitas counties): That portion of GMU 314 which lies east of the Stemilt Creek, Stemilt Creek Road, Stemilt Hill Road, Stemilt Loop Road and Jump Off Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 004 Wenatchee (Chelan, Kittitas and Okanogan counties): GMUs 300, 304, 306, 308, 316, that portion of 302 which lies in Chelan County; and that portion of 314 which lies west of the following boundaries: Beginning at the mouth of the Stemilt Creek at the Columbia River, south up Stemilt Creek to the Stemilt Creek Road to the Stemilt Hill Road; then east and south along the Stemilt Hill Road to the Stemilt Loop Road; then east along the Jump Off Road to the Jump Off Ridge Road (Bonneville Powerlines); then south along the Jump Off Ridge Road to the Naneum Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 025 Backbone (Lewis County): Beginning at State Highway No. 12 at the Pacific Crest Trail; then northwest and southwest along State Highway No. 12 to Coal Creek in Sec. 1, T13N, R9 E.W.M.; then north along the range line between Ranges 9 and 10 E.W.M., across the Cowlitz River to the Gifford Pinchot National Forest Boundary in the N.E. corner of Sec. 1, T13N, R9 E.W.M.; then southwest along the National Forest Boundary to the Skate Creek Road (first contact) in Sec. 9, T13N, R9 E.W.M.; then northwest along the Skate Creek Road to the mouth of Horse Creek and the south boundary of Mt. Rainier National Park; then east along the south park boundary to the Pacific Crest Trail; then south along the Pacific Crest Trail to State Highway No. 12 and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 029 Toledo (Lewis and Cowlitz counties): Beginning at Interstate 5 and State Highway 505 junction; then east along State Highway 505 through the city of Toledo to the Layton Road; then north along the Layton Road to the Evans Road; then east along the Evans Road to the Weyerhaeuser 1800 line to the Weyerhaeuser 1890 line to State Highway 504; then west along State Highway 504 to the Tower Road; then west on Tower Road to the junction of Tower Road and State Highway 504; then west on State Highway 504 to Interstate 5; then north on Interstate 5 to the junction with State Highway 505 and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 030 Reecer Creek (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction of the USFS 3517 Road; then east and south along the USFS 3517 Road and Lillard Hill Road to the Wilson Creek Road to the Highline Canal; then west along the Highline Canal to the point of beginning. (See Wenatchee National Forest map)

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at Damon Road and the Yakima River; then west along Damon Road to Manastash Road; then west on Manastash Road to Cove Road; then south on Cove Road to Umtanum Creek; then east (downstream) along Umtanum Creek to the Yakima River; then north along the Yakima River to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 032 Malaga (Kittitas and Chelan counties): Beginning at the power line on the Columbia River (approximately 3/4 mile downstream from Colockum Creek); then west and south along the Powerline Road to the intersection with the North Fork Tarpiscan Creek Road (Section 9, T20N, R21E); then north and west along North Fork of Tarpiscan Creek Road to Colockum Pass Road (Section 9, T20N, R21E); then south and west on Colockum Pass Road to section line between Sections 8 and 9 as well as Sections 4 and 5 (T20N, R21E) and Sections 32 and 33 (T21N, R21E); to Mose Carr Road; then west and north on Mose Carr Road to Jump Off Road; then south and west on Jump Off Road to Shaller Road; then north and west on Shaller Road to Upper Basin Loop Road; then north and west on Upper Basin Loop Road to Wheeler Ridge Road; then north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); then north on the Basin Loop Road to Wenatchee Heights Road; then west on Wenatchee Heights Road to Squilchuck Road; then south on Squilchuck Road to Beehive Road (USFS Road 9712); then northwest on Beehive Road to USFS Road 7100 near Beehive Reservoir; then north and west on USFS Road 7100 to Peavine Canyon Road (USFS Road 7101); then north and east on Peavine Canyon Road to Number Two Canyon Road; then north on Number Two Canyon Road to Crawford Street in Wenatchee; then east on Crawford Street to the Columbia River; then south and east along the Columbia River to the powerline south of Colockum Creek and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; then west on Crawford Street and Number Two Canyon Road to USFS #7101 Road (Peavine Canyon); then west on USFS #7101 Road to Mission Creek Road; then north on Mission Creek Road to USFS #7104 Road (Sand Creek); then west on USFS #7104 Road (Sand Creek) to Camas Creek; then west up Camas Creek to where Camas Creek crosses USFS #7200 Road, T22N, R18E, Section 4; then north along USFS #7200 Road to Highway 97; then north on Highway 97 to USFS #7300 Road (Mountain Home Road); then north on the USFS #7300 Road to the Wenatchee River at Leavenworth; then down the Wenatchee River and Columbia River to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 034 Parke Creek (Kittitas County): Beginning at the Highline Canal on Parke Creek Road; then

north to the BPA Powerlines; then west along BPA Powerlines (through Sections 22, 16, 8, 5, and 6) to the Cook Canyon Road; then north on Cook Canyon Road to Bonneville Powerlines (Section 19); then west along Bonneville Powerlines to Wilson Creek Road; then south on the Wilson Creek Road to the Highline Canal; then southeast along the Highline Canal to point of beginning. (See Department of Wildlife map)

Elk Area No. 039 Backbone (Lewis County): Legal description same as Elk Area No. 025 (Backbone). (See Gifford Pinchot National Forest map)

Elk Area No. 050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection, then west to the Mauerman Road, then west and southwest on the Mauerman Road to the Pe Ell/McDonald Road, then south and east on the Pe Ell/McDonald Road to the Lost Valley Road, then south and southeast on the Lost Valley Road to the Boistfort Road, then east and north along the Boistfort Road to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 051 Doty (Lewis and Pacific counties): Beginning on State Highway 6 at the town of Adna; then west on Highway 6 to Stevens Road; then northwest on Stevens Road to Elk Creek Road (Doty); then west on Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road, east on Garrard Creek Road to Manners Road; then south on Manners Road to Lincoln Creek Road; then east along Lincoln Creek Road to Ingalls Road; then south and east on Ingalls and Bunker Creek roads to the town of Adna and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 052 Mayfield (Lewis County): Beginning at the junction of Highway 12 and the Winston Creek Road; then southeast and north along the Winston Creek Road, Longbell, Perkins, Green Mountain roads to Riffe Lake; then west and northwest along the shoreline of Riffe Lake to the Cowlitz River; then west along the Cowlitz River to Highway 12; then west along Highway 12 to the Winston Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 053 Randle (Lewis County): Beginning at State Highway 12 and the Cispus Road in the town of Randle; then east along Highway 12 to the Bennett Road approximately one mile east of Cora Bridge; then west on Bennett and Cline roads to the Cispus Road; then north on said road to the town of Randle and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the town of Vader; then west along State Highway 506 to the Wildwood Road; then north along the Wildwood Road to the Abernathy 500 line gate (Sec. 20, T11N, R3W, Willamette Meridian); then northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; then northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Sec. 15, T12N, R4W); then west along the Pe Ell/McDonald Road to the Lost Valley Road; then northeast along the Lost Valley Road to the Boistfort Road; then north along the Boistfort Road to the King Road; then

east along the King Road to the town of Winlock and State Highway 603; then south along Highway 603 to the Winlock/Vader Road; then south along said road to the town of Vader and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; then west on East Valley Road to the junction with Middle Valley Road (4.5 miles); then north along Middle Valley Road to the junction of Oat Field Road (2.5 miles). (See Washington Atlas & Gazetteer)

Elk Area No. 057 Carlton (Lewis County): That part of unit 514 (Tatoosh) lying east of Highway No. 123 and north of Highway No. 12. (See Gifford Pinchot National Forest map)

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Cascade Crest Trail. (See Gifford Pinchot National Forest map)

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness. (See Gifford Pinchot National Forest map)

Elk Area No. 061 Mt. Tebo (Mason County): Beginning at the junction of the North Fork and South Fork of the Skokomish River; then northwest along the South Fork to the boundary of Olympic National Park; then east along the National Park boundary to the North Fork of the Skokomish River; then southeast down the North Fork of the Skokomish River through Lake Cushman; then south down the North Fork of the Skokomish River to the South Fork of the Skokomish River and the point of beginning. (See Olympic National Forest map)

Elk Area No. 065 Willapa Valley (Pacific County): That part of Pacific County within two miles of State Highway 6 between Menlo and the easternmost junction of Elk Prairie Road and State Highway 6. (See Washington Atlas & Gazetteer)

Elk Area No. 066 Twin Valley (Grays Harbor County): Beginning in the City of Hoquiam at the junction of U.S. Highway No. 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam Cutoff Road in Sec. 21, T19N, R9 W.W.M.; then east on the East Hoquiam Cutoff Road to its junction with the Wishkah Road; then south on the Wishkah Road to its junction with the Wishkah-Wynoochee Crossover Road in Sec. 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkey A line; then north on the A line to its junction with the A 2200; then east on the A 2200 Road to its junction with the A 2210; then south on the A 2210 Road to a point crossed by the township line between Twp. 20N and 19N; then east on the township line to its junction with the Wynoochee River Road; then south along the Wynoochee River Road to U.S. Highway No. 12; then west along U.S. Highway 12 to its junction with U.S. Highway No. 101 in the City of Aberdeen; then west on U.S. Highway 101 to the City of Hoquiam and junction with the East Hoquiam Road

and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 067 South Willapa (Pacific County): Beginning in the City of South Bend at the junction of U.S. Highway 101 and the Skidmore Slough C-line; then south on the Skidmore Slough C-line to its junction with the B-line in Sec. 11, T13N, R9 W.W.M.; then southeast on the B-line to its junction with the A-line in Sec. 18, T13N, R8 W.W.M.; then east and north on the A-line to its junction with the South Fork Willapa Road; then east along the South Fork Willapa Road to State Highway No. 6, Sec. 10, T13N, R8 W.W.M.; then northwest on State Highway No. 6 to its junction with U.S. Highway 101; then southwest on U.S. Highway 101 to its junction with the Skidmore Slough C-line and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 069 Chinook (Pacific County): Beginning at the junction of U.S. Highway 101 and Lingenfelter Road west of the town of Chinook; then northwest on Prest Road to its junction with Chinook Valley Road; then west on Chinook Valley Road to its intersection with the east branch of the Wallcut River; then north along the Wallcut River to its intersection with Highway 101; then west on Highway 101 to the junction of Highway 101 alternate; then south on Highway 101 alternate to Highway 101; then east on Highway 101 to Prest Road and the point of beginning. (See Washington Atlas & Gazetteer)

WSR 94-04-063
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:52 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02230 Bow and arrow area descriptions.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect

will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02230 Bow and arrow area descriptions.

Bow Area No. 802 Long Island (Pacific County): Long Island in Pacific County. (See Washington Atlas & Gazetteer map)

Bow Area No. 806 Rattlesnake (Yakima County): Beginning at the point where USFS Road #1500 crosses Little Rattlesnake Creek, near Hanging Tree Campground; then southwest up Little Rattlesnake Creek to USFS Road #1500; then north along Road #1500 to USFS Trail #1101 (MJB Trail); then northwest along MJB Trail to USFS Trail #1114; then north along Trail #1114 to USFS Trail #981; then west along Trail #981 to USFS Trail #982; then northeast along Trail #982 to USFS Trail #973; then northwest along Trail #973 to the North Fork of Rattlesnake Creek; then down the North Fork to the junction with South Fork of Rattlesnake Creek; then up the South Fork to USFS Road #1502; then east on Road #1502 to USFS Road #1500; then east on Road #1500 to Little Rattlesnake Creek and the point of beginning. (See Wenatchee National Forest map)

Bow Area No. 807 Ahtanum (Yakima County): That part of GMU 368 which lies west of the following boundary; beginning at the junction of the North and South fork of Ahtanum Creek; then northwest up North Fork of Ahtanum Creek to Nasty Creek; then north up Nasty Creek to the Nasty Creek-Cowiche Road (DNR Road #C1050); then north on Road #C1050 to South Fork of Cowiche Creek; then east down South Fork Cowiche Creek to the power line which crosses near the mouth of Reynolds Creek; then northwest along the powerline to Jump Off (USFS Road #1302). Except closed east of a north south line drawn between the South Fork and North Fork of Ahtanum Creek two miles west of the Tampico Store. (See Wenatchee National Forest map)

Bow Area No. 808 Acme (Whatcom County): Beginning at the town of Acme; then north on Highway No. 9 to the junction of the Strand Road; then east on the Strand Road and over the Van Zandt Dike following the south boundaries of Sections 21, 22 and 23 of T38N, R5E to the Mosquito Lake Road; then south along the Mosquito Lake Road to the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west

along Skookum Creek to the South Fork Nooksack River; then continue west along the South Fork Nooksack River to the mouth of Christy Creek; then south along Christy Creek to its source; then west to Ennis Creek; then west along Ennis Creek to the Ennis Creek Road; then west along Ennis Creek Road to the Wickersham Road; then west along the Wickersham Road to Highway No. 9; then north along Highway No. 9 to Acme and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 820 Malott (Okanogan County): Beginning at the town of Riverside; then south down the Okanogan River to Highway 97 bridge at mouth of river; then west on Highway 97 through the town of Brewster to the Indian Dan Canyon Road; then north to Paradise Hill Road; then east and south along the Paradise Hill Road to the Hanford Cutoff; then west on Hanford Cutoff to the North Star Road; then north on North Star Road to junction with Chiliwist Road then east on Chiliwist Road to junction with Olema/Cook Mt. Road; then north on Olema/Cook Mt. Road to its junction with Highway 20; then east on Highway 20 to the junction with Buzzard Lake Road; then north on Buzzard Lake Road to the junction with Windy Hill Road; then east on Windy Hill Road to its junction with Spring Coulee/Salmon Creek Road; then north on Spring Coulee/Salmon Creek Road to the junction with Green Lake Road; then north on Green Lake Road to the Conconully Highway then northwest on the Conconully Highway to the junction with the Riverside Cutoff Road; then northeast on the Riverside Cutoff Road to the town of Riverside and the Okanogan River and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 841 (Skagit County): Beginning at the intersection of CP 190 Road and CP 132 Road (Sec. 28, T36N, R5E); then east along the CP 132 Road to the CP 130 Road; then east and south along the CP 130 Road to the CP 110 Road; then west, south and east along the CP 110 Road to Childs Creek; then south down Childs Creek to SR 20; then east on SR 20 to Grandy Creek; then south down Grandy Creek to the Skagit River; then west down the main channel of the Skagit River to Hansen Creek; then north up Hansen Creek to SR 20; then east on SR 20 to the Helmick Road; then north on the Helmick Road to the CP 190 Road (Cokedale Road); then north along the CP 190 to the CP 132 Road and the point of beginning. (See Washington Atlas & Gazetteer)

**WSR 94-04-064
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed January 31, 1994, 9:53 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02240 Muzzleloader area descriptions.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; **Enforcement:** Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02240 Muzzleloader area descriptions.

Muzzleloader Area No. 908 Acme (Whatcom County): Same as Bow Area No. 808. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 910 Cle Elum (Kittitas County): Beginning at Easton; then southeast along the main BPA Powerlines to the Fowler Creek Road (4517); southeast on Spur Road 117 to Granite Creek Trail #1326; then south on Trail #1326 to the top of South Cle Elum Ridge; then east along the ridge on Trail #1326 to Spur Road 111; then east on Road 111 to the Peoh Point Road (3350); then southeast on Road 3350 to the junction with Road 3352; then east on Road 3352 to the Cedar Creek Road; then south on the Cedar Creek Road to the Morrison Canyon Road; then southeast on the Morrison Canyon Road to Interstate Highway 90; then east on I-90 to Exit 106 and junction with Highway 97; then north on Highway 97 to Hungary Junction Road and east on Hungary Junction Road to Look Road; then north on Look Road and east on Alford Road to the Wilson Creek Road; then north on Wilson Creek Road to the Lillard Hill Road; northwest on Lillard Hill Road to USFS Road 3517; then northwest on USFS Road 3517 to the Reecer Creek Road, USFS Road 35; then south on USFS

Road 35 to USFS Road 3507 and then northwest on USFS Road 3507 to Spur Road 120 (Snowshoe Ridge Road); then west on Spur Road 120 (Snowshoe Ridge Road) to Spur Road 114; then north and south on Spur Road 114 to Spur Road 116; then north on Spur Road 116 to USFS Road 9718; then southwest on USFS Road 9718 (Cougar Gulch Road) through the town of Liberty to Highway 97; then north on Highway 97 to USFS 9738, Blue Creek; then west on USFS 9738 to USFS 9702 Dickey Creek; then west on Road 9702 to the North Teanaway Road; then south to the junction with Middle Fork Teanaway Road; then west on Middle Fork Road 1/4 mile to Teanaway Campground; then south up #17 Canyon Road to Cle Elum Ridge Road; then west along Cle Elum Ridge Road and south to the bottom of #5 Canyon Road; then south to Highway 903 and Bullfrog Road (Sportland Mini-Mart); then south on Bullfrog Road to Interstate Highway 90; then west on Interstate Highway 90 to Easton and point of beginning. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

Muzzleloader Area No. 921 Baleville (Pacific County): Beginning at the junction of the Hammond Road and U.S. Highway 105; then north on the Hammond Road to the radio towers; continue north on the D 2100 line to its junction with the D-line; then northwest along the D-line (also known as the Rayonier 2720) to its junction with the Rayonier 2700 line; then southwest on the Rayonier 2700 line to its junction with Highway 105; then east on Highway 105 to the Hammond Road and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the town of Ritzville; then south along S.R. 261 to S.R. 26; then east on S.R. 26 to the Whitman County line; then north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line; then north along the Adams, Lincoln County line to Interstate 90; then west along Interstate 90 to point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 926 Guemes (Skagit County): That part of GMU 405 (Chuckanut) on Guemes Island.

Muzzleloader Area No. 944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway #410 and USFS Road #1701 (Big Bald Mountain Road); then north to USFS Road #1712; then east on USFS Road #1712 (Clemen Ridge Road) to the east edge of Meyster Canyon; then along the east side of Meyster Canyon to the elk fence; then west along the elk fence to Waterworks Canyon and Highway #410 and to point of beginning. (See Wenatchee National Forest map)

Muzzleloader Area No. 950 Toutle Mountain (Cowlitz County): Beginning at the confluence of the South Fork Toutle River and the North Fork Toutle River; then up the S.F. Toutle River to Johnson Creek; then up Johnson Creek to the Weyerhaeuser Company 4400 Road; then northeast on the 440 Road to the 2421 Road; then north to the 2400 Road; then east on the 2400 Road to Alder Creek; then north down Alder Creek to the North Fork Toutle River; then west down the North Fork Toutle River to the confluence with the

South Fork Toutle River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 961 Hoko River (Clallam County): Within one mile of the Hoko County Road between Highway 112 and the Olympic National Park Boundary near Lake Ozette. (See Olympic National Forest map)

Muzzleloader Area No. 962 Elwha (Clallam County): Beginning at the U.S. Highway 101 Bridge on the Elwha River; then south on the Elwha River to the Olympic National Park Boundary; then along Olympic National Park Boundary to the section line between Sections 32 and 33 of T30N, R7 W.W.M.; then north on the section lines to U.S. Highway 101; then east on U.S. Highway 101 to Elwha River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 963 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) beginning at the junction of Wright Canyon Road and South Shore Road; then north to the shoreline of Lake Quinault; then north along Lake Quinault to the Olympic National Park (ONP) boundary; then east along ONP boundary to its intersection with the South Shore Road and U.S. Forest Service boundary; then west along the U.S. Forest Service boundary to the Wright Canyon Road Junction with the South Shore Road and point of beginning.

WSR 94-04-065
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed January 31, 1994, 9:54 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02250 Goat units.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02250 Goat units.

Goat Unit 2-1 Mount Chopaka:

Permit Area: Okanogan County within the following described boundary: Beginning where the Similkameen River crosses the Canadian boundary near Mt. Chopaka; then south down the Similkameen River and up Palmer Lake and Sinlahekin Creek to Toats Coulee Creek; then west up Toats Coulee Creek and north up the North Fork Toats Coulee Creek; then up Snowshoe Creek to Snowshoe Mountain; then north to the Canadian boundary; then east along the Canadian boundary to the Similkameen River and point of beginning; EXCEPT CLOSED in Township 39 North, Range 25EWM, which includes Grandview Mountain.

Goat Unit 2-2 Methow Area:

Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road #4440) to Roads End; west up the Twisp Pass Trail #432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road #5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-1 East Stevens Pass:

Permit Area: Chelan County within the following described boundary: Beginning at Stevens Pass; then north along the Cascades Summit to Cady Pass and the source of the Little Wenatchee River; then down the Little Wenatchee River, Lake Wenatchee and the Wenatchee River to U.S. Highway 2; then north and west along U.S. Highway 2 to Stevens Pass and point of beginning EXCEPT those lands within 1/2 mile of Alpine Lookout.

Goat Unit 3-2 North Wenatchee Mountains:

Permit Area: Chelan County south of the Stevens Pass Highway, west of the Blewett Pass Highway, and north of Ingalls Creek, and Kittitas County north of the following described line: Beginning at Ingalls Peak; then down Fortune Creek to the Cle Elum River; then up the Cle Elum River to the Cascade Summit at Deception Pass.

Goat Unit 3-3 Goat and Davis Mountains:

Permit Area: Kittitas County west of the Cle Elum River, north of the Waptus River, and east and south of Trail Creek Trail.

Goat Unit 3-4 Snoqualmie:

Permit Area: Kittitas County within the following described boundary: Beginning at Snoqualmie Pass; then north along the Cascade Crest to Deception Pass and the headwaters of the Cle Elum River; then south along the Cle Elum River to the Trail Creek Trail #1322; then southwest along the Trail Creek Trail to the Waptus River Trail #1310; then southeast along the Waptus River Trail to the Cle Elum River at the Salmon la Sac campground; then south along the Cle Elum River to the Cooper Pass Road (USFS Road 4600); then west along the Cooper Pass Road, through Cooper Pass to the road end near the Kachess River; then south along the Kachess River and Kachess Lake to Interstate Highway 90; then west along Interstate Highway 90 to Snoqualmie Pass and point of beginning.

Goat Unit 3-5 Cle Elum:

Permit Area: Kittitas and Chelan counties within the following described boundary: Beginning at the point where Interstate Highway 90 crosses the Cle Elum River; then north along the Cle Elum River to Fortune Creek; then east along Fortune Creek to Ingalls Peak and the headwaters of Ingalls Creek; then south and east along Ingalls Creek to U.S. Highway 97; then south along U.S. Highway 97 and State Highway 970 to Interstate 90 at Cle Elum; then west along Interstate 90 to the Cle Elum River and point of beginning.

Goat Unit 3-6 Naches Pass:

Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail #980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-8 Bumping River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail #980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakima Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 4-1 Ruth Creek Area:

Permit Area: Whatcom County within the Mt. Baker Wilderness of the Mt. Baker-Snoqualmie National Forest north of the North Fork Nooksack River.

Goat Unit 4-3 Chowder Ridge:

Permit Area: Whatcom County within the following described boundary: Beginning where Wells Creek intersects the North Fork Nooksack River; then up Wells Creek to Bar Creek; then southwest up Bar Creek to the Mazama Glacier; then continue southwest up Mazama Glacier to the summit of Mt. Baker; then northwest between Roosevelt Glacier and Coleman Glacier to Kulshan Cabin and the headwaters of Kulshan Creek and Grouse Creek to Smith Creek; then north down Smith Creek to Glacier Creek; continue north down Glacier Creek to the North Fork Nooksack River; then east along the North Fork Nooksack River to Wells Creek and the point of beginning.

Goat Unit 4-4 Lincoln Peak:

Permit Area: Whatcom County within the following described boundary: Beginning where Glacier Creek intersects with the Mt. Baker Highway (State Highway 547); then south up Glacier Creek to Smith Creek; then south up Smith Creek to Grouse Creek; then continue up Grouse Creek in a south direction to Kulshan Creek; then southeast up Kulshan Creek to Kulshan Cabin; then continue southeast between Roosevelt Glacier and Coleman Glacier to the summit of Mt. Baker; then south down Eastern Glacier to Baker Pass and the Baker Pass Trail #603 (5,000 ft.); then west along Baker Pass Trail #603 to the Ridley Creek Trail (#690); then northwest on the Ridley Creek Trail to Ridley Creek; then down Ridley Creek to the Middle Fork Nooksack River; then west down the Middle Fork Nooksack River to the Mosquito Lake Road; then north on the Mosquito Lake Road to the Mt. Baker Highway (State Highway 542); then north and east on Mt. Baker Highway (State Highway 542) to Glacier Creek and the point of beginning.

Goat Unit 4-6 Dillard Creek:

Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of USFS Road 3725 and the Baker Lake Road (USFS Road 394); then west along USFS Road 3725 to Sulphur Creek; then northwest up Sulphur Creek to the Baker Pass Trail (#603) to Baker Pass (5,000 ft. elevation); then northeast up Eastern Glacier to the summit of Mt. Baker; then southeast down Park Glacier to the headwaters of Park Creek; then continue southeast down Park Creek to the Baker Lake Road (USFS Road 394); then south along the Baker Lake Road (USFS Road 394) to USFS Road 3725 and the point of beginning.

Goat Unit 4-7 Avalanche Gorge:

Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of the Baker Lake Road (USFS Road 394) and Park Creek; then northwest up Park Creek to Park Glacier; then continue northwest up Park Glacier to the summit of Mt. Baker; then northeast down Mazama Glacier to the 6,500 ft. elevation; then east to the Portals; then continue east along the ridge line to Coleman Pinnacle; then northeast along the Camp Kiser Trail #683 (Ptarmigan Ridge) to the extreme southeast extension of Kulshan Ridge; then due east to the Lake Ann Trail #600; then east along the Lake Ann Trail #600 to the boundary of North Cascades National Park; then south and east along the park boundary to the Baker River and down the Baker River to the Baker Lake Road (USFS Road 394); then west along the Baker Lake Road (USFS Road 394) to Park Creek and the point of beginning.

Goat Unit 4-8 East Ross Lake:

Permit Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of North Cascades National Park; then south along the park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to State Highway 20; then east and north along State Highway 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in Goat Unit 4-8, East Ross Lake. See description for Goat Unit 4-9, Jack Mountain.)

Goat Unit 4-9 Jack Mountain:

Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-10 Majestic Mountain:

Permit Area: Whatcom and Skagit counties within the following described boundary: Beginning at the intersection of Pyramid Creek and State Highway 20; then south up Pyramid Creek to the North Cascades National Park Boundary; then east along the park boundary to the Cascades Summit; then north along the Cascades Summit to Granite Creek; then west down Granite Creek to Ruby Creek and Ruby Arm; then continue west along Ruby Arm to Ross

Lake and Ross Dam; then southwest from Ross Dam to State Highway 20; then southwest and northwest along State Highway 20 to Pyramid Creek and the point of beginning.

Goat Unit 4-12 Mt. Tommy Thompson:

Permit Area: Skagit County within the following described boundary: Beginning at the confluence of Illabot Creek on the Skagit River; then east up Illabot Creek to its headwaters; then continue east over the ridge line to the northernmost extension of Buck Creek; then north over the ridge line at 6,921 foot elevation to the southernmost extension of Muchler Creek; then northeast down Muchler Creek to Kindy Creek; then north down Kindy Creek to the Cascade River; then north and west down the Cascade River to the Skagit River; then west down the Skagit River to Illabot Creek and the point of beginning.

Goat Unit 4-14 Mt. Buckindy:

Permit Area: Skagit and Snohomish counties within the following described boundary: Beginning at the confluence of Buck Creek on the Suiattle River; then east up the Suiattle River to Sulphur Creek; then continue east up Sulphur Creek to Dome Creek; then north to Sinister Mountain and the Cascades Summit; then north along the Cascades Summit to Mt. Formidable; continue north into the headwaters at the Middle Fork Cascade River; then west down the Middle Fork Cascade River to the main Cascade River; continue west along the Cascade River to Kindy Creek; then south up Kindy Creek to Muchler Creek; then southwest up Muchler Creek to its southernmost extension; then continue southwest over the ridgetop at 6,921 foot elevation to the northernmost extension of Buck Creek; then continue southwest down Buck Creek to the Suiattle River and the point of beginning.

Goat Unit 4-16 Glacier Peak:

Permit Area: Snohomish County within the following described boundary: Beginning at Tenpeak Mountain on the Cascades Crest; then northeast to three lakes (approximately 1.75 miles northeast of Tenpeak Mountain); then north and west down the Suiattle River to Mill Creek; then up the Mill Creek Trail (#790) and the Pacific Crest Trail (#2000) to Mica Lake, Fire Creek Pass, and Glacier Creek; continuing down Glacier Creek to the White Chuck River; then up the White Chuck River to White Mountain at the Cascade Crest; then northeast along Cascade Crest to Tenpeak Mountain and the point of beginning.

Goat Unit 4-18 Sauk River Area:

Permit Area: Snohomish County within the following described boundary: Beginning at the confluence of the Whitechuck River and Pugh Creek; then south up Pugh Creek to Round Lake; then south to USFS Trail #646; then west and south down this trail to the North Fork Sauk River; then east up said river to Sloan Creek; then up Sloan Creek to June Mountain; then due south to USFS Trail #1051; then east along said trail to the Pacific Crest Trail (#2000); then north along the Pacific Crest Trail past White Mountain; then down the Whitechuck River to the confluence with Pugh Creek and the point of beginning.

Goat Unit 4-21 Liberty Mountain:

Permit Area: Snohomish County within the following described boundary: Beginning at the Boulder River bridge on the Darrington-Arlington Highway (State Highway 530) to the town of Darrington; then south along the Darrington-Clear Creek Road (USFS Road 20) to the bridge over Clear Creek; then south up Clear Creek to the confluence with Helena Creek and southeast up Helena Creek to Windom Lake; then southeast over an unnamed ridge to Independence Lake and down USFS Trail #712 to intersection with USFS Road 4060; then south down said road to the South Fork Stillaguamish River; then west down said river to Canyon Creek; then northeast up Canyon Creek, North Fork Canyon Creek and Meadow Creek to Tupso Creek; then east up Tupso Creek to its easternmost point; then continue northeast to Boulder River; then north down Boulder River to the bridge on State Highway 530 and the point of beginning.

Goat Unit 4-23 Twin Peaks:

Permit Area: Snohomish County within the following described boundary: Beginning at the intersection of Falls Creek and the Mt. Loop Highway (USFS Road 322); then west up Falls Creek and along USFS Trail #645 to USFS Road 4060; then south down said road to the Mountain Loop Highway (Forest Road 20); then east and north on said highway to Falls Creek and the point of beginning.

Goat Unit 4-24 Sloan Peak:

Permit Area: Snohomish County with the following described boundary: Beginning at the confluence of the South Fork and the North Fork of the Sauk River; then east up to the North Fork Sauk River to Sloan Creek; then south and southeast up Sloan Creek to June Mountain; then due south to USFS Trail #1051; then southwest along said trail to USFS Road 63; then continue southwest on said road to Silver Creek; then north up Silver Creek to Silver Lake; then north on USFS Trail #708 to Glacier Creek; then west along said creek to the South Fork Sauk River; then north down the South Fork Sauk River to the confluence of the North Fork Sauk River and the point of beginning.

Goat Unit 4-25 Vesper Peak:

Permit Area: Snohomish County within the following described boundary: Beginning at the Mountain Loop Highway bridge over Bear Creek (approximately three miles east of Verlot); then east up said highway to USFS Trail #707; then southwest on said trail (between Sperry Peak and Morning Star Peak) to the Sultan River; then west down said river and Spada Lake to Culmback Dam; then north up unnamed creek to the Pilchuck-Sultan divide; then northwest along said divide to Ritz Creek; then northeast down Ritz Creek to the Pilchuck River; then northwest down said river to Wilson Creek; then northwest up Wilson Creek to Ashland Lakes on the Pilchuck-Stillaguamish divide; then north down Black Creek and Bear Creek drainage to the Mountain Loop Highway bridge over Bear Creek and the point of beginning.

Goat Unit 4-30 Tolt River:

Permit Area: King and Snohomish counties within the following described boundary: Beginning at the point the Tolt River intersects the Weyerhaeuser Mainline Truck Road (approximately one mile west of the Tolt River South Fork Reservoir); then north along said road to the junction with State Highway 2; then east along said highway to the junction with the South Fork Skykomish River; then east and south up said river to the confluence of Money Creek; then west up Money Creek to Lake Elizabeth; then west to the headwaters of the South Fork Tolt River near Lake Elizabeth; then west down the South Fork Tolt River to the point of beginning. Except closed: All of the Mount Index and Mount Persis as follows: Beginning at confluence of South Fork Skykomish River and Index Creek; then west up said creek and its northern fork to Ink Lake; then west up the ridge to the 4,915 elevation point; then southwest down the ridge (approximately one and one-half miles) to the confluence of Titacae Creek and the North Fork Tolt River; then west along said river to the Weyerhaeuser Mainline Truck Road; then north along said road to State Highway 2; then east along said highway to where it intersects the South Fork Skykomish River; then east along said river to the point of beginning.

Goat Unit 4-32 Foss River:

Permit Area: King and Snohomish counties within the following described boundary: Beginning at intersection of U.S. Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with USFS Trail #1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 miles); then north down the stream outlet from Marlene Lake to the junction with USFS Trail #1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then east up said river to the junction with U.S. Highway 2; then east along said highway to the point of beginning.

Goat Unit 4-34 Pratt River:

Permit Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate 90; then west along Interstate 90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning. Except closed: Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek.

Goat Unit 4-38 Corral Pass:

Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail #1188; then northwest along said trail to USFS Trail #1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh:

Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek:

Permit area: Lewis County within the following described boundary: Beginning at the town of Randle; then east along U.S. 12 to USFS Road 21; then southeast along USFS Road 21 to Road 22; then northeast and northwest along USFS Road 22 to Road 23; then east and northwest on Road 23 to Road 25; then north along Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks:

Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

Goat Unit 6-1 Elwha River:

Permit Area: Clallam and Jefferson counties outside Olympic National Park and west of the Dungeness River.

Goat Unit 6-2 Quilcene River:

Permit Area: Clallam and Jefferson counties outside Olympic National Park, east of the Dungeness River and north of the Dosewallips River.

Goat Unit 6-3 Hamma Hamma River:

Permit Area: Jefferson and Mason counties outside Olympic National Park and south of the Dosewallips River.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.
 January 28, 1994
 Rich Poelker
 Administrative Rules Officer

NEW SECTION

WAC 232-28-02260 Moose units.

Moose Unit 1 Selkirk Mountains:

Permit Area: GMU 113.

Moose Unit 2 Mt. Spokane:

Permit Area: GMU 124.

Moose Unit 3 Chewelah:

Permit Area: GMU 118.

Moose Unit 4 Boyer:

Permit Area: GMU 119.

Moose Unit 5 Alladin:

Permit Area: GMU 111.

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

WSR 94-04-066
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed January 31, 1994, 9:55 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02260 Moose units.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

WSR 94-04-067
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed January 31, 1994, 9:56 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02270
 Bighorn sheep units.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02270 Bighorn sheep units.

Sheep Unit 1 Okanogan:

Permit Area: Okanogan County west of the Okanogan River.

Sheep Unit 2 Vulcan Mountain:

Permit Area: Ferry County north of the Kettle River.

Sheep Unit 3 Tucannon River:

Permit Area: The Tucannon River drainage in Columbia and Garfield counties.

Sheep Unit 5 Umtanum:

Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate 90 and west of Yakima River.

Sheep Unit 6 Murray:

Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate 90.

Sheep Unit 8 Mountainview:

Permit Area: That part of Asotin County within the following described boundary: Beginning at Anatone; thence west along the main Big Butte-Mount Misery Road to its junction with the Mountain Road (#40); thence south along the Mountain Road to the West Fork of Grouse Creek; thence southeast down Grouse Creek to the Oregon-Washington boundary; thence east along said boundary to State Highway 129; thence north along Highway 129 to Anatone and point of beginning.

Sheep Unit 9 Blackbutte:

Permit Area: That part of Asotin County within the following described boundary: All of GMU 184 (Joseph), 185 (Blackbutte), and that part of GMU 181 (Couse) that drains into the Grande Ronde River between the mouth of the Grande Ronde River and State Highway No. 129.

Sheep Unit 10 Mt. Hull:

Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

Sheep Unit 11 Wenaha Wilderness:

Permit Area: The Crooked Creek drainage in Asotin, Garfield, and Columbia counties within the boundary of GMU 169.

WSR 94-04-068
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed January 31, 1994, 9:57 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02280 Cougar areas.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement:

Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02280 Cougar areas.

COUGAR PERMIT AREA DESCRIPTIONS

Unit	Description
1	Pend Oreille—GMU 113
2	Colville—GMUs 108, 111, 118, and 119
3	Republic—GMUs 100, 103, 105, 200, and 206
4	Spokane—GMUs 121 and 124
5	Blue Mountains—GMUs 145 through 185
6	Okanogan—GMUs 203, 209-242, and 300
7	Wenatchee—GMUs 301-368
8	Nooksack—GMUs 417, 418
9	Skagit—GMUs 426, 433, 440-448, and 450
10	Snoqualmie—GMUs 454, 460, 466, 472, and 490
11	North Olympic Peninsula—GMUs 601-615, that portion of GMU 621 north of the Dosewallips River, and GMU 624
12	South Olympic Peninsula—GMUs 618, 636, 638, 639, 642, 648, and that portion of GMU 621 south of the Dosewallips River
13	Rainier—GMUs 478, 484, 505, 510, 512, 514, 516, and 667
14	South Puget Sound—GMUs 627, 633, 651, 663, and 666
15	Cowlitz—GMUs 520, 550, 556, and 558
16	Skamania—GMUs 560, 568, 572, 574, and 576
17	Pacific—GMUs 658, 660, 669, 672, 678, 681, and 684

WSR 94-04-069

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed January 31, 1994, 9:58 a.m.]

Original Notice.

Title of Rule: New section WAC 232-28-02290 Private lands wildlife management area.

Purpose: To adopt boundary descriptions for hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Reasons Supporting Proposal: Game management unit descriptions are described to manage hunter harvest and pressure throughout the state.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Hunting areas are defined to let hunters know where they can hunt in certain seasons. The purpose is to regulate hunter take to specific areas of the state. The effect will be to harvest game in proportion to available surplus and prevent overharvest in localized areas.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 12, 1994.

Date of Intended Adoption: March 12, 1994.

January 28, 1994

Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-02290 Private lands wildlife management area.

Area Description

PLWMA 201 - Wilson Creek (Grant County): This area surrounds Billy Clapp Lake directly north of the town of Stratford and northwest of the town of Wilson Creek. The legal description is T22N, R29E; North 1/2 of Section 3, Section 4* except southeast 1/4 of southeast 1/4; Sections 5, 6, 8, and 9. T23N, R29E, Sections 5, 7, 8, 13, 14, 17, and 18; Section 19 except for northwest 1/4 of the southwest 1/4; Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; southeast 1/4 of Section 30; Sections 31, 32, 33, 34, and 35. T23N, R28E, Section 2, Section 3 except west 1/4; Section 4 except

southwest 1/4 and east 1/2 of southeast 1/4; Section 5; Section 6 except west 1/4; Sections 7 and 8; Section 9 except east 1/2 of southeast 1/4; north 1/2 of Section 10 except west 1/4; Section 11 except south 1/4; Section 15; Section 16 except northeast 1/4; Sections 17, 18, 19, 20, 21, 22, and 23; west 1/4 of Section 24*; Sections 26, 27, 28, 29, 30, and 33; west 1/2 of Section 34 except south 1/4; Section 35. T24N, R29E, west 1/2 of Section 32. T24N, R28E, Section 35. Public lands within the external boundaries are not part of the PLWMA.

PLWMA 401 - Champion (Pierce County): Beginning at the intersection of Champion haul road (Champion 1 Rd.) and the Camp One Road near the town of Kapowsin; then southwest along Champion 1 Rd. to east side of Lake Kapowsin; then along east side of Lake Kapowsin to Ohop Creek; then up Ohop Creek to Champion ownership line; then along ownership line to N.W. corner Section 31, T17N, R5E; then south along section line to 1/4 corner Section 6, T16N, R5E; then easterly along Weyerhaeuser/Champion ownership line to intersection with Busy Wild Creek; then up Busy Wild Creek to intersection with Champion ownership on the section line between Sections 10 & 15, T15N, R6E; then west and south along DNR/Champion ownership line and Plum Creek Timber Co./Champion ownership line to most southerly point of Champion ownership (northwest of Ashford, WA); then easterly along Champion ownership line to DNR/Champion ownership line; then north and east to USFS/Champion ownership line; then north along USFS/Champion ownership line to S.W. corner Section 31, T16N, R7E; then east along USFS/Champion ownership line to S.E. corner Section 31, T16N, R7E; then north along USFS/Champion ownership line to N.W. corner Section 32, T16N, R7E; then east along Plum Creek Timber Co./USFS ownership line to N.E. corner Section 32, T16N, R7E; then south along USFS/Champion ownership line to S.E. corner Section 32, T16N, R7E; then east along USFS/Champion ownership line to Mount Rainier National Park Boundary; then north along Mount Rainier National Park Boundary to N.E. corner Section 33 T17N, R7E; then following north and east along USFS/Champion ownership line to intersection with SR 165 near the N.E. corner Section 24, T17N, R7E; then northwest along SR 165 to intersection with Carbon River; then down Carbon River to the Carbonado/Electron powerline; then south and west along the powerline to Champion's 12 road; then south and west along the 12 road to the Fisk Road; then south along the Fisk Road to the King Creek Gate; then north and west along the Brooks Road BPA Transmission line; then southwest along BPA Transmission line to the Puyallup River (excluding all small, private ownership); then up Puyallup River to intersection with Champion haul road bridge; then south along Champion haul road to point of beginning. Another portion of PLWMA 401 Champion is the Buckley block (Kapowsin North described as follows: Beginning at the intersection of the BPA Transmission line and South Prairie Creek; then up South Prairie Creek to East Fork South Prairie Creek; then up East Fork South Prairie Creek to Plum Creek Timber Co./Champion ownership line (on south line of Section 33, T19N, R7E); then along Champion ownership line to center line of Section 34, T19N, R7E; then north and east along DNR/Champion ownership line to S.W. corner Section 27,

T19N, R7E; then north along Weyerhaeuser/Champion ownership line to White River; then down White River to where it crosses west line Section 6, T19N, R7E; then south and west along Champion ownership line to intersection with South Prairie Creek; then up South Prairie Creek to point of beginning.

WSR 94-04-077**PROPOSED RULES****DEPARTMENT OF TRANSPORTATION**

[Filed January 31, 1994, 11:09 a.m.]

Original Notice.

Title of Rule: WAC 468-300-010, 468-300-020, and 468-300-040.

Purpose: The adoption of a revised schedule of tolls for the Washington state ferry system, amending WAC 468-300-010, 468-300-020, and 468-300-040.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.326.

Statute Being Implemented: RCW 47.60.326.

Summary: To revise the existing schedule of tolls for the Washington state ferry system.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael T. McCarthy, Seattle Ferry Terminal, (206) 464-6428.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Implementation of the tariff review study. There are no major effects anticipated.

Proposal does not change existing rules.

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

Hearing Location: Transportation Building, Commission Board Room, Room 1D2, Olympia, Washington 98504, on March 17, 1994, at 10:00 a.m.

Submit Written Comments to: Ben Klein, Department of Transportation, Marine Division, Olympia, Washington 98504-7318, by March 16, 1994.

Date of Intended Adoption: March 17, 1994.

January 31, 1994

Chris R. Rose, Administrator
Transportation Commission

AMENDATORY SECTION (Amending WSR 93-18-005, filed 8/19/93, effective 9/19/93)

WAC 468-300-010 Ferry passenger tolls.

((Effective 03:00 a.m. October 10, 1993

ROUTES	Full Fare	Half Fare	Frequent User	Bicycle
			Ticket Book 20 Rides ¹	Surcharge ²
Via Passenger Only Ferry				
*Seattle-Vision				
*Seattle-Southworth	3.30	1.65	19.80	N/C
*Seattle-Bremerton				
Via Auto Ferry				
*Fauntleroy-Southworth				
*Seattle-Bremerton				
*Seattle-Winslow	3.30	1.65	19.80	0.50
*Edmonds-Kingston				
Port Townsend-Keystone	1.65	0.85	19.80	0.25
*Fauntleroy-Vashon				
*Southworth-Vashon	2.15	1.10	12.90	0.50
*Pt. Defiance-Tahlequah				
*Mukilteo-Clinton				
*Anacortes to Lopez	4.65	2.35	27.90	2.50
-Shaw, Orcas or Friday Harbor				
Anacortes to Sidney	6.05	3.05	N/A	4.00
-and Sidney to all destinations				
Between Lopez,	N/C	N/C	N/C	N/C
-Shaw, Orcas and Friday Harbor ³				
From Lopez, Shaw, Orcas and	2.25	1.25	N/A	1.50
-Friday Harbor to Sidney@				

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one point toll collection system.

FREQUENT USER TICKETS— Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage.

BICYCLE SURCHARGE— Is an addition to the appropriate passenger fare.

INTER ISLAND FARES— Passenger fares included in Anacortes tolls.

HALF FARE— Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half fare. Children twelve years of age will be charged full fare.

SENIOR CITIZENS— Passengers and driver, age 65 and over, with proper identification establishing proof of age, may travel at half fare tolls on any route where passenger fares are collected.

NOTE:— Half fare does not include vehicle.

DISABLED— Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, may travel at half fare tolls on any route upon presentation of a WSP Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability at time of travel. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSP Disability Travel Permit and such endorsement shall allow the attendant to travel free.

BUS PASSENGERS— Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half fare rate.

MEDICARE CARD HOLDERS— Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half fare tolls on any route upon presentation of a WSP Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

NOTE:— Half fare privilege does not include vehicle.

FERRY/TRANSIT PASS— A combination ferry transit monthly pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSP portion of the fare is based on 21 days of passenger travel at a 50% discount.

PROMOTIONAL TOLLS— A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

~~SCHOOL GROUPS - Passengers traveling in authorized school groups for institution sponsored activities will be charged a flat rate of \$1 per walk on group or per vehicle of students and/or advisors and staff. Walk on groups and private vehicles require letter of authorization. Vehicles and drivers will be charged at fare applicable to vehicle size. The special school rate is \$2 on routes where one point toll systems are in effect.~~

~~NOTE: The school group rate is not available on the Anacortes-Sidney B.C. route during the peak season.))~~

Effective 03:00 a.m. May 8, 1994

<u>ROUTES</u>	<u>Full Fare</u>	<u>Half Fare</u>	<u>Frequent User Ticket Book 20 Rides¹</u>	<u>Bicycle Surcharge² @</u>
<u>Via Passenger-Only Ferry</u>				
*Seattle-Vision				
*Seattle-Southworth	3.50	1.75	21.00	N/C
*Seattle-Bremerton				
<u>Via Auto Ferry</u>				
*Fauntleroy-Southworth				
*Seattle-Bremerton				
*Seattle-Winslow	3.50	1.75	21.00	0.50
*Edmonds-Kingston				
Port Townsend-Keystone	1.75	0.90	21.00	0.25
*Fauntleroy-Vashon				
*Southworth-Vashon	2.30	1.15	13.70	0.50
*Pt. Defiance-Tahlequah				
*Mukilteo-Clinton				
*Anacortes to Lopez Shaw, Orcas or Friday Harbor	4.95	2.50	29.60	2.75
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C
<u>International Travel</u>				
Anacortes to Sidney and Sidney to all destinations	6.50	3.25	N/A	4.25
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	1.50	0.75	N/A	1.50
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	8.00	4.00	N/A	5.75

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER TICKETS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

HALF FARE - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

FERRY/TRANSIT PASS - A combination ferry-transit monthly pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel at a 50% discount.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Walk-on groups and private vehicles require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

AMENDATORY SECTION (Amending WSR 93-18-005, filed 8/19/93, effective 9/19/93)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

((Effective 03:00 a.m. October 10, 1993

ROUTES	Vehicle					
	Vehicle Under 20' Inel. Driver	Under 20' w/ Sr. Citizen or Disabled Driver	Vehicle Under 20' Over Height Surcharge	Frequent User Ticket book 20 Rides	Motorcycle/Stowage Inel. Driver Frequent User Ticket book 20 Rides	
	One Way	Driver		One Way	20 Rides	
Fauntleroy Southworth Seattle-Bremerton Seattle Winslow Port Townsend-Keystone Edmonds-Kingston	5.55	4.75	3.35	88.80	2.45	39.20
*Fauntleroy Vashon *Southworth Vashon *Pt. Defiance Tahlequah	7.50	6.45	4.50	60.00	3.20	25.60
Mukilteo-Clinton	3.75	3.20	2.25	60.00	1.60	25.60
	10 Rides					
*Anacortes to Lopez *Shaw, Oreas *Friday Harbor	11.60 13.85 15.85	9.30 11.55 13.55	6.95 8.30 9.50	46.40 55.40 63.40	6.05 6.50 6.90	48.40 52.00 55.20
Anacortes to Sidney and Sidney to all destinations	26.05	23.05	15.65	N/A	10.05	N/A
Between Lopez, Shaw, Oreas and Friday Harbor@	6.50	6.50	4.00	26.00	1.75	N/A
From Lopez, Shaw, Oreas and Friday Harbor to Sidney@	13.25	12.25	8.00	N/A	4.50	N/A

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one point toll collection system.

SIZE - All vehicles up to 20' in length and under 7'6" in height shall pay the vehicle under 20' toll. Vehicles up to 20' in length but over 7'6" in height shall pay a height surcharge of 60% of the vehicle full fare. Upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height surcharge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

INTER ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter island travel (westbound at Lopez, Shaw, or Oreas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

SENIOR CITIZEN OR DISABLED DRIVER - Half fare discount applies to driver portion of the vehicle fare and only when the driver is eligible.

VANPOOLS - A commuter vanpool which carries five or more persons on a regular expense sharing basis for the purpose of travel to or from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

~~PENALTY CHARGES~~ — Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

~~PROMOTIONAL TOLLS~~ — A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route:))

Effective 03:00 a.m. May 8, 1994

ROUTES	Vehicle	Under 20'	Vehicle Under	Frequent User	Vehicle	Motorcycle/Stowage ⁵
	Under 20' Incl. Driver One Way	w/ Sr. Citizen or Disabled Driver ⁴	20' Over Height Surcharge ¹	Ticket book 20 Rides ²	One Way	Incl. Driver Frequent User Ticket book 20 Rides ²
<u>Fauntleroy-Southworth</u>						
<u>Seattle-Bremerton</u>						
<u>Seattle-Winslow</u>	<u>5.90</u>	<u>5.05</u>	<u>3.55</u>	<u>94.15</u>	<u>2.60</u>	<u>41.55</u>
<u>Port Townsend-Keystone</u>						
<u>Edmonds-Kingston</u>						
<u>*Fauntleroy-Vashon</u>						
<u>*Southworth-Vashon</u>	<u>7.85</u>	<u>6.85</u>	<u>4.80</u>	<u>63.60</u>	<u>3.40</u>	<u>27.15</u>
<u>*Pt. Defiance-Tahlequah</u>						
<u>Mukilteo-Clinton</u>	<u>4.00</u>	<u>3.40</u>	<u>2.40</u>	<u>63.60</u>	<u>1.70</u>	<u>27.15</u>
<u>10 Rides</u>						
<u>*Anacortes to Lopez</u>	<u>12.30</u>	<u>9.85</u>	<u>7.35</u>	<u>49.20</u>	<u>6.40</u>	<u>51.30</u>
<u>*Shaw, Orcas</u>	<u>14.70</u>	<u>12.20</u>	<u>8.80</u>	<u>58.75</u>	<u>6.90</u>	<u>55.15</u>
<u>*Friday Harbor</u>	<u>16.80</u>	<u>14.35</u>	<u>10.10</u>	<u>67.20</u>	<u>7.30</u>	<u>58.55</u>
<u>Between Lopez,</u>						
<u>Shaw, Orcas and Friday</u>						
<u>Harbor@⁵</u>						
	<u>7.00</u>	<u>7.00</u>	<u>4.25</u>	<u>27.50</u>	<u>2.00</u>	<u>N/A</u>
<u>International Travel</u>						
<u>Anacortes to Sidney</u>						
<u>and Sidney to all</u>						
<u>destinations</u>						
	<u>27.90</u>	<u>24.70</u>	<u>16.75</u>	<u>N/A</u>	<u>10.75</u>	<u>N/A</u>
<u>From Lopez, Shaw, Orcas</u>						
<u>and Friday Harbor</u>						
<u>to Sidney@</u>						
	<u>13.25</u>	<u>12.50</u>	<u>8.00</u>	<u>N/A</u>	<u>3.75</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday</u>						
<u>Harbor to Sidney (round trip)⁶</u>						
	<u>41.15</u>	<u>37.20</u>	<u>24.75</u>	<u>N/A</u>	<u>14.50</u>	<u>N/A</u>

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay a height surcharge of 60% of the vehicle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height surcharge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSR Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.

⁶ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

VANPOOLS - A commuter vanpool which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending WSR 93-18-005, filed 8/19/93, effective 9/19/93)

WAC 468-300-040 Oversize vehicle ferry tolls.

((Effective 03:00 a.m. October 10, 1993

ROUTES	Oversize Vehicle Ferry Tolls ¹						
	Overall Unit Length Including Driver						
	20' To Under	30' To Under	40' To Under	50' To Under	60' To Under	70' To Include	80' To Over
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston							0.55
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah							0.75
Mukilteo-Clinton	9.00	12.00	16.40	19.70	26.25	30.00	0.40
*Anacortes to Lopez ² *Shaw, Oreas *Friday Harbor	33.25	44.30	60.60	72.70	96.95	110.80	1.40
Anacortes to Sidney and Sidney to all destinations	48.85	65.15	81.40	97.70	145.90	166.70	2.10
Between Lopez, Shaw, Oreas and Friday Harbor ² @	14.00	14.00	14.00	55.00	55.00	55.00	N/A
From Lopez, Shaw, Oreas and Friday Harbor to Sidney@	24.75	33.00	41.50	49.75	74.25	84.75	1.00

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type. Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overweight charge is included in oversize vehicle toll. Vehicles which are 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses shall travel free upon display of an annual permit which may be purchased for \$10.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24 hour period.

³INTER ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for interisland travel (westbound at Lopez, Shaw, or Oreas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full fare passenger rate and adding half fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS — Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS — A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES — A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER — Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing:))

Effective 03:00 a.m. May 8, 1994

ROUTES	Oversize Vehicle Ferry Tolls ¹						
	Overall Unit Length - Including Driver						
	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To Under 70'	70' To and Include 80'	Cost Per Ft. Over 80'
<u>Fauntleroy-Southworth</u>							
<u>Seattle-Bremerton</u>							
<u>Seattle-Winslow</u>	14.10	18.80	25.75	30.90	41.20	47.10	0.60
<u>Port Townsend-Keystone</u>							
<u>Edmonds-Kingston</u>							
<u>*Fauntleroy-Vashon</u>							
<u>*Southworth-Vashon</u>	19.10	25.45	34.80	41.80	55.70	63.60	0.80
<u>*Pt. Defiance-Tahlequah</u>							
<u>Mukilteo-Clinton</u>	9.55	12.70	17.40	20.90	27.85	31.80	0.40
<u>*Anacortes to Lopez²</u>							
<u>*Shaw, Orcas</u>	35.25	47.00	64.25	77.10	102.80	117.50	1.50
<u>*Friday Harbor</u>							
<u>Between Lopez, Shaw, Orcas and Friday Harbor³@</u>	14.75	14.75	14.75	58.25	58.25	58.25	N/A
<u>International Travel</u>							
<u>Anacortes to Sidney and Sidney to all destinations</u>	53.25	69.85	87.25	104.70	156.40	178.65	2.25
<u>From Lopez, Shaw, Orcas and Friday Harbor to Sidney@</u>	17.00	22.75	23.00	27.50	53.50	61.25	0.75

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹**OVERSIZE VEHICLES** - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles which are 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses shall travel free upon display of an annual permit which may be purchased for \$10.

²**STOPOVERS** - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

³**INTER-ISLAND** - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained

when purchasing the appropriate vehicle fare for interisland travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴**ROUND TRIP** - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

WSR 94-04-084

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed January 31, 1994, 1:38 p.m.]

Original Notice.

Title of Rule: WAC 356-37-080 Service of process and 356-37-090 Filing of papers—Computation of time.

Purpose: Proposed modifications to rule will provide for service by campus mail and will allow the postmarked date to be considered the filing date where not specified by rules.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: The proposed modifications will help eliminate problems in the filings of arbitrations and other papers by allowing parties to file by the postmarked date in cases where actual receipt is not specified by the rules.

Reasons Supporting Proposal: The proposed modifications will alleviate problems caused by delays in the mail service which result in untimely filings.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment of WAC 356-37-080(2) is to allow for the use of campus mail, instead of first-class mail, for service of papers. This will result in reduced cost both for the board as well as other agencies. The proposed

amendments of WAC 356-37-080(3) and 356-37-090 will address problems encountered by delays in mail service. The amendments allow for the use of postmarked dates to determine the filing date in cases where the rules do not specifically require actual receipt at the Department of Personnel.

Proposal Changes the Following Existing Rules: See above explanation.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on March 10, 1994, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by March 8, 1994.

Date of Intended Adoption: March 10, 1994.

January 21, 1994

Dennis Karras
Secretary

AMENDATORY SECTION (Amending Order 342, filed 3/20/90, effective 5/1/90)

WAC 356-37-080 Service of process. (1) The personnel resources board shall cause to be served all orders, notices, and other papers issued by the board, together with any other papers which the board is required by law to serve. Every other paper shall be served by the party filing the notice, document or paper.

(2) All notices, documents, or papers served by either the personnel board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be made either personally or by first class, ((⊕)) certified or campus mail, or by electronic telefacsimile transmission and same-day mailing of copies.

(3) Service upon or filing with the personnel resources board shall be regarded as complete when actually received in the office of the board hearings coordinator in the department of personnel, or where actual receipt is not specified by rule, by mail when postmarked, whichever is earlier. Service by electronic telefacsimile transmission shall be regarded as complete upon production by the telefacsimile device of confirmation of transmission. Filing at the department of personnel is only available between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding designated holidays.

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

AMENDATORY SECTION (Amending Order 342, filed 3/20/90, effective 5/1/90)

WAC 356-37-090 ((Filing of papers—))Computation of time. (((1) Papers required to be filed with the state personnel board shall not be deemed filed until actual receipt of the papers by the department of personnel at the office of the director of personnel in Olympia, Washington. Papers must be filed between 8:00 a.m. and 5:00 p.m. Monday

~~through Friday, excluding designating holidays. The director of personnel or designee shall issue an acknowledgment stating the date filed.~~

(2)) Periods of notice or periods of time within which acts are to be completed, as prescribed or allowed by these rules or by order of the board, shall be computed by excluding the first and including the last day unless specifically provided in these rules to the contrary. If the last day is a Saturday, Sunday or holiday, the act must be completed on the next business day, unless a period of notice is being computed and such Saturday, Sunday or holiday is a regularly scheduled workday for the employee. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

WSR 94-04-086
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed January 31, 1994, 1:40 p.m.]

Continuance of WSR 93-24-080.

Title of Rule: New chapter 359-09 WAC, Affirmative action.

Statutory Authority for Adoption: Chapter 41.06 RCW.
 Statute Being Implemented: RCW 41.06.150.

Hearing Location: Department of Personnel, 2nd Floor, Board Room, 521 Capitol Way South, Olympia, WA, on February 10, 1993 [1994], at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by February 8, 1994.

Date of Intended Adoption: February 10, 1994.

January 20, 1994

Dennis Karras
 Secretary

WSR 94-04-087
WITHDRAWAL OF PROPOSED RULES
HUMAN RIGHTS COMMISSION

(By the Code Reviser's Office)

[Filed February 1, 1994, 8:02 a.m.]

WAC 162-12-100, 162-12-110, 162-12-120, 162-12-130, 162-12-135, 162-12-140, 162-12-150, 162-12-160, 162-12-170, 162-12-180, 162-18-010, 162-18-020, 162-18-030, 162-18-040, 162-18-050, 162-18-060, 162-18-070, 162-18-080, 162-18-090, 162-18-100, 162-22-010, 162-22-020, 162-22-030, 162-22-040, 162-22-050, 162-22-060, 162-22-070, 162-22-080, 162-22-090, 162-22-100, 162-26-010, 162-26-020, 162-26-030, 162-26-040, 162-26-050, 162-26-060, 162-26-070, 162-26-080, 162-26-090, 162-26-100, 162-26-110, 162-26-120, 162-26-130, 162-26-140, 162-30-010, 162-30-020, 162-30-030, 162-30-035, 162-30-040, 162-30-050, 162-30-060, 162-30-070, 162-30-080, 162-30-090 and 162-30-100, proposed by the Human Rights Commission in WSR 93-15-122, appearing in issue 93-15 of the State Register, which was distributed on August 4, 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 94-04-089
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed February 1, 1994, 8:14 a.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 March 3, 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. The item to be discussed is the final boundary between Stumpage Value Areas 4 and 6. (The Department of Revenue is proposing to remove Stumpage Value Area 10.)

January 26, 1993 [1994]

Gary K. O'Neil
 Assistant Director
 Special Programs Division

WSR 94-04-090
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE

[Filed February 1, 1994, 8:15 a.m.]

Subject of Possible Rule Making: The Department of Revenue establishes stumpage values as WAC rules under RCW 84.33.091. The department is seeking data concerning the establishment of upcoming 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: Spokane, Third Floor, Suite 300, Northtown Office Building, North 4407 Division Street, Department of Revenue Conference Room, at 1:00 p.m. on March 23, 1994.

Other Information or Comments by Agency at this Time, if any: The Department of Revenue is seeking public

input on stumpage values for the second half of 1994 (July 1 through December 31, 1994) for those areas east of the Cascade Mountains (Stumpage Value Areas 6 and 7). Data may be presented in the form of: 1. Sales or purchases of standing timber. 2. Sales or purchases of logs. 3. Logging costs. 4. Any combination of 1, 2, or 3.

January 26, 1993 [1994]
 Gary K. O'Neil
 Assistant Director
 Special Programs Division

WSR 94-04-093
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD
 [Filed February 1, 1994, 10:28 a.m.]

Continuance of WSR 94-01-112.

Title of Rule: Running start program.

Purpose: To continue adoption of running start policies and procedures from February 17, 1994, to March 30, 1994.

Date of Intended Adoption: March 30, 1994.

January 31, 1994
 Elson S. Floyd
 Executive Director

WSR 94-04-094
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed February 1, 1994, 10:39 a.m.]

Original Notice.

Title of Rule: Chapter 392-163 WAC, Chapter 1 Regular.

Purpose: WAC 392-163-105 . . . to ensure compliance by the state of Washington with the financial assistance to local school districts' provisions, including those which apply to private schools and local institutions for neglected or delinquent children of Chapter 1 Regular of the Elementary and Secondary Education Act of 1965, as amended, and accompanying rules and regulations, particularly 34 CFR 200.

Statutory Authority for Adoption: RCW 28A.02.100.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation: Robert V. Reynolds, Office of Superintendent of Public Instruction, Old Capitol Building, (206) 753-3220; and Enforcement: John Pearson, Office of Superintendent of Public Instruction, Old Capitol Building, (206) 753-1545.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: Changes include, but are not necessarily limited to recognizing students who are considered homeless or in institutions for neglected or delinquent students; requiring districts to use a fall-to-fall testing cycle and to provide results by January 15th; requiring school building program improvement plans; exempting school districts from the reallocation of Chapter 1 funds in certain limited circumstances; and revising the calculation of maintenance of effort to conform to the Chapter 1 Regular Basic Concepts Guide.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, 600 South Washington Street, Olympia, WA 98504-7200, on March 8, 1994, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98054-7200, by March 8, 1994.

Date of Intended Adoption: March 10, 1994.

January 27, 1994
 Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-400 Annual needs assessment—Program requirement. Each school district receiving Chapter 1 moneys shall base its Chapter 1 Regular program on an annual assessment of educational needs which identifies all educationally deprived children in all eligible school attendance areas (including students who are considered homeless, served private schools, and local institutions for neglected or delinquent students). The assessment shall determine general instructional areas and grade levels on which the program will focus and will result in the selection of the greatest of need children. The needs assessment further shall determine the special academic needs of participating students with sufficient specificity to ensure concentration on those needs as well as the resources necessary to meet those special academic needs. A summary analysis of the needs assessment must include data which indicates the number of students below grade level in all grades in reading, math, and communication in all eligible Chapter 1 buildings. The needs assessment must establish the need for readiness or support services when such services are provided. The needs assessment must be funded by local moneys.

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-405 Allocation of resources to program areas and schools. Each district shall allocate Chapter 1 resources among project areas and schools based on the local needs assessment as well as:

- (1) The number and needs of children selected for participation;
- (2) The degree of educational deprivation of these children; and
- (3) The services to be provided.

In designing and planning services, districts and individual buildings shall consider a variety of options when

selecting staff, instructional techniques, materials, and service models in order to best accommodate individual student needs.

For the sole purpose of allocating Chapter 1 resources among project areas and schools, a local district may continue to count for two additional years, children in those areas and schools who received Chapter 1 services in the preceding school year, but are no longer in greatest need of special assistance from the Chapter 1 program.

These requirements apply to Chapter 1-served public and private schools as well as to local institutions for neglected or delinquent students.

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-440 Program improvement. In order to foster and encourage systematic, purposeful improvement for each project school and individual students, including served private schools, a local district shall:

(1) Establish measurable desired outcomes for each program component unique to its student population which includes the level of performance, the goal, the outcome indicator(s), measurement cycle, and indicators of substantial progress. The outcome must be based on objective data which measures Chapter 1 participants' success in the regular classroom as evidenced by their day-to-day performance, and must be based on criteria that all students are expected to master. Districts may develop desired outcomes for the total program either by building or across the district.

(2) Conduct an annual review of the effectiveness of its Chapter 1 project in improving student performance as measured by aggregate performance and the established desired outcomes; and make the results of the review available to teachers, parents of participating children, administrators, and other appropriate parties. Results will also be indicated in the district's annual end-of-year report. Districts which use a fall-to-fall testing cycle must provide results for program improvement purposes no later than January 15 following the testing dates. If extenuating circumstances exist which prohibits the district from meeting the January 15 deadline, the district shall notify the office of the superintendent of public instruction Chapter 1 staff of the situation and proposed time frame for completion.

(3) Develop a program improvement plan for each building that:

(a) Does not show substantial progress toward meeting the desired outcomes described in the local district's application; or

(b) Shows no improvement or a decline in aggregate performance of participating children for a twelve-month period. "No improvement" shall be indicated by a zero or below NCE gain using either the mean or the median score across the district. The local district is only required to determine the aggregate performance of a school in the instructional area that is the primary focus of the Chapter 1 local district program in that school.

Districts may "self-nominate" buildings that have met their established objectives, and may have access to resources provided for the purposes of improving programs if sufficient resources are available.

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-445 Program improvement plan. For each building that shows no improvement according to WAC 392-163-440, a program improvement plan must be developed and implemented.

(1) Program improvement plans must be developed by individual school building staff, including, at a minimum: Regular education staff, Chapter 1 staff, building principal, Chapter 1 director, and parents of participating children.

(2) Plans must be shared with the local school board of directors and the superintendent of public instruction.

(3) Districts may apply for program improvement assistance funds to the superintendent of public instruction, on forms provided by the superintendent of public instruction, for the purposes of developing and implementing their plan. The funds may be used as outlined in the Washington state program improvement plan.

(4) Buildings which have been identified from the use of a fall-to-fall testing cycle must begin planning and developing a program improvement plan no later than February 15 following the testing dates. Buildings which have been identified from the use of a spring-to-spring testing cycle shall begin planning and developing a program improvement plan no later than the beginning of the subsequent school year.

(5) Buildings (~~must~~) shall implement their plan, or parts of their plan, as soon as it is feasible, but no later than (~~a year after the building has been identified~~) the beginning of the following school year after the building has been identified for those districts using a fall-to-fall testing cycle, and no later than the second fall from the school year after the building has been identified for those districts using a spring-to-spring testing cycle.

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-530 Reallocation of Chapter 1 Regular moneys in excess of fifteen percent carryover. Carryover in excess of fifteen percent will be reallocated by the superintendent of public instruction to school districts according to the process outlined in 34 C.F.R. Section 200.26. Except that, local school districts receiving a Chapter 1 allocation of fifty thousand dollars or less, including basic and concentration grants, shall be exempt from the reallocation of their funding in excess of fifteen percent carryover.

To implement reallocation of Chapter 1 Regular moneys the following requirements and procedures for school districts and the superintendent of public instruction are hereby established:

(1) No school district's annual application shall be approved by the superintendent of public instruction unless such application includes budgeted expenditures equal to at least eighty-five percent of the district's Chapter 1 Regular allocation.

(2) If the total amount budgeted is less than eighty-five percent of the current year's allocation, the superintendent of public instruction shall notify the district of the additional amount it must budget to achieve the minimum budgetary requirement.

(3) Upon receipt of such notification, a school district shall submit a revised Chapter 1 budget to the superintendent of public instruction or shall submit, on forms provided by the superintendent of public instruction for that purpose, a request for waiver explaining why the district is planning to carry over more than fifteen percent of its Chapter 1 Regular allocation.

AMENDATORY SECTION (Amending Order 92-09, filed 10/13/92, effective 11/13/92)

WAC 392-163-580 Maintenance of effort— Computations. The ~~((following))~~ calculations as listed in the annual Chapter 1 Regular Basic Concepts Guide shall be used by the superintendent of public instruction to ensure the maintenance of effort for school districts receiving Chapter 1 Regular moneys. The data source for these calculations is the F-196. The same calculations shall be made for both the preceding and second preceding fiscal years~~((~~

~~(1) The total general fund expenditures shall be adjusted by the subtraction of the following program expenditures: The direct expenditures of Program 42— Vocational Technical Institute Projects, Program 47— Vocational Technical Institutes, Program 56— State Institutions, Program 83— Adult Education, Program 87— Community Services, Vocational Technical Institutes, Program 89— Other Community Services, and Activities 82 and 83 in Program 92— Debt Service, Object 9— Capital Outlay, and payments made to other school districts for nonhigh and handicapped pupils.~~

~~(2) From the resulting total in subsection (1) of this section, the total revenue in revenue account series 5000 and 6000 (except Accounts 5500, Federal Forest Funds, and 5300 P.L. 874— Impact Aid) shall be deducted.~~

~~(3) To the resulting total in subsection (2) of this section, the Object 9 expenditures for the following programs shall be added:~~

- ~~(a) 42 Vocational technical institutes projects;~~
- ~~(b) 47 Vocational technical institutes;~~
- ~~(c) 56 State institutions;~~
- ~~(d) 83 Adult education;~~
- ~~(e) 87 Community services, vocational technical institutes;~~
- ~~(f) 89 Other community services; and~~
- ~~(g) 51, 53, 57, 61, 62, 64, 67, 68, 76, and 78 Federal Programs)).~~

~~((4))~~ The calculations ~~((in subsections (1), (2), and (3) of this section))~~ listed in Chapter 1 Regular Basic Concepts Guide shall be applied to both school years. The results of ~~((subsections (1) through (3) of this section))~~ this calculation shall then be compared and a district shall be considered to be in compliance if the total for the preceding year is at least ninety percent of the total for the second preceding year.

Title of Rule: Insignificant emission units. Amendments to chapter 173-401 WAC. Adding WAC 173-401-530, 173-401-531, 173-401-532, and 173-401-533.

Purpose: The purpose of this rule amendment effort is to define and list insignificant emissions units for the purposes of the air operating permit. Such units/activities will be exempt from the administrative requirements of the operating permit.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Washington Clean Air Act.

Summary: Since the adoption of chapter 173-401 WAC ecology has been working to define insignificant emission units/activities for the purposes of air operation permits. Such units/activities that release little pollution into the atmosphere and including the units or activities in the source's operating permit would provide little or no regulatory benefit. In this rule making effort, ecology established thresholds for regulated pollutants below which emissions would be considered insignificant for the purposes of the operating permit program. Ecology also developed lists of activities that are exempted from the administrative requirements of the permit.

Reasons Supporting Proposal: This rule will reduce the cost of applying for, reviewing and complying with the air operating permit rule.

Name of Agency Personnel Responsible for Drafting: Tony Warfield, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6892; Implementation and Enforcement: Joseph R. Williams.

Name of Proponent: Department of Ecology, Air Quality Program, Stationary Source Program, Development Section, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Under the Federal and State Clean Air Acts Washington state must establish an air operating permit program for major industrial and commercial sources of air pollution. Ecology is proposing the above referenced new sections to chapter 173-401 WAC to define insignificant emission units and activities for the purposes of air operating permits. Categorically exempt units/activities may be omitted from the source's permit application. Other units/activities must be listed on the permit, but are exempt from the administrative requirements of the permit. The goal of this rule making effort is to make the permitting process as efficient as possible and remove items of little concern that would otherwise make it much more expensive to write, review and comply with permit program requirements. Further, this action will allow sources to focus the majority of their resources on the most important emission points.

Proposal Changes the Following Existing Rules: The proposed rule will amend chapter 173-401 WAC, the air operating permit rule to more clearly establish criteria for determining insignificant emission units. The rule will also list many units and activities the department considers insignificant thereby reducing the administrative burden of the operating permit program.

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

WSR 94-04-104

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 93-30—Filed February 1, 1994, 4:14 p.m.]

Original Notice.

The Washington State Department of Ecology is proposing regulations that define insignificant emission units and activities for the purposes of air operating permits. Such units and activities release little pollution into the atmosphere. Consequently, including them in the source's operating permit would provide little or no regulatory benefit. Likewise, omitting insignificant emission units and activities from the source's permit will reduce reporting and data management requirements and help prevent the permitting process from becoming unmanageable. Omitting such units and activities from a source's permit will substantially reduce the costs incurred by facilities in preparing and complying with the permit program requirements. These increases in efficiency and cost savings can be obtained with little environmental risk.

WAC 173-401-530, 173-401-531, 173-401-532 and 173-401-533 establish criteria for defining insignificant emission units and activities, provide thresholds for regulated pollutants below which units or activities emitting those pollutants are considered insignificant, and provide lists of categorically and noncategorically exempt units and activities.

This amendment will reduce the costs associated with complying with the operating permit program requirements. The Regulatory Fairness Act (RFA) (chapter 19.85 RCW) requires that rules promulgated under the Administrative Procedure Act be reviewed in light of their economic impact on small businesses in the state. One goal of this review is to ensure that a proposed rule does not place a proportionately higher burden on small businesses. The RFA requires that small a business economic impact statement (SBEIS) be performed if a rule affects more than 20% of all industries (by 3-digit standard industrial classification code) in the state or more than 10% of the businesses in any one industry.

These amendments to chapter 173-401 WAC have been reviewed and are expected to affect more than 10% of the businesses in several three-digit SIC code industries. The table at the end of this summary shows the industries likely to be affected in the initial stage of the permitting process. Businesses that are smaller sources of regulated air pollutants in up to eighty other industries may be affected by this rule at the end of a three year exemption period. The nature of the impact on smaller industries may be affected by this rule at the end of a three year exemption period. The nature of the impact on smaller sources will depend to a substantial degree on future federal and state rulemaking.

Among the sources for which ecology expects to issue the operating permit, there appear to be no sources that strictly meet the definition of small business as established in the RFA at the present time. Therefore, it was impossible to compare small versus large business using the measures set forth in the RFA. Further, no hard data exists for demonstrating how much money this amendment will save sources.

However, preliminary estimates provided by industry suggest the cost savings may be quite substantial. Representatives from a broad section of Washington industry estimated that in aggregate insignificant emission units and activities may account for anywhere from 2% to 10% of a source's emissions and could potentially consume 80% of the resources spent on complying with the operating permit rule if insignificant emission units and activities were to be documented in the permit.

Due to the absence of small businesses in the operating permit program at the present time, it is not possible to determine if a distributional effect exists between the benefits of the rule for small versus large business. Large businesses are likely to have more insignificant emission units and activities than small businesses and would therefore enjoy a larger total cost savings. However, one could argue that any given insignificant emission unit or activity at a small business is likely to comprise a much higher percentage of the source's total emission points and thus the exemptions will provide more relative benefits to small business. In either event it is important to note that the proposed rule amendment provides cost savings to all businesses in the operating permit program.

It is the conclusion of the Department of Ecology that due to this rule representing a cost savings to industry in Washington state, the preparation of a full SBEIS is not required under the RFA.

Affected Industries by Three-Digit SIC Code

SIC	Industry	SIC	Industry
122	Bituminous Coal and Lignite Mining	324	Cement, Hydraulic
162	Heavy Construction, except Highway	325	Structural Clay Products
203	Canned, Frozen, Preserved Food	331	Steel Works, Blast Furnaces, etc

SIC	Industry	SIC	Industry
242	Sawmills and Planing Mills	333	Primary Smelting, etc Nonferrous
243	Millwork, Veneer, and Structural Wood	341	Metal Cans, Shipping Containers
249	Misc. Wood Products	371	Motor Vehicles & Motor Veh. Equipment
261	Pulp Mills	372	Aircraft and Planes
262	Paper Mills	373	Ship and Boat Building and Repair
267	Converted Paper, and Paperboard	491	Electric Services
281	Industrial Inorganic Chemicals	492	Gas Production and Distribution
286	Industrial Organic Chemicals	496	Steam and Air Conditioning Supply
287	Agricultural Chemicals	511	Paper and Paper Products
291	Petroleum Refining	517	Petroleum and Petroleum Products
308	Miscellaneous Plastic Products, NEC		
322	Glass and Glassware, Pressed or Blown		

For more information on insignificant emission units contact: Tony Warfield, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6892.

Hearing Location: Spokane Community College, 1810 North Greene Street, Activities Conference Room #126, Spokane, WA, on March 8, 1994, at 7:00 p.m.; at the Department of Ecology, Northwest Regional Office, Conference Room 1C, 3190 160th Avenue S.E., Bellevue, WA, on March 9, 1994, at 1:00 p.m.; and at the Clark County Fire District, 213 N.E. 120th Avenue, Vancouver, WA, on March 10, 1994, at 7:00 p.m.

Submit Written Comments to: Tony Warfield, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, by March 18, 1994.

Date of Intended Adoption: April 28, 1994.

February 1, 1994
 Mary Riveland
 Director

AMENDATORY SECTION (Amending Order 91-68, filed 10/4/93, effective 11/4/93)

WAC 173-401-200 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference, unless otherwise defined here. Unless a different meaning is clearly required by context, the following words and phrases, as used in this chapter, shall have the following meanings:

- (1) "Affected source" means a source that includes one or more affected units.
- (2) "Affected states" are the states or federally-recognized Tribal Nations:
 - (a) Whose air quality may be affected when a chapter 401 permit, permit modification, or permit renewal is being proposed; or
 - (b) That are within fifty miles of the permitted source.
- (3) "Affected unit" means a fossil-fuel fired combustion device or a source that opts-in under 40 CFR part 74, that is subject to any emission reduction requirement or limitation under the Acid Rain Program.
- (4) "Applicable requirement" means all of the following as they apply to emissions units in a chapter 401 source (including requirements that have been promulgated or approved by EPA, ecology or a local authority through rule making at the time of permit issuance but have future-effective compliance dates):
 - (a) The following provisions of the Federal Clean Air Act (FCAA):
 - (i) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rule making under Title I of the FCAA (Air Pollution Prevention and Control) that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 CFR 52;
 - (ii) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rule making under Title I, including parts C (Prevention of Significant Deterioration) or D (Plan Requirements for Nonattainment Areas), of the FCAA;
 - (iii) Any standard or other requirement under section 111 (New Source Performance Standards) of the FCAA, including section 111(d);
 - (iv) Any standard or other requirement under section 112 (Hazardous Air Pollutants) of the FCAA, including any requirement concerning accident prevention under section 112 (r)(7) of the FCAA;
 - (v) Any standard or other requirement of the acid rain program under Title IV of the FCAA (Acid Deposition Control) or the regulations promulgated thereunder;
 - (vi) Any requirements established pursuant to section 504(b) or section 114 (a)(3) of the FCAA;
 - (vii) Any standard or other requirement governing solid waste incineration, under section 129 of the FCAA;
 - (viii) Any standard or other requirement for consumer and commercial products, under section 183(e) of the FCAA;
 - (ix) Any standard or other requirement for tank vessels, under section 183(f) of the FCAA;

- (x) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the FCAA;
- (xi) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the administrator has determined that such requirements need not be contained in a Title V permit; and
- (xii) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted pursuant to WAC 173-401-635.
- (b) Chapter 70.94 RCW and rules adopted thereunder. This includes requirements in regulatory orders issued by the permitting authority.
 - (c) In permits issued by local air pollution control authorities, the requirements of any order or regulation adopted by the authority.
 - (d) Chapter 70.98 RCW and rules adopted thereunder.
 - (e) Chapter 80.50 RCW and rules adopted thereunder.
- (5) "Chapter 401 permit" or "permit" means any permit or group of permits covering a chapter 401 source that is issued, renewed, amended, or revised pursuant to this chapter.
- (6) "Chapter 401 source" means any source subject to the permitting requirements of this chapter.
- (7) "Delegated authority" means an air pollution control authority that has been delegated the permit program pursuant to RCW 70.94.161 (2)(b).
- (8) "Designated representative" shall have the meaning given to it in section 402(26) of the FCAA and the regulations promulgated thereunder and in effect on April 7, 1993.
- (9) "Draft permit" means the version of a permit for which the permitting authority offers public participation or affected state review.
- (10) "Emissions allowable under the permit" means an enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.
- (11) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
- (12) The "EPA" or the "administrator" means the administrator of the U.S. Environmental Protection Agency or her/his designee.
- (13) "Federal Clean Air Act" or "FCAA" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392. December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.
- (14) "Final permit" means the version of a chapter 401 permit issued by the permitting authority that has completed all review procedures required by this chapter and 40 CFR §§70.7 and 70.8.

(15) "General permit" means a permit which covers multiple similar sources or emissions units in lieu of individual permits being issued to each source.

(16) "Insignificant activity" or "insignificant emissions unit" means any activity or emissions unit located at a chapter 401 source which qualifies as insignificant under the criteria listed in Appendix A to this chapter.

(17) "Major source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping and that are described in (a), (b), or (c) of this subsection. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the *Standard Industrial Classification Manual*, 1987.

(a) A major source under section 112 of the FCAA, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the FCAA, or twenty-five tpy or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(b) A major stationary source of air pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit, one hundred tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this section, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; or

(xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the FCAA, but only with respect to those air pollutants that have been regulated for that category;

(c) A major stationary source as defined in part D of Title I of the FCAA, including:

(i) For ozone nonattainment areas, sources with the potential to emit one hundred tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," fifty tpy or more in areas classified as "serious," twenty-five tpy or more in areas classified as "severe," and ten tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred, fifty, twenty-five, and ten tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182 (f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the FCAA, sources with the potential to emit fifty tpy or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas (A) that are classified as "serious," and (B) in which stationary sources contribute significantly to carbon monoxide levels, sources with the potential to emit fifty tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit seventy tpy or more of PM-10.

(18) "Permit modification" means a revision to a chapter 401 permit that meets the requirements of WAC 173-401-725.

(19) "Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program (whether such costs are incurred by the permitting authority or other state or local agencies that do not issue permits directly, but that support permit issuance or administration).

(20) "Permit revision" means any permit modification or administrative permit amendment.

(21) "Permitting authority" means the department of ecology, local air authority, or other agency authorized under RCW 70.94.161 (3)(b) and approved by EPA to carry out a permit program under this chapter.

(22) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant

ant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the FCAA, or the term "capacity factor" as used in Title IV of the FCAA or the regulations promulgated thereunder.

(23) "Proposed permit" means the version of a permit that the permitting authority proposes to issue and forwards to the administrator for review in compliance with 40 CFR 70.8.

(24) "Regulated air pollutant" means the following:

- (a) Nitrogen oxides or any volatile organic compounds;
- (b) Any pollutant for which a national ambient air quality standard has been promulgated;
- (c) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;
- (d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA; or
- (e) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the FCAA, including sections 112 (g), (j), and (r), including the following:

(i) Any pollutant subject to requirements under section 112(j) of the FCAA. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the FCAA, any pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen months after the applicable date established pursuant to section 112(e) of the FCAA; and

(ii) Any pollutant for which the requirements of section 112 (g)(2) of the FCAA have been met, but only with respect to the individual source subject to section 112 (g)(2) requirement; and

(f) Any air pollutant for which numerical emission standards, operational requirements, work practices, or monitoring requirements applicable to the source have been adopted under RCW 70.94.331, 70.94.380, and 70.94.395.

(25) "Regulated pollutant (for fee calculation)," which is used only for purposes of WAC 173-401-900, means any "regulated air pollutant" except the following:

- (a) Carbon monoxide;
- (b) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA; or

(c) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the FCAA.

(d) Any regulated air pollutant emitted from an insignificant activity or emissions unit; and regulated air pollutants emitted from an activity or emissions unit at levels below the threshold specified in WAC 173-401-530(3) and 173-401-531.

(26) "Renewal" means the process by which a permit is reissued at the end of its term.

(27) "Responsible official" means one of the following:

(a) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar

policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than two hundred fifty persons or have gross annual sales or expenditures exceeding forty-three million in 1992 dollars; or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority;

(b) For a partnership or sole proprietorship: A general partner or the proprietor, respectively;

(c) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA); or

(d) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated thereunder and in effect on April 7, 1993 are concerned; and

(ii) The designated representative for any other purposes under 40 CFR part 70.

(28) "Section 502 (b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

(29) "Small business stationary source" means a stationary source that:

(a) Is owned or operated by a person that employs one hundred or fewer individuals;

(b) Is a small business concern as defined in the Federal Small Business Act;

(c) Is not a major source;

(d) Does not emit fifty tons or more per year of any regulated pollutant; and

(e) Emits less than seventy-five tons per year of all regulated pollutants.

(30) "Solid waste incineration unit" (for purposes of this chapter) means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925). The term "solid waste incineration unit" does not include:

(a) Materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals;

(b) Qualifying small power production facilities, as defined in section (3)(17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)) or qualifying cogeneration facilities as defined in section (3)(18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or

in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes; or

(c) Air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes, and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the administrator by rule.

(31) "State" means any nonfederal permitting authority, including any local agency, interstate association, or state-wide program.

(32) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air contaminant. For purposes of this chapter, air contaminants include any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA.

(33) "Title I modification" or "modification under any provision of Title I of the FCAA" means any modification under Sections 111 (Standards of Performance for New Stationary Sources) or 112 (Hazardous Air Pollutants) of the FCAA and any physical change or change in the method of operations that is subject to the preconstruction review regulations promulgated under Parts C (Prevention of Significant Deterioration) and D (Plan Requirements for Nonattainment Areas) of Title I of the FCAA.

AMENDATORY SECTION (Amending Order 91-68, filed 10/4/93, effective 11/4/93)

WAC 173-401-510 Permit application form. (1) Standard application form and required information. Ecology shall develop a standard application form or forms to be used by each permitting authority. Information as described below for each emissions unit at a chapter 401 source other than insignificant emissions units listed in ~~((Appendix A))~~ WAC 173-401-532 shall be included in the application. However, for insignificant ~~((emissions units which are exempted because of size, emissions, or production rate, a list of such insignificant emissions units must be included in the application.))~~ units or activities determined to be insignificant under WAC 173-401-530 (1)(a) or (c) an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the permitting authority's fee schedule.

(2) Required data elements for individual permit applications. The application forms developed under subsection (1) of this section shall contain the data elements specified below:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, responsible official name and address, and telephone number and names of plant site manager/contact.

(b) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternative operating scenario identified by the source pursuant to WAC 173-401-650.

(c) The following emissions-related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A

permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except ~~((where such units are exempted under subsection (1) of this section. For those emission units listed as insignificant because of size or production rate, the application must contain sufficient information to enable the permitting authority to evaluate whether that particular unit qualifies as insignificant))~~ emissions from insignificant emission units, and emissions from an activity or unit which, for any regulated air pollutant, do not exceed the threshold specified for that pollutant in WAC 173-401-530(3) and 173-401-531. The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the permitting authority's fee schedule;

(ii) Identification and description of all points of emissions described in (c)(i) of this subsection in sufficient detail to establish the basis for fees and applicability of applicable requirements;

(iii) Emissions rates in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method;

(iv) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules;

(v) Identification and description of all air pollution control equipment and compliance monitoring devices or activities;

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the chapter 401 source;

(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the FCAA); and

(viii) Calculations on which the information in (c)(i) through (vii) of this subsection are based.

(d) The following air pollution control requirements:

(i) Citation and description of all applicable requirements; and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(e) Other specific information that may be necessary to implement and enforce other applicable requirements or this chapter or to determine the applicability of such requirements.

(f) An explanation of any proposed exemptions from otherwise applicable requirements.

(g) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to WAC 173-401-650(1) or to define permit terms and conditions implementing WAC 173-401-650(e) and 173-401-722.

(h) A compliance plan for all chapter 401 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements;

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis; and

(C) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis;

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(iv) For those sources required to have a schedule of compliance to remedy a violation, a schedule for submission of certified progress reports every six months or at a more frequent period specified in an applicable requirement.

(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(i) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with WAC 173-401-520 and section 114 (a)(3) of the FCAA;

(ii) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted annually, or more frequently if specified by the underlying applicable requirement; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the FCAA.

(j) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA and in effect on April 7, 1993.

(k) Requirements which the source believes are inapplicable pursuant to WAC 173-401-640(2) and a request to extend the permit shield to those requirements.

NEW SECTION

WAC 173-401-530 Insignificant emission units. (1) General. This section contains criteria for identifying insignificant emission units or activities for purposes of the operating permit program. An emission unit or activity may be defined as insignificant based on one or more of the following approaches:

(a) The emission unit's or activity's actual emissions are less than the emission thresholds established in subsection (3) of this section. Such emission units and activities must be listed in the permit application;

(b) The emission unit or activity is listed in WAC 173-401-532 as categorically exempt. Such emission units or activities do not have to be listed in the permit application;

(c) The emission unit or activity is listed in WAC 173-401-533 and is considered insignificant if its size or production rate is below a specified level. These emission units or activities must be listed in the permit application. Upon request from the permitting authority the applicant must provide sufficient documentation to enable the permitting authority to determine that the emission unit or activity has been appropriately listed as insignificant.

(2) Applicable requirements. An emission unit or activity subject to one or more of the following federal applicable requirements:

(a) New Source Performance Standards under Section 111(b) or Section 111(d) of the FCCA;

(b) National Emission Standards for Hazardous Air Pollutants (NESHAPs) under Section 112 of FCAA;

(c) MACT standards determined under Section 112 of FCCA;

(d) Prevention of Significant Deterioration under Title I Part C of the FCAA;

(e) State and local registration requirements established pursuant to RCW 70.94.151.

(3) Emission thresholds. An emission unit or activity shall be considered significant if its emissions are greater than the following threshold levels:

(a) 5 Tons per year of carbon monoxide;

(b) 2 Tons per year of nitrogen oxide;

(c) 2 Tons per year of sulfur oxide;

(d) 2 Tons per year of volatile organic compounds (VOC);

(e) .75 Tons per year of PM₁₀ (as defined in WAC 173-400-030(53));

(f) .03 Tons per year of lead.

(g) Threshold levels for hazardous air pollutants as defined in WAC 173-401-531.

(4) Emission levels. Permit requirements will only apply to those pollutants that exceed the thresholds listed in subsection (3) of this section. Other pollutants emitted below the thresholds listed in subsection (3) of this section are considered insignificant for the purposes of the operating permit.

(5) Fugitive emissions. Activities which generate only fugitive emissions (as defined in WAC 173-400-030(31), which are subject to no applicable requirement other than

WAC 173-400-040, and for which no activity specific RACT requirements have been adopted are determined to be insignificant. Those activities must be listed on the permit.

(6) Documentation.

(a) Except for units or activities categorically listed in WAC 173-401-532 sources shall demonstrate to the permitting authority that a unit's or activity's actual emissions are below the emission thresholds listed in subsection (3) of this section.

(b) If an emission unit or activity that qualifies as insignificant solely on the basis of subsection (3) of this section exceeds one of the emissions thresholds specified in subsection (3) of this section prior to issuance of a permit, the applicant shall promptly amend its permit application to include the relevant activity or emissions unit in the permit, as provided in WAC 173-401-500(6). Once the permit is issued, an activity or emissions unit that qualifies as insignificant solely on the basis of subsection (3) of this section shall not exceed the emissions thresholds specified in subsection (3) of this section, except as provided in WAC 173-401-725 (Permit modifications).

(7) Local air authority discretion. Local air authorities may establish by rule other criteria for defining insignificant emissions units or activities. At a minimum, such criteria must be at least as stringent as the requirements in subsections (2) and (3) of this section.

(8) Relationship to other air requirements. All items in this list, while partially exempt from air operating permit rules, are still subject to chapter 173-400 WAC, the general air regulations and chapter 173-460 WAC where applicable.

NEW SECTION

WAC 173-401-531 Thresholds for hazardous air pollutants. General. The following tables provide thresholds for hazardous air pollutants:

(1) Carcinogens:

CAS Number	Chemical Name	Threshold Levels (tons/year)
189-55-9	1,2,7,8-dibenzopyrene	0.0007
107-06-2	1,2-dichloroethane	0.08
78-87-5	1,2-dichloropropane	0.1
540-73-8	1,2-dimethylhydrazine	0.0008
122-66-7	1,2-diphenylhydrazine	0.009
106-99-0	1,3-butadiene	0.007
106-46-7	1,4-dichlorobenzene(p)	0.3
123-91-1	1,4-dioxane	0.06
94-75-7	2,4-d salts & esters	0.5
95-80-7	2,4-toluene diamine	0.002
584-84-9	2,4-toluene diisocyanate	0.01
53-96-3	2-acetylaminofluorine	0.5
119-90-4	3,3'-dimethoxybenzidine	0.5
119-93-7	3,3-dimethyl benzidine	0.0008
101-14-4	4,4'-methylenebis (2-chloroaniline)	0.5
75-07-0	acetaldehyde	0.5
107-13-1	acrylonitrile	0.03
62-53-3	aniline	0.1
C7440-38-2	arsenic and inorganic arsenic compounds	0.0005
1332-21-4	asbestos (fibers/ml)	0.000009
71-43-2	benzene	0.2
92-87-5	benzidine (and its salts?)	0.00003
56-55-3	benzo(a)anthracene	0.001
50-32-8	benzo(a)pyrene	0.001
205-99-2	benzo(b)fluoranthene	0.001
7440-41-7	beryllium and compounds (except salts)	0.0008
117-81-7	bis(2-ethylhexyl)phthalate	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
542-88-1	bis(chloromethyl)ether	0.00003
75-25-2	bromoform	0.5
7440-43-9	cadmium and compounds	0.001
56-23-5	carbon tetrachloride	0.1
57-74-9	chlordane	0.005
510-15-6	chlorobenzilate	0.4
67-66-3	chloroform	0.09
107-30-2	chloromethyl methyl ether	0.1
126-99-8	chloroprene	0.1
C7440-47-3	chromium, hexavalent metal	0.0002
218-01-9	chrysene	0.01
---	coke oven emissions	0.003
3547-04-4	dde	0.001
53-70-3	dibenz(a,h)anthracene	0.001
132-64-9	dibenzofuran	0.5
106-93-4	dibromethane	0.009
111-44-4	dichloroethyl ether	0.006
75-09-2	dichloromethane	0.5
77-78-1	dimethyl sulfate	0.01
---	dioxins & furans (tcdd equivalent)	6.00e-08
106-89-8	epichlorohydrin	0.2
107-06-2	ethylene chloride	0.08
106-93-4	ethylene dibromide	0.009
75-21-8	ethylene oxide	0.02
96-45-7	ethylene thiourea	0.5
76-44-8	heptachlor	0.002
118-74-1	hexachlorobenzene	0.0044
58-89-9	hexachlorocyclohexane, gamma	0.005
302-01-2	hydrazine	0.0004

CAS Number	Chemical Name	Threshold Levels (tons/year)
71-55-6	1,1,1-trichloroethane	0.5
79-34-5	1,1,2,2-tetrachloroethane	0.5
79-00-5	1,1,2-trichloroethane	0.3
75-34-3	1,1-dichloroethane	0.5
57-14-7	1,1-dimethylhydrazine	0.5
120-82-1	1,2,4-trichlorobenzene	0.008
96-12-8	1,2-dibromo-3-chloropropane	0.5
106-88-7	1,2-epoxybutane	0.008
51-28-5	2,4-dinitrophenol	0.5
111-76-2	2-butoxyethanol	0.5
110-80-5	2-ethoxyethanol	0.5
109-86-4	2-methoxyethanol	0.5
92-93-3	4-nitrobiphenyl	0.5
100-02-7	4-nitrophenol	0.5
75-05-8	acetonitrile	0.5
98-86-2	acetophenone	0.5
107-02-8	acrolein	0.5
79-06-1	acrylamide	0.04
79-10-7	acrylic acid	0.002
107-05-1	allyl chloride	0.5
C7440-36-0	antimony & compounds as sb	0.5
1309-64-4	antimony trioxide, as sb	0.5
7784-42-1	arsine	0.5
98-07-7	benzotrchloride	0.1
100-44-7	benzyl chloride	0.006
92-52-4	biphenyl	0.1
156-62-7	calcium cyanamide	0.5
105-60-2	caprolactam, dust	0.5
105-60-2	caprolactam, vapor	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
193-39-5	indeno(1,2,3-cd)pyrene	0.01
---	lead & compounds (except those listed)	0.001
58-89-9	lindane	0.005
75-09-2	methylene chloride	0.5
62-75-9	n-nitrosodimethylamine	0.0001
C7440-02-0	nickel and compounds (except those listed)	0.004
13463-39-3	nickel carbonyl	0.1
95-53-4	o-toluidine	0.03
87-86-5	pentachlorophenol	0.5
127-18-4	perchloroethylene	0.5
1336-36-3	polychlorinated biphenyls	0.009
75-56-9	propylene oxide	0.5
8001-35-2	toxaphene	0.001
79-01-6	trichloroethylene	0.5
75-01-4	vinyl chloride	0.02

(2) Noncarcinogens:

CAS Number	Chemical Name	Threshold Levels (tons/year)
33-06-2	captan	0.5
3-25-2	carbaryl	0.5
5-15-0	carbon disulfide	0.5
63-58-1	carbonyl sulfide	0.5
20-80-9	catechol	0.5
782-50-5	chlorine	0.5
9-11-8	chloroacetic acid	0.1
32-27-4	chloroacetophenone, alpha-	0.1
88-90-7	chlorobenzene	0.06
7440-47-3	chromium (ii) compounds, as cr	0.5
7440-47-3	chromium (iii) compounds, cr	0.5
0210-68-1	cobalt carbonyl, as co	0.5
440-48-4	cobalt, as co metal dust, fume	0.1
319-77-3	cresol, all isomers (o, m, & p)	0.1
8-82-2	cumene	0.5
1-12-5	cyanides, as cn	0.5
4-74-2	dibutyl phthalate	0.5
2-73-7	dichlorvos	0.5
11-42-2	diethanolamine	0.2
0-11-7	dimethyl aminoazobenzene	0.5
9-44-7	dimethyl carbamoyl chloride	0.5
21-69-7	dimethylaniline	0.5
8-12-2	dimethylformamide	0.5
31-11-3	dimethylphthalate	0.5
40-88-5	ethyl acrylate	0.5
00-41-4	ethyl benzene	0.5
1-79-6	ethyl carbamate	0.5
5-00-3	ethyl chloride	0.5
07-21-1	ethylene glycol	0.5
11-76-2	ethylene glycol monobutyl ether	0.5
51-56-4	ethylene imine	0.5
--	glycol ethers (except for listed ones)	0.5
7-68-3	hexachlorobutadiene	0.5
7-47-4	hexachlorocyclopentadiene	0.5
7-72-1	hexachloroethane	0.1
22-06-0	hexamethylene, 1,6-diisocyanate	0.5
10-54-3	hexane (n-hexane)	0.02
10-54-3	hexane, other isomers	0.5
647-01-0	hydrogen chloride	0.5
664-39-3	hydrogen fluoride, as f	0.5
23-31-9	hydroquinone	0.1
8-59-1	isophorone	0.5
08-31-6	maleic anhydride	0.5
7439-96-5	manganese dust & compounds (except listed)	0.5
48-79-4	mercuric chloride	0.5
0045-94-0	mercuric nitrate	0.01
7439-97-6	mercury, elemental	0.01
2-43-5	methoxychlor	0.01
7-56-1	methyl alcohol	0.5
4-83-9	methyl bromide	0.5
4-87-3	methyl chloride	0.5
1-55-6	methyl chloroform	0.5
8-93-3	methyl ethyl ketone (mek)	0.5
0-34-4	methyl hydrazine	0.5
4-88-4	methyl iodide	0.06
08-10-1	methyl isobutyl ketone	0.5
24-83-9	methyl isocyanate	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
80-62-6	methyl methacrylate	0.1
1634-04-4	methyl tert-butyl ether	0.5
12108-13-3	methylcyclopentadienyl manganese tricarbonyl	0.5
101-68-8	methylene bisphenyl isocyanate	0.1
684-93-5	n-nitroso-n-methylurea	0.1
91-20-3	naphthalene	0.5
12035-72-2	nickel refinery dust	0.5
---	nickel subsulfide	0.004
98-95-3	nitrobenzene	0.0042
106-50-3	p-phenylenediamine	0.5
56-38-2	parathion	0.5
82-68-8	pentachloronitrobenzene	0.1
108-95-2	phenol	0.3
62-38-4	phenyl mercuric acetate	0.1
75-44-5	phosgene	0.01
7803-51-2	phosphine	0.1
7723-14-0	phosphorus	0.5
85-44-9	phthalic anhydride	0.1
57-57-8	propiolactone, beta-	0.5
123-38-6	propionaldehyde	0.1
114-26-1	propoxur	0.5
91-22-5	quinoline	0.5
106-51-4	quinone	0.006
C7782-49-2	selenium compounds, as se	0.5
7783-79-1	selenium hexafluoride, as se	0.5
7488-56-4	selenium sulfides (mono and di)	0.5
100-42-5	styrene monomer	0.5
78-00-2	tetraethyl lead, as pb	0.5
75-74-1	tetramethyl lead, as pb	0.01

CAS Number	Chemical Name	Threshold Levels (tons/year)
7550-45-0	titanium tetrachloride	0.01
108-88-3	toluene	0.1
121-44-8	triethylamine	0.5
1582-09-8	trifluralin	0.5
108-05-4	vinyl acetate	0.5
593-60-2	vinyl bromide	0.5
75-35-4	vinylidene chloride	0.5
1330-20-7	xylenes (m-,o-,p-isomers)	0.4

NEW SECTION

WAC 173-401-532 Categorically exempt insignificant emission units. (1) General. This section contains lists of units and activities that are categorically exempt from this chapter subject to the conditions of WAC 173-401-530. The activities listed in subsections (2) through (103) of this section may be omitted from the permit application.

(2) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding:

- (a) Ninety-nine percent or greater H₂SO₄ or H₃PO₄
- (b) Seventy percent or greater HNO₃

- (c) Thirty percent or greater HCl
- (d) More than one liquid phase where the top phase is more than one percent VOCs.
- (3) Mobile transport tanks on vehicles which may be used on public roads, except for those containing asphalt.
- (4) Equipment used exclusively to store high boiling organic material, material with initial boiling point (IBP) not less than 150°C. or vapor pressure (vp) not less than 5mm Hg at 21°C. with lids or other appropriate closure.
- (5) Lubricating oil storage tanks.
- (6) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes where there is no generation of objectionable odor or airborne particulate matter and where the materials do not generate regulated air pollutants.
- (7) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases.
- (8) Storage of solid material, dust-free handling.
- (9) Vehicle exhaust from auto maintenance and repair shops.
- (10) Vents from continuous emissions monitors and other analyzers.
- (11) Vents from rooms, buildings and enclosures that do not contain equipment or activities that generate regulated pollutants.
- (12) Internal combustion engines for propelling or powering a vehicle.
- (13) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires.
- (14) Space heaters and nonprocess hot water heaters using electricity, natural gas, propane or kerosene and generating less than 5 million Btu/hour.
- (15) Emergency generators and pumps.
- (16) Portable internal combustion engines.
- (17) Brazing, soldering and welding equipment and cutting torches.
- (18) Atmospheric generators used in connection with metal heat treating processes.
- (19) Oxygen-hydrogen torches.
- (20) Milling and grinding activities, using paste-form compounds with less than one percent VOC.
- (21) Metal finishing or cleaning using tumblers.
- (22) Metal casting molds.
- (23) Die casting.
- (24) Metal or glass heat-treating, in absence of molten materials, oils, or VOCs.
- (25) Drop hammers or hydraulic presses for forging or metalworking.
- (26) Sintering of glass and refined metals or alloys.
- (27) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals.
- (28) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of HAPs.
- (29) Brazing and soldering and the use of torches for cutting metal.
- (30) Metal fume vapors from electrically heated foundry/forge operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are excluded from consideration for listing as insignificant.
- (31) Metal melting equipment and operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are not considered for listing as insignificant.
- (32) Inspection equipment for metal products.
- (33) Plastic and resin curing equipment, excluding FRP.
- (34) Extrusion equipment, metals, minerals, plastics, grain or wood.
- (35) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics.
- (36) Roller mills and calendars, rubber and plastics.
- (37) Conveying and storage of plastic pellets.
- (38) Shell core and mold equipment.
- (39) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air, or inert gas allowed as blowing agents.
- (40) Plastic pipe welding.
- (41) Nonmetallic mineral mines and screening plants except for crushing and associated activities. Quarrying of silica rock and associated activities are not considered for listing as insignificant.
- (42) Wet sand and gravel screening.
- (43) Dip-coating operations, using materials with less than one percent VOCs.
- (44) Wax application.
- (45) Surface coating, aqueous solution or suspension.
- (46) Plant upkeep including routine housekeeping, painting buildings, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and paving or stripping parking lots.
- (47) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority.
- (48) Street cleaning and sweeping.
- (49) Ultraviolet curing processes.
- (50) Hot melt adhesive application with no VOCs in the adhesive formulation.
- (51) Cleaning and stripping activities and equipment, using solutions having less than one percent VOCs by weight. On metallic substrates, acid solutions are not considered for listing as insignificant.
- (52) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents.
- (53) Steam cleaning operations.
- (54) Cold degreasing processes:
- Not using air toxics;
 - Air-vapor interface not more than ten square feet;
 - Using a solvent with a true vapor pressure of not more than 30mm Hg.
- (55) Steam sterilizers.
- (56) Food preparing for human consumption including cafeterias, kitchen facilities and barbecues located at a source for providing food service on the premises.
- (57) Reserved.
- (58) Lawn and landscaping activities.
- (59) Flares used to indicate danger to the public.
- (60) General vehicle maintenance including vehicle exhaust from repair facilities.

(61) Comfort air conditioning, not used to remove air contaminants from specific equipment.

(62) Refrigeration systems, not in air pollution control applications.

(63) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section.

(64) Natural and forced air vents and stacks for bathroom/toilet facilities.

(65) Office activities.

(66) Personal care activities.

(67) Sampling connections used exclusively to withdraw materials for laboratory analyses and testing.

(68) Fire fighting and similar safety equipment and equipment used to train fire fighters excluding fire drill pits.

(69) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity.

(70) Fuel and exhaust emissions from vehicles in parking lots.

(71) Carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, shot peening, or polishing: Ceramics, leather, metals, plastics, rubber, concrete, paper stock or wood provided that:

(a) Activity is performed indoors;

(b) Particulate emission control in the immediate vicinity of the activity;

(c) Exhaust from the particulate control is within the building housing the activity;

(d) No fugitive particulate emissions enter the environment.

(72) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment.

(73) Slaughterhouse equipment except rendering cookers.

(74) Ozonation equipment.

(75) Nonasbestos brake shoe bonding.

(76) Batch loading and unloading of solid phase catalysts.

(77) Demineralization and oxygen scavenging (deaeration) of water.

(78) Pulse capacitors.

(79) Laser trimmers, using dust collection to prevent fugitive emissions.

(80) Plasma etcher, using dust collection to prevent fugitive emissions and using only oxygen, nitrogen, carbon dioxide, or inert gas.

(81) Gas cabinets using only gasses that are not regulated air pollutants.

(82) CO₂ lasers, used only on metals and other materials which do not emit HAPs in the process.

(83) Smokehouses, under twenty square feet.

(84) Structural changes not having air contaminant emissions.

(85) Confection cooking equipment.

(86) Mixing, packaging, storage and handling activities of any size, limited to soaps, lubricants, vegetable oil, grease, animal fat, aqueous salt solutions.

(87) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche.

(88) Pharmaceutical and cosmetics packaging equipment.

(89) Paper trimmers/binders.

(90) Sample gathering, preparation and management.

(91) Repair and maintenance activities, not involving installation of an emission unit and not increasing potential emissions of a regulated air pollutant.

(92) Handling equipment and associated activities for glass and aluminum which is destined for recycling, not the re-refining process itself.

(93) Hydraulic and hydrostatic testing equipment.

(94) Battery charging.

(95) Porcelain and vitreous enameling equipment.

(96) Solid waste (as defined in the Washington Administrative Code) containers.

(97) Salt baths using nonvolatile salts and not used in operations which result in air emissions.

(98) Shock chambers.

(99) Wire strippers.

(100) Humidity chambers.

(101) Solar simulators.

(102) Environmental chambers not using hazardous air pollutant (HAPs) gasses.

(103) Totally enclosed conveyors.

(104) Steam vents and safety release valves.

(105) Air vents from air compressors.

(106) Steam leaks.

(107) Recovery boiler blow-down tank.

(108) Salt cake mix tanks.

(109) Continuous digester chip feeders.

(110) Weak liquor and filter tanks.

(111) Process water and white water storage tanks.

(112) Demineralizer tanks.

(113) Clean condensate tanks.

(114) Alum tanks.

(115) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling.

(116) Lime mud filtrate tank.

(117) Hydrogen peroxide tanks.

(118) Lime mud water.

(119) Lime mud filter.

(120) Liquor clarifiers and storage tanks.

(121) Lime grits washers, filters and handling.

(122) Lime silos and feed bins.

(123) Paper forming.

(124) Dryers (Yankee, after dryer, curing systems and coolings systems).

(125) Vacuum systems exhausts.

(126) Starch cooking.

(127) Stock cleaning and pressurized pulp washing.

(128) Winders.

(129) Chipping.

(130) Debarking.

(131) Sludge dewatering and handling.

(132) Sludge drying.

(133) Screw press vents.

(134) Pond dredging.

NEW SECTION

WAC 173-401-533 Noncategorically insignificant emission units. (1) General. This section contains lists of units or activities that are exempt from this chapter subject to the conditions of WAC 173-401-530 and 173-401-531. Units and activities listed in this section must be listed on the permit application.

(2) The following units and activities are determined to be insignificant based on their size or production rate:

(a) Storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty gallon capacity (35 cft), heated only to the minimum extent to avoid solidification if necessary.

(b) Storage tanks, not greater than one thousand one hundred gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants (HAPs), maximum (max.) vp 550mm Hg.

(c) Storage of VOCs, ten thousand gallon capacity or less, with lids or other appropriate closure, vp not greater than 80mm Hg at 21°C.

(d) Storage of butane, propane, or liquified petroleum gas (LPG), vessel capacity under forty thousand gallons.

(e) Combustion source less than five million Btu/hr. exclusively using natural gas and/or LPG.

(f) Combustion source, less than five hundred thousand Btu/hr., using any commercial fuel containing less than 0.4% by weight sulfur for coal or less than 1% by weight sulfur for other fuels.

(g) Combustion source, of less than one million Btu/hr. if using kerosene, No. 1 or No. 2 fuel oil.

(h) Combustion source, not greater than five hundred thousand Btu/hr. if burning used oil and not greater than four hundred thousand Btu/hr. if burning waste wood or waste paper.

(i) Welding using not more than one ton per day of welding rod.

(j) Foundry sand molds, unheated and using binders with less than 0.25% free phenol by sand weight.

(k) "Parylene" coaters using less than five hundred gallons of coating per year.

(l) Printing and silkscreening, using less than two gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions.

(m) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand gpm, not emitting regulated air pollutants, not in direct contact with gaseous or liquid process streams containing regulated air pollutants.

(n) Combustion turbines, of less than 500 HP.

(o) Batch solvent distillation, not greater than fifty-five gallons batch capacity.

(p) Municipal and industrial water chlorination facilities of not greater than twenty million gallons per day capacity. The exemption does not apply to waste water treatment.

(q) Surface coating, using less than two gallons per day.

(r) Space heaters and nonprocess hot water heaters using natural gas, propane or kerosene and generating between five and twenty million Btu/hr.

(s) Coffee roasters, under fifteen lbs./day of coffee.

(t) Tire buffing of less than six thousand six hundred tires per year.

(3) The following units or activities may be determined to be insignificant on a case-by-case basis by the permitting authority:

(a) Pilot plants.

(b) Cold feed aggregate bins for asphalt and concrete production equipment.

(c) Chemical or physical analytical laboratory operations or equipment including fume hoods and vacuum pumps.

WSR 94-04-105

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 93-39—Filed February 1, 1994, 4:20 p.m.]

Original Notice.

Title of Rule: Air quality registration interim fee. Amendments to chapter 173-400 WAC, adding section WAC 173-400-101.

Purpose: These amendments will establish an interim fee for funding a portion of the registration program development and source identification effort as required by the 1993 legislature.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Washington Clean Air Act.

Summary: The air quality registration program provides a means to identify all industrial and commercial sources of air pollution located in Washington. Ecology and local air pollution control agencies require annual registration and reporting of air emissions. This data is used to update emission inventories the state's air quality and to verify an individual facility's compliance with other applicable state air pollution requirements. In response to new federal requirements for sources of toxic air pollutants and a 1993 legislative directive, ecology is reexamining the program. This interim fee will fund a portion of ecology's effort in identifying additional source categories to meet federal toxics requirements, in updating the emissions inventory, and in administering the program.

Name of Agency Personnel Responsible for Drafting: Judy Geier, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-8750; Implementation and Enforcement: Joseph R. Williams, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6880.

Name of Proponent: Department of Ecology, Air Quality Program, Stationary Source Program Development Section, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The registration program provides a means to identify all industrial and commercial sources of air pollution located in Washington. Ecology and local air pollution control agencies require annual registration and reporting of air emissions. This data is used to update emission inventories the state's air quality and to verify an individual facility's compliance with other applicable state air pollution requirements. Recent amendments to both the state and

federal clean air acts have changed the focus of Washington's registration program. First, Title V of the federal Clean Air Act establishes the operating permit program for regulating larger sources of air pollution. These sources will no longer be subject to the registration program requirements. Second, the 1990 amendments to the federal law place a much greater emphasis on toxic air pollutants. The lower size thresholds for toxic sources will result in the need to focus on smaller and mid-size sources. A number of source categories will be added in the future to accommodate federal reporting requirements. Finally, changes in the Washington Clean Air Act reflect the legislature's intent that the cost of regulating sources be shared by those regulated. Though the authority for assessing fees for the registration program has existed in the act, ecology has never exercised that authority. In 1993, the legislature approved a four-part strategy for funding the regulation of industrial and commercial sources. That strategy included fees as the primary source of funding for the registration program. This rule will provide partial funding for ecology's efforts in identifying additional source categories to meet federal toxics requirements, in updating the emissions inventory, and in administering the program. The rule will also provide a gradual transition from reliance on general fund money to a self-supporting program. Ecology is currently working with an advisory group comprised of businesses subject to the registration program as well as local government and environmental representatives.

Proposal Changes the Following Existing Rules: This rule establishes a one-time fee to fund a portion of the ecology's effort in identifying additional source categories to meet federal toxics requirements, in updating the emission inventory, and in administering the program.

Small Business Economic Impact Statement: The Washington State Department of Ecology (ecology) is proposing a regulation amendment that will establish a registration program interim fee. This regulation was established to fund implementation of ecology's air quality registration program as required by the Washington Clean Air Act (chapter 70.94 RCW). Under state law, certain sources of air pollution are required to register with the appropriate air quality authority. Those sources within ecology's jurisdiction will be required to pay fees to cover the direct and indirect costs of the registration program.

The proposed amendments (WAC 173-400-101) establish the procedures by which the interim registration fees will be assessed and collected. The goal of the rule is to create an equitable and efficient means to cover a portion of the cost of the air quality registration program on an interim basis as directed by the 1993 legislature. Revenues from the fees will also be used to identify additional source categories as required by the federal toxic program. This small business economic impact statement (SBEIS) summary addresses the impacts of the interim registration fees. It does not address the impacts of implementing the registration system. Those impacts will be analyzed in a subsequent SBEIS that focuses on the registration program as a whole. The proposed amendments will apply to sources in ecology's jurisdiction (see Table 1 for counties under ecology's jurisdiction) that are within the standard industrial classification (SIC) codes listed in Table 2.

The proposed rule has five sections. These sections include. 1. A general description of the fee and its applicability. 2. A schedule for the amount of the fee by source category. 3. An option for sources to redistribute the aggregate amount to be collected from a source category according to a methodology determined by the sources within the category. 4. Exemptions for sources subject to the operating permit fee. 5. A schedule for billing and collection.

The Regulatory Fairness Act (RFA) (chapter 19.85 RCW) requires that rules promulgated under the Administrative Procedure Act be reviewed in light of their economic impact on small businesses in the state. The RFA defines small business as a firm of 50 or fewer employees. One goal of this review is to determine whether a proposed rule places a disproportionately higher burden on small businesses. The RFA requires that a small business economic impact statement (SBEIS) be performed if a rule affects more than 20% of all industries by 3-digit SIC code in the state or more than 10% of the businesses in any one industry.

The RFA provides two measures for analyzing the relative impact of a rule on small versus large businesses. Agencies may either analyze the impacts of a rule in terms of cost per \$100 in revenue or cost per employee.

WAC 173-400-101 has been reviewed and ecology believes this rule will affect more than 10% of the businesses in some three digit industries for the counties listed in Table 2. However, on a statewide basis, there are few instances where this rule will affect more than 10% of the businesses in a three digit industrial category.

Ecology did not have sufficiently specific revenue data to use cost per \$100 in revenue as a measure. However, when using cost per employee as a comparison, there is a significant distributional burden placed on small businesses. On average small businesses will pay 18 times as much per employee as large businesses. On average, small businesses will pay \$144.26 per employee whereas larger businesses will pay \$7.50. This disparity stems from the fee being based on a two-tiered flat fee. Flat fees, by their nature, place higher relative burden on small businesses.

The RFA requires that the economic impact of rules on small businesses be mitigated when "it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule." Mitigation may include use of differing compliance or reporting requirements or timetables for small businesses; clarify, consolidate or simplify the rules compliance and reporting requirements for small businesses; establish performance rather than design standards; and exempt small businesses from any or all parts of the rule.

Three mitigative measures are built into this rule amendment. First, grain elevators are disproportionately represented among the sources subject to this fee. Country elevators (those that are not major barge shipping operations) tend to be very small businesses. Thus, they were assigned the first tier of the flat fee (\$300). All other sources were assigned the upper tier for a fee of \$600. Second, sources within a source category are given the option of redistributing the payment of fees among themselves so long as the aggregate fee payment for the source category remains the same. Third, ecology recognized that it would be burdensome to start-off with 100% funding of the registration program through fees in its first year. Consequently,

ecology will phase the fees in with sources only covering 50% of the program for the first year.

It is important to note that this is a one-time interim fee as required by the Washington Clean Air Act. It will be replaced by an annual fee as ecology establishes its air quality registration program. As that program is established, further measures can be explored to reduce the registration program's impact on small business. An SBEIS will be written in conjunction with that program development effort.

Table 1: Counties in Ecology's Jurisdiction

Regional Office	County
ERO	Adams
ERO	Asotin
CRO	Chelan
ERO	Columbia
CRO	Douglas
ERO	Ferry
ERO	Garfield
ERO	Grant
CRO	Kittitas
CRO	Klickitat
ERO	Lincoln
ERO	Pend Oreille
CRO	Okanogan
ERO	Stevens
NWRO	San Jaun
ERO	Walla Walla
ERO	Whitman

Table 2: Affected Industries

Sic Code	Description 1	Description 2	Description 3
0211	Agricultural production-livestock & animal special	Livestock, except dairy and poultry	Beef cattle feedlots
0742	Agricultural services	Veterinary services	Veterinary services, specialties
1041	Metal mining	Gold and silver ores	Gold ores
1411	Mining and quarrying of nonmetallic minerals	Dimension stone	Dimension stone
1442	Mining and quarrying of nonmetallic minerals	Sand and gravel	Construction sand and gravel

Sic Code	Description 1	Description 2	Description 3
1479	Mining and quarrying of nonmetallic minerals	Chemical and fertilizer mineral mining	Chemical and fertilizer mining, nec
1771	Construction-special trade contractors	Concrete work	Concrete work
2033	Food and kindred products	Canned, frozen & preserved fruits, vegs & food	Canned fruits and vegetables
2034	Food and kindred products	Canned, frozen & preserved fruits, vegs & food	Dehydrated fruits, vegetables, soups
2421	Lumber & wood products, except furniture	Sawmills and planing mills	Sawmills and planing mills, general
2429	Lumber & wood products, except furniture	Sawmills and planing mills	Special product sawmills, nec
2436	Lumber & wood products, except furniture	Millwork, veneer, plywood & structural wood	Softwood veneer and plywood
2873	Chemicals and allied products	Agricultural chemicals	Nitrogenous fertilizers
2874	Chemicals and allied products	Agricultural chemicals	Phosphatic fertilizers
2951	Petroleum refining and related industries	Asphalt paving and roofing materials	Paving mixtures and blocks
3272	Stone, clay, glass and concrete products	Concrete, gypsum and plaster products	Concrete products, nec
3273	Stone, clay, glass and concrete products	Concrete, gypsum and plaster products	Ready-mixed concrete
3295	Stone, clay, glass and concrete products	Abrasive, asbestos and misc. Nonmetallic mineral	Minerals, ground or treated
3321	Primary metal industries	Iron and steel foundries	Gray iron foundries
3363	Primary metal industries	Nonferrous foundries	Aluminum die-castings
4922	Electric, gas and sanitary services	Gas production and distribution	Natural gas transmission

Sic Code	Description 1	Description 2	Description 3
5153	Wholesale trade-nondurable goods	Farm-product raw materials	Grain and field beans
5191	Wholesale trade-nondurable goods	Miscellaneous nondurable goods	Farm supplies
8062	Health services	Hospitals	General medical & surgical hospital
8221	Educational services	Colleges, universities, professional schools & JR.	Colleges and universities, NEC

Copies of the full SBEIS are available from: Tony Warfield, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (206) 438-8109.

Hearing Location: On Tuesday, March 8, 1994, at 7 p.m.; Spokane Community College, 1810 North Greene Street, Activities Conference Room #126, Spokane, WA 99207-5399, (509) 533-7081; on Wednesday, March 9, 1994, at 7 p.m., Walla Walla Library, 238 East Alder, Walla Walla, WA 99362, (509) 527-4550; and on Thursday, March 10, 1994, at 7 p.m., Ellensburg Senior Center, 506 South Pine, Ellensburg, WA 98926, (509) 962-7242.

Submit Written Comments to: Judy Geier, Air Quality Program, P.O. Box 7600, Olympia, WA 98504-7600, by March 14, 1994.

Date of Intended Adoption: April 29, 1994.

January 31, 1994
 Mary Riveland
 Director

NEW SECTION

WAC 173-400-101 Registration interim fee. (1) The department shall assess and collect from registered sources within its jurisdiction an interim assessment to fund a portion of the department's registration program development. Registered sources include:

- (a) Facilities and emission units currently registered with the department; and
- (b) Other facilities and emission units subject to WAC 173-400-100 that the department determines by April 1, 1994, to be within its jurisdiction.
- (2) The amount collected from the interim fee shall not exceed \$160,000. The interim fee will be assessed to sources in the following categories according to the schedule listed in Table A.

TABLE A

A) Agricultural drying	\$600
B) Asphalt plants	\$600
C) Beverage can surface coating	\$600
D) Bulk gasoline terminals	\$600
E) Cattle feedlots >1000	\$600
F) Chemical plants	\$600
G) Ferrous foundries	\$600
H) Fertilizer plants	\$600
I) Flexible vinyl & urethane coating & printing operations	\$600
J) Grain handling, seed processing, etc.	
Barge-loading elevators	\$600
Country elevators	\$300
K) Metallic mineral processing plants	\$600
L) Mineralogical processing plants	\$600
M) Nonferrous foundries	\$600
N) Other metallurgical processing plants	\$600
O) Petroleum refineries	\$600
P) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel	\$600
Q) Pressure sensitive tape & label surface coating operations	\$600
R) Rendering plants	\$600
S) Scrap metal operations	\$600
T) Synthetic organic chemical manufacturing industries	\$600
U) Sulfuric acid plants	\$600
V) Synthetic fiber production facilities	\$600
W) Veneer dryers	\$600
X) Wood waste incinerators including wigwam burners	\$600
Y) Other incinerators designed for a capacity of 100 lbs per hour or more	\$600
Z) Stationary internal combustion	

engines rated at 500 horse power or more	\$600
aa) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination	\$600
bb) Except for country grain elevators, any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters)	\$600
cc) Except for country grain elevators, any source which emits a contaminant subject to a National Emission Standard for Hazardous Air pollutants (NESHAPS)	\$600

(3) The fee schedule in subsection (2) is based upon sources within each source category paying the same fee. Ecology may approve alternate methods of allocating the fees among two or more sources within the same source category. Groups of sources requesting an alternate schedule must submit a written request signed by all sources subject to the alternate method prior to May 1, 1994. The written request must specify fee amounts for each source and demonstrate that the aggregate fee amount to be collected from those sources is equal to the aggregate amount that would be collected under subsection (2). Sources within a source category who elect not to participate in such an agreement shall pay the applicable amount specified in subsection (2).

(4) Sources subject to the interim operating permit fee established pursuant to RCW 70.94.161 shall not be required to pay an interim registration fee.

(5) The department shall determine the persons subject to the interim registration fee and will provide a billing notice by June 1, 1994, with collection due 30 days later.

WSR 94-04-106
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 94-06—Filed February 1, 1994, 4:28 p.m.]

Original Notice.

Title of Rule: Chapter 173-400 WAC, General regulations for air pollution sources.

Purpose: Revisions to add provisions for fees for control technology determinations made under RCW 70.94.154 and fees for notice of construction reviews under RCW 70.94.152.

Other Identifying Information: Adds two new sections to chapter 173-400 WAC, WAC 173-400-045 Control technology fees and 173-400-116 New source review fees.

Statutory Authority for Adoption: Chapter 70.94 RCW and chapter 252, Laws of 1993.

Statute Being Implemented: Chapter 70.94 RCW, Washington Clean Air Act.

Summary: The proposed amendments to chapter 173-400 WAC, General air regulations for air pollution sources establish provisions governing the determination and assessment of fees to establish reasonably available control technology (RACT) and to cover costs of review of proposed new sources. The amendments also provide for reduced fees for small businesses, tracking procedures for program expenditures and periodic review.

Reasons Supporting Proposal: The proposed amendments will enable ecology to collect adequate fees to cover the costs of establishing RACT and costs of reviewing and approving/denying proposed new sources.

Name of Agency Personnel Responsible for Drafting: Audrey O'Brien, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6875; **Implementation and Enforcement:** Joseph Williams, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6880.

Name of Proponent: The Washington State Department of Ecology, governmental.

Rule is necessary because of federal law, 42. U.S.C. § 7410 (1990) (amending 42 U.S.C. § 7410 (1969)).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments add two new sections to chapter 173-400 WAC, General regulations for air pollution sources. The first section, WAC 173-400-045 Control technology fees, identifies fees for RACT analysis and determination under four scenarios: Ecology conducts the RACT analysis and determines prescribed control technology requirements for a specific source; an individual source conducts the RACT analysis and ecology determines control technology requirements for that source; ecology reviews the replacement of emission control technology at a specific source and reviews/determines RACT if appropriate; and ecology, with assistance of sources, conducts a RACT analysis and determination for an entire source category. This section also identifies additional fees that ecology may charge depending upon the complexity of review of the source or source category as determined by amounts of criteria or toxic air pollutant emissions. Further, the section provides for reduced fees for small businesses and for sources that assist ecology with the source category determinations. The other section, WAC 173-400-116 New source review fees, identifies fees for ecology's review of proposed new sources. This section identified basic review fees that address the complexity of a source. Additional fees are charged as additional reviews are needed such as reviews for prevention of significant deterioration, risk assessment reviews (called tier II toxics screening), and SEPA reviews where ecology is the lead agency. Further, this section provides for reduced fees where the review is anticipated to be a very standardized review for sources such as dry cleaners and for small businesses that demonstrate economic hardship. These new sections also provide for fee payments, deposit of fees in the air operating permit account or air pollution control account, tracking of revenues, time and expenditures, and periodic review.

Proposal does not change existing rules.

The proposed amendments create two new sections to be added to chapter 173-400 WAC.

Small Business Economic Impact Statement: The Washington State Department of Ecology (ecology) is proposing a regulation amendment that identifies provisions

for fees to establish control technology requirements and conduct new source reviews. During the 1993 legislative session, the Washington legislature passed amendments to chapter 70.94 RCW authorizing ecology to establish funding mechanisms for comprehensive regulation of stationary sources. This proposal addresses two of those funding mechanisms: Fees to establish reasonably available control technology (RACT) as authorized in RCW 70.94.154 and fees to cover costs associated with review and approval or denial of proposed new stationary sources as authorized in RCW 70.94.152. The fees which cover ecology's direct and indirect costs of reviewing proposed new stationary sources are required by Section 110 of the Federal Clean Air Act. The fees which cover ecology's direct and indirect costs of establishing reasonably available control technology requirements are needed to comply with the legislative directive to move toward fee driven programs and away from use of state general fund. The fees also are consistent with Washington legislative direction to require sources of pollution to pay for regulatory action affecting them.

This small business economic impact statement (SBEIS) summary addresses the impacts of the control technology/new source review (NSR) fees. It does not address the impacts of establishing RACT or implementing new source requirements. Those impacts are analyzed in two separate ways:

For control technology determinations, economic impacts will be taken into account through source category rule-making efforts which will include review of economic impacts including the capital and operating costs associated with complying with RACT requirements and preparation of a subsequent SBEIS in compliance with the Regulatory Fairness Act. Case-by-case RACT analyses identified in scenarios 1, 2, and 3 above must evaluate the capital and operating costs of complying with control technology requirements as part of the determination of reasonableness.

For new source review determinations, economic impacts are addressed during the review and evaluation of emission control technologies. This review includes identifying best available control technology taking into account environmental, economic and energy considerations. The reviews include an evaluation of capital and operating costs.

The proposed amendments apply to sources in ecology's jurisdiction (see Table 1 for counties under ecology's jurisdiction) that are within the standard industrial classification (SIC) codes listed in Table 2.

The proposed amendments add two new sections to chapter 173-400 WAC, General regulations for air pollution sources. The first section, WAC 173-400-045 Control technology fees, identifies fees for RACT analysis and determination under four scenarios: 1. Ecology conducts the RACT analysis and determines control technology requirements for a specific source. 2. An individual source conducts the RACT analysis and ecology determines control technology requirements of that source. 3. Ecology reviews the replacement of emission control technology at a specific source and reviews/determines RACT if appropriate. 4. Ecology, with assistance from sources, conducts a RACT analysis and determination for an entire source category.

This section also identifies additional fees that ecology may charge depending upon the complexity of review of the source or source category as determined by amounts of

criteria or toxic air pollutant emissions. The section also provides for reduced fees for small businesses and for sources that assist ecology with the source category determinations.

The other new section, WAC 173-400-116 New source review fees, identifies fees to recover the cost of ecology's review of proposed new sources. This section identifies basic review fees that address the complexity of a proposed stationary source. Additional fees are charged as applicable for additional reviews such as prevention of significant deterioration, risk assessment reviews (called tier II toxics screening), and SEPA reviews where ecology is the lead agency. This section also provides for reduced fees where the review is anticipated to be standardized for certain source categories such as dry cleaners. Further, the proposed amendments include provisions to reduce fees for small businesses.

These new sections also provide for fee payments, deposit of fees in the air operating permit account or air pollution control account, tracking of revenues, time and expenditures, and periodic review.

The Regulatory Fairness Act (RFA) (chapter 19.85 RCW) requires that rules promulgated under the Administrative Procedure Act be reviewed in light of their economic impact on small businesses in the state. The RFA defines a small business as a firm of 50 or fewer employees. One goal of this review is to determine whether a proposed rule places a disproportionately higher burden on small businesses. The RFA requires that a small business economic impact statement (SBEIS) be performed if a rule affects more than 20% of all industries by 3-digit SIC code in the state or more than 10% of the businesses in any one industry.

The proposed sections WAC 173-400-045 and 173-400-116 have been reviewed and ecology has determined that more than 20% of all industries by 3-digit SIC code in the state as well as 10% of the businesses in any one industry will have to pay RACT fees. It is also likely that 10% of the businesses in any one industry will have to pay NSR fees because of anticipated modifications at their facilities. Consequently, ecology has analyzed this rule's impact on small businesses.

The RFA provides two measures for analyzing the relative impact of a rule on small versus large businesses. Agencies may analyze either the impacts of a rule in terms of cost per \$100 in revenue or cost per employee.

Ecology did not have sufficiently specific revenue data to use cost per \$100 in revenue as a measure.

Ecology used three case studies to represent large businesses (aluminum smelting, oil refining and pulp and paper mills) and four case studies to represent small businesses (feed lots, agricultural services, dry cleaners and gas stations) for an SBEIS comparison. Ecology found that for RACT fees, large businesses will have an average estimated fee cost of \$25.44 per employee whereas small businesses will have an average estimated fee cost per employee of \$7.93. Thus, for RACT the relative burden (at least within these case studies) will be on big business. However, for NSR fees, small business will bear a higher relative burden. The average NSR fee cost per employee is estimated to be \$41.69 for small businesses and \$35.24 for large businesses.

The RFA requires that the economic impact of rules on small business be mitigated when "it is legal and feasible in

meeting the stated objective of the statutes which are the basis of the proposed rule." Mitigation may include: Use of differing compliance or reporting requirements or timetables for small businesses; clarify, consolidate or simplify the rules compliance and reporting requirements for small business; establish performance rather than design standards; and exempt small business from any or all parts of the rule.

Several mitigation measures have been incorporated into this rule amendment. First, ecology has included provisions to reduce the RACT fees (in source specific determinations) and NSR fees for small businesses if they demonstrate economic hardship. Second, the section addressing NSR also provides for reduced fees for certain businesses such as dry cleaner owners, gasoline station owners, and storage tank owners where the review will be standardized. Finally, as directed by chapter 70.94 RCW, the proposed rule allows ecology to establish RACT for an entire source category where there are more than three sources in a category. While this directive requires that ecology carry out a rule-making effort when determining RACT for a source category, it will result in lower fee assessments relative to source specific RACT determinations. In addition, sources in a category will have the option to allocate the aggregate rule-making costs among themselves in a manner that reduces potential inequities.

Table 1: Counties in Ecology's Jurisdiction

Regional Office	County
ERO	Adams
ERO	Asotin
CRO	Chelan
ERO	Columbia
CRO	Douglas
ERO	Ferry
ERO	Garfield

Regional Office	County
ERO	Grant
CRO	Kittitas
CRO	Klickitat
ERO	Lincoln
ERO	Pend Oreille
CRO	Okanogan
ERO	Stevens
NWRO	San Juan
ERO	Walla Walla
ERO	Whitman

Table 2: Affected Industries

Sic Code	Description 1	Description 2	Description 3
0211	Agricultural production-livestock & animal special	Livestock, except dairy and poultry	Beef cattle feedlots
0742	Agricultural services	Veterinary services	Veterinary services, specialties
1041	Metal mining	Gold and silver ores	Gold ores
1411	Mining and quarrying of nonmetallic minerals	Dimension stone	Dimension stone
1442	Mining and quarrying of nonmetallic minerals	Sand and gravel	Construction sand and gravel
1479	Mining and quarrying of nonmetallic minerals	Chemical and fertilizer mineral mining	Chemical and fertilizer mining, nec
1771	Construction-special trade contractors	Concrete work	Concrete work
2033	Food and kindred products	Canned, frozen & preserved fruits, vgs & food	Canned fruits and vegetables

Sic Code	Description 1	Description 2	Description 3
8221	Educational services	Colleges, universities, professional schools & JR.	Colleges and universities, NEC

Copies of the full SBEIS are available from: Tony Warfield, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6892.

Sic Code	Description 1	Description 2	Description 3
2034	Food and kindred products	Canned, frozen & preserved fruits, vgs & food	Dehydrated fruits, vegetables, soups
2421	Lumber & wood products, except furniture	Sawmills and planing mills	Sawmills and planing mills, general
2429	Lumber & wood products, except furniture	Sawmills and planing mills	Special product sawmills, nec
2436	Lumber & wood products, except furniture	Millwork, veneer, plywood & structural wood	Softwood veneer and plywood
2611 2621	Pulp and paper		
2873	Chemicals and allied products	Agricultural chemicals	Nitrogenous fertilizers
2874	Chemicals and allied products	Agricultural chemicals	Phosphatic fertilizers
2951	Petroleum refining and related industries	Asphalt paving and roofing materials	Paving mixtures and blocks
3272	Stone, clay, glass and concrete products	Concrete, gypsum and plaster products	Concrete products, nec
3273	Stone, clay, glass and concrete products	Concrete, gypsum and plaster products	Ready-mixed concrete
3295	Stone, clay, glass and concrete products	Abrasive, asbestos and misc. Nonmetallic mineral	Minerals, ground or treated
3321	Primary metal industries	Iron and steel foundries	Gray iron foundries
3363	Primary metal industries	Nonferrous foundries	Aluminum die-castings
4922	Electric, gas and sanitary services	Gas production and distribution	Natural gas transmission
5153	Wholesale trade-nondurable goods	Farm-product raw materials	Grain and field beans
5191	Wholesale trade-nondurable goods	Miscellaneous nondurable goods	Farm supplies
8062	Health services	Hospitals	General medical & surgical hospital

NSR/RACT Fee Comparisons for Small vs. Large Businesses
26-Jan-94

Source Category	RACT FEE	NSR FEE	Avg. # of Employees	Avg. Gross Revenue	RACT Fee per Employee	NSR Fee per Employee	RACT Fee per \$100 Revenue	NSR Fee per \$100 Revenue
< 50 Employees								
Agricultural Production	\$100	\$200	10.00	N/A	\$10.00	\$20.00	N/A	N/A
Agricultural Services	\$23	\$200	2.50	N/A	\$9.20	\$80.00	N/A	N/A
Dry Cleaners	\$48	\$200	5.16	\$140,941	\$9.30	\$38.74	0.0341	0.1419
Gas Stations	\$23	\$200	7.14	\$2,002,958	\$3.22	\$28.01	0.0011	0.0100
< 50 Average:	\$49	\$200	\$6	\$1,071,949	\$7.93	\$41.69	0.0176	0.0759
> 50 Employees								
Aluminum Smelting	\$14,286	\$29,850	1038.00	\$2,703,840	\$13.76	\$28.76	0.5284	1.1040
Oil Refining	\$20,000	\$22,500	393.00	\$49,219,847	\$50.89	\$57.25	0.0406	0.0457
Pulp and Paper	\$17,643	\$29,850	1514.00	\$20,541,701	\$11.65	\$19.72	0.0859	0.1453
> 50 Average:	\$17,310	\$27,400	981.67	\$24,155,129	\$25.44	\$35.24	0.2183	0.4317
Overall Average:	\$7,446	\$11,857	424.26	\$14,921,857	\$15.43	\$38.92	0.1380	0.2894
Ratios:								
(< 50) / (> 50)	0.00280	0.00730	0.00632	0.04438	0.31175	1.18288	0.08064	0.17593

Hearing Location: On March 8, 1994, Spokane Community College, 1810 North Greene Street, Activities Conference Room #126, Spokane, WA 99207-5399, at 7:00 p.m.; on March 9, 1994, Department of Ecology, NWRO, Conference Room 1C, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, at 1:00 p.m.; and on March 10, 1994, Clark County Fire District, 213 N.E. 120th Avenue, Vancouver, WA 98661, at 7:00 p.m.

Submit Written Comments to: Audrey O'Brien, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, by March 18, 1994.

Date of Intended Adoption: April 28, 1994.

January 31, 1994
Mary Riveland
Director

NEW SECTION

WAC 173-400-045 Control technology fees. (1)

General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) below. Such fees shall be sufficient to cover the reasonable direct and indirect costs of establishing categorical or source-specific control technology requirements.

(2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by Ecology.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - \$1,500;

(ii) Moderate complexity (the analysis addresses 2 to 5 types of emissions units) - \$7,500;

(iii) High complexity (the analysis addresses more than 5 types of emission units) - \$15,000.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under subsection (a) above, a fee will be required for a RACT analysis

and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit 100 tons per year or more of any criteria pollutant - \$2,000.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under subsection (a) and (b) above, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but less than ten tons per year of any toxic air pollutant - \$1,000; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - \$2,000.

(d) Additional charges for MACT determinations: In addition to those fees required under subsection (a) through (c) above, a fee will be required for case-by-case MACT determinations as required under Section 112(g) or Section (112(j) of the FCAA - \$2,000.

(3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination by Ecology.

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit) - \$1,000;

(ii) Moderate complexity (the analysis addresses 2 to 5 types of emissions units) - \$5,000;

(iii) High complexity (the analysis addresses more than 5 types of emission units) - \$10,000.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under subsection (a) above, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission

units of uniform design that, individually or in the aggregate, emit 100 tons per year or more of any criteria pollutant - \$1,000.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under subsection (a) and (b) above, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but less than ten tons per year of any toxic air pollutant - \$500; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - \$1,000.

(d) Additional charges for MACT determinations: In addition to those fees required under subsection (a) through (c) above, a fee will be required for case-by-case MACT determinations as required under Section 112(g) or Section 112(j) of the FCAA for existing sources - \$1,000.

(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of Construction Application. Review and approval of Notice of Construction Application (NOCA) for replacement or substantial alteration of control technology - \$350.

(b) RACT analysis and Determination. Review and approval of a RACT analysis and determination for affected emission unit - \$500.

(5) Fee schedule for categorical determinations. Fees for categorical control technology determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in paragraph (a) below shall be based on the most complex source within a category. Except as provided in paragraphs (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by Ecology with assistance from sources):

(i) Low complexity source category (Average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - \$25,000;

(ii) Moderate complexity source category (Average source emissions of one or more individual criteria pollutants are greater than 20 tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - \$50,000; or

(iii) High complexity source category (Average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - \$100,000.

(b) If sources are being evaluated for more than one type of source categorical complexity RACT determination

within one biennium, Ecology will charge those sources one fee and the fee will reflect the higher complexity RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. The RACT analysis and determination fee identified in (2) through (5) above may be reduced for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "Small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) have been met. The application must be signed:

(i) by an authorized corporate officer in the case of a corporation;

(ii) by an authorized partner in the case of a limited or general partnership; or

(iii) by the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a), the RACT analysis and determination fee shall be reduced to the greater of:

(i) fifty percent of the RACT analysis and determination fee; or

(ii) \$250.

(e) If due to special economic circumstances, the fee reduction determined under (d) imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which Ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: annual sales; labor force size; market conditions which affect the owner or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below \$100.00.

(7) Fee Reductions for Pollution Prevention Initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(8) Fee Payments. Fees specified in subsection (4)(a) shall be paid at the time a notice of construction application is submitted to the Department. Other fees specified in subsection (2) through (7) shall be paid no later than 30 days after receipt of an Ecology billing statement. All fees collected under this regulation shall be made payable to the Washington Department of Ecology.

(9) Dedicated Account. All control technology fees collected by the Department from permit program sources shall be deposited in the air operating permit account created

under RCW 70.94.015. All control technology fees collected by the Department from non-permit program sources shall be deposited in the air pollution control account.

(10) Tracking Revenues, Time, and Expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsection (2) through (4), Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5), Ecology shall track time and expenditures on a source-category basis.

(11) Periodic Review. Ecology shall review and, as appropriate, update this section at least once every two years.

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

NEW SECTION

WAC 173-400-116 New source review fees. (1) Applicability. Every person required to submit a notice of construction application to the Department of Ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3). Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to Ecology to cover the costs of Prevention Significant Deterioration (PSD) permits issued pursuant to WAC 173-400-141, Tier II analyses pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3). Fees assessed under this section shall apply without regard to whether an order of approval is issued or denied.

(2) Basic Review Fees. All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. Basic review fees are shown below:

(a) Low complexity new source or emission unit (Emissions of individual criteria pollutants are all less than one half of the significance levels established in WAC 173-400-030(67) or emissions of individual toxic air pollutants are all less than 2.0 ton/year) - \$1,500;

(b) Moderate complexity new source or emission unit (Emissions of one or more individual criteria pollutants are greater than one half of the significance levels established in WAC 173-400-030(67) or emissions of one or more toxic air pollutant are greater than 2.0 tons/year and less than 10 tons/year) - \$7,500; or

(c) High complexity new source or emissions unit (Emissions of one or more criteria pollutants are greater than the significance levels established in WAC 173-400-303(67) or emissions of one or more toxic air pollutant are greater than 10 tons/year) - \$15,000.

(d) Exceptions. The following fees for new source review shall be charged instead of the applicable fees listed in paragraphs (a) through (c):

- (i) Dry cleaners \$200

- (ii) Gasoline stations \$200
- (iii) Storage tanks \$200
- (A) 250 - 20,000 gallons \$200
- (B) 20,000 - 100,000 gallons \$500
- (C) > 100,000 \$700
- (iv) Other (not classified above) \$200

(e) Additional units. An owner or operator proposing to build more than one identical emission units shall be charged a fee for the additional units equal to one-third the fee of the first unit.

(3) Additional charges. In addition to those fees required under subsection (2)(a) through (c), the following fees will be required as applicable:

(a) Prevention of Significant Deterioration Review (Includes Ecology review of local air authority sources) - \$10,000;

(b) Establishing LAER and offset requirements for a major stationary source or major modification proposing to locate in a non-attainment area - \$10,000.

(c) Tier II Toxics Review as required under 173-460-090 WAC - \$7,500;

(d) Tier III Review as required under 173-460-100 WAC - \$5,000;

(e) State Environmental Policy Act Review (Ecology is the lead agency):

(i) Determination of Nonsignificance (DNS) and environmental checklist review - \$200; or

(ii) Environmental Impact Statement (EIS) review - \$2,000;

(f) Case-by-case MACT Determinations required for a new source or modification under Section 112(g) or Section 112(j) of the FCAA - \$5,000;

(4) Small business fee reduction. The new source review fee identified in (2) and (3) above may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "Small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) have been met. The application must be signed:

(i) by an authorized corporate officer in the case of a corporation;

(ii) by an authorized partner in the case of a limited or general partnership; or

(iii) by the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a), the new source review fee shall be reduced to the greater of:

- (i) fifty percent of the new source review fee; or
- (ii) \$250.

(e) If due to special economic circumstances, the fee reduction determined under (d) imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must

provide sufficient evidence to support a claim of an extreme hardship. The factors which Ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: annual sales; labor force size; market conditions which affect the owner or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below \$100.00.

(5) Fee Reductions for Pollution Prevention Initiatives. Ecology may reduce the fees defined in subsection (2) and (3) where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee Payments. Fees specified in subsection (2) through (5) shall be paid at the time a notice of construction application is submitted to the Department. A notice of construction application is considered incomplete until Ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) shall be due 30 days after receipt of an Ecology billing statement. All fees collected under this regulation shall be made payable to the Washington Department of Ecology.

(7) Dedicated Account. All new source review fees collected by the Department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All new source review fees collected by the Department from non-permit program sources shall be deposited in the air pollution control account.

(8) Tracking Revenues, Time, and Expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.

(9) Periodic Review. Ecology shall review and, as appropriate, update this section at least once every two years.

WSR 94-04-107

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 94-08—Filed February 1, 1994, 4:34 p.m.]

Original Notice.

Title of Rule: WAC 173-19-2602 City of Port Orchard shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Port Orchard. It clarifies over-water building height restrictions; boat house height limits and allows utilities within the natural environment.

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 Witcher, Washington Department of Ecology, Box 47600, Olympia, 98504-7600, (206) 407-6523; Implementation and Enforcement: Jay A. Shepard, Box 47600, Olympia, 98504-7600, (206) 407-7280.

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 amendment revises the master program for Port Orchard, clarifying over-water building height restrictions; boat house height limits and allowing utilities within the natural environment.

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 Port Orchard does not meet the criteria which require preparation of a small business impact statement.

Hearing Location: City Council Chambers, Port Orchard City Hall, 216 Prospect Street, Port Orchard, 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 21, 1994
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-02, filed 6/16/92, effective 7/17/92)

WAC 173-19-2602 Port Orchard, city of. City of Port Orchard master program approved March 10, 1977. Revision approved June 16, 1992. Revision approved April 27, 1994.

WSR 94-04-111

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed February 2, 1994, 10:03 a.m.]

Original Notice.

Title of Rule: LAAM/hydriodic acid.

Purpose: Move LAAM (levo-alphaacetylmetadol) into Schedule II and place hydriodic acid into the Schedule II precursor list.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This rule change moves LAAM, which has been a Schedule I drug into Schedule II per change by the

DEA, allowing its use for legitimate purposes. It also places hydriodic acid into the Schedule II precursor list due to its use in California for manufacture of illegal drugs and to prevent its use in our state.

Reasons Supporting Proposal: These are being done to comply with federal rule placement of LAAM and at the request of the state patrol and DEA.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald Williams, 1300 Quince S.E., Olympia, WA 98504-7863, 753-6834.

Name of Proponent: Donald Williams, governmental.

Rule is necessary because of federal law, 21 CFR Part 1308.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will place levo-alpha-cetylmethadol into Schedule II for legitimate use as per rule change by DEA and will place hydriodic acid into Schedule II precursors due to its use in illegal drug manufacture.

Proposal Changes the Following Existing Rules: Changes placement of LAAM into Schedule II and places hydriodic acid into precursor Schedule II.

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

The LAAM change does not affect businesses financially and the hydriodic acid change [does] not affect legitimate businesses.

Hearing Location: Courtyard Inn, 400 Andover Park Boulevard, Tukwila, WA, on March 15, 1994, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, 1300 Quince S.E., Olympia, WA 98504-7863, by March 11, 1994.

Date of Intended Adoption: March 15, 1994.

February 1, 1994
Donald Williams
Executive Director

AMENDATORY SECTION (Amending Order 239B, filed 1/28/92, effective 2/29/92)

WAC 246-887-100 Schedule I. The board finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United States or that they lack accepted safety for use in treatment under medical supervision. The board, therefore, places each of the following substances in Schedule I.

(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol; (except for levo-alpha-cetylmethadol - also known as levo-alpha-cetylmethadol, levomethadyl acetate or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Benzethidine;

(9) Betacetylmethadol;

(10) Betameprodine;

(11) Betamethadol;

(12) Betaprodine;

(13) Clonitazene;

(14) Dextromoramide;

(15) Diampromide;

(16) Diethylthiambutene;

(17) Difenoxin;

(18) Dimenoxadol;

(19) Dimepheptanol;

(20) Dimethylthiambutene;

(21) Dioxaphetyl butyrate;

(22) Dipipanone;

(23) Ethylmethylthiambutene;

(24) Etonitazene;

(25) Etoxidine;

(26) Furethidine;

(27) Hydroxypethidine;

(28) Ketobemidone;

(29) Levomoramide;

(30) Levophenacylmorphan;

(31) 3-Methylfentanyl (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(32) Morpheridine;

(33) MPPP (1-Methyl-4-phenyl-4-propionoxypiperidine);

(34) Noracymethadol;

(35) Norlevorphanol;

(36) Normethadone;

(37) Norpipanone;

(38) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(39) Phenadoxone;

(40) Phenampromide;

(41) Phenomorphan;

(42) Phenoperidine;

(43) Piritramide;

(44) Proheptazine;

(45) Properidine;

(46) Propiram;

(47) Racemoramide;

(48) Tilidine;

(49) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;

(2) Acetyldihydrocodeine;

(3) Benzylmorphine;

(4) Codeine methylbromide;

(5) Codeine-N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) Dihydromorphine;

- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
- (2) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;
- (3) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxy-amphetamine, PMA;
- (4) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (5) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";
- (6) 3,4-methylenedioxy amphetamine;
- (7) 3,4-methylenedioxymethamphetamine (MDMA);
- (8) 3,4,5-trimethoxy amphetamine;
- (9) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- (10) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
- (11) Dimethyltryptamine: Some trade or other names: DMT;
- (12) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1',2':1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- (13) Lysergic acid diethylamide;
- (14) Marihuana;
- (15) Mescaline;
- (16) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
- (17) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture,

salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 USC § 812 (c), Schedule I (c)(12))

- (18) N-ethyl-3-piperidyl benzilate;
- (19) N-methyl-3-piperidyl benzilate;
- (20) Psilocybin;
- (21) Psilocyn;

(22) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp., and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or transtetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) Delta 6 - cis - or transtetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4 - cis - or transtetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(23) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(24) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(25) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (i) Mecloqualone;
- (ii) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (i) Fenethylline;
- (ii) N-ethylamphetamine;
- (iii) 4-methylaminorex;
- (iv) N,N-dimethylamphetamine.

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

AMENDATORY SECTION (Amending Order 239B, filed 1/28/92, effective 2/29/92)

WAC 246-887-140 Schedule II. The board finds that the following substances have a high potential for abuse and have currently accepted medical use in treatment in the

United States, or currently accepted medical use with severe restrictions and that the abuse of the following substances may lead to severe psychic or psychological dependence. The board, therefore, places each of the following substances in Schedule II.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine hydrochloride;
- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone; and
- (xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylcegonine (cocaine—its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;

(5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alpha-acetylmethadol - also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM;

(12) Levomethorphan;

~~((12))~~ (13) Levorphanol;

~~((13))~~ (14) Metazocine;

~~((14))~~ (15) Methadone;

~~((15))~~ (16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;

~~((16))~~ (17) Moramide—Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

~~((17))~~ (18) Pethidine (meperidine);

~~((18))~~ (19) Pethidine—Intermediate—A,4-cyano-1-methyl-4-phenylpiperidine;

~~((19))~~ (20) Pethidine—Intermediate—B,ethyl-4-phenylpiperidine-4-carboxylate;

~~((20))~~ (21) Pethidine—Intermediate—C,1-methyl-4-phenylpiperidine-4-carboxylic acid;

~~((21))~~ (22) Phenazocine;

~~((22))~~ (23) Piminodine;

~~((23))~~ (24) Racemethorphan;

~~((24))~~ (25) Racemorphan;

~~((25))~~ (26) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, optical isomers, and salts of optical isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine;

(2) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(3) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

- (ii) 1-piperidinocyclohexanecarbonitrile (PCC).
- (g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. (Some other names for dronabinol [6aR-trans]-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.)

(2) Nabilone. (Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.)

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

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-887-150 Schedule II immediate precursors. (1) The board finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the manufacture of a Schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(2) Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated with the preparation of controlled substances shall be a Schedule II controlled substance.

- (a) Anthranilic acid.
- (b) Ephedrine.
- (c) Hydriodic acid.
- (d) Methylamine.
- ~~((+))~~ (e) Phenylacetic acid.
- ~~((+))~~ (f) Pseudoephedrine.
- ~~((+))~~ (g) Methephedrine.
- ~~((+))~~ (h) Lead acetate.
- ~~((+))~~ (i) Methyl formamide.

Provided: That any drug or compound containing Ephedrine, or any of its salts or isomers, or Pseudoephedrine, or any of its salts or isomers that are prepared for dispensing or over-the-counter distribution and are in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances for the purpose of this section: *And Provided Further,* That any cosmetic containing lead acetate that is distributed in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances.

AMENDATORY SECTION (Amending Order 277B, filed 5/28/92, effective 6/28/92)

WAC 246-889-020 Precursor substance defined. (1) For the purpose of this chapter a precursor substance is any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;
- (c) Chloephedrine;
- (d) Diethyl malonate;
- (e) D-lysergic acid;

- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Hydriodic acid.
- (l) Lead acetate;
- ~~((+))~~ (m) Malonic acid;
- ~~((+))~~ (n) Methylamine;
- ~~((+))~~ (o) Methylformamide;
- ~~((+))~~ (p) Methylephedrine;
- ~~((+))~~ (q) Methylpseudoephedrine;
- ~~((+))~~ (r) N-acetylanthranilic acid;
- ~~((+))~~ (s) Norpseudoephedrine;
- ~~((+))~~ (t) Phenylacetic acid;
- ~~((+))~~ (u) Phenylpropanolamine;
- ~~((+))~~ (v) Piperidine;
- ~~((+))~~ (w) Pseudoephedrine; and
- ~~((+))~~ (x) Pyrrolidine.

Provided; that this definition shall not include any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine or any cosmetic if that drug or cosmetic can be lawfully sold, transferred, or furnished over-the-counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) The board finds that the reference to methylformamide in RCW 69.43.010, was intended to refer to methylformamide and corrects that reference by deleting "methylformamide" and adding "methylformamide." This change is based upon the finding that this revision conforms to the tests set forth in RCW 69.43.010(2).

(3) Registrants should be aware that precursor substances in subsection (1)(a), (f), ~~((k), (m), (n), (s), and (v))~~ (l), (n), (o), (t), and (w) of this section are also regulated as schedule II immediate precursors pursuant to WAC 246-887-150 and all applicable rules and laws governing the distribution of schedule II controlled substances must also be complied with.

WSR 94-04-112
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed February 2, 1994, 10:04 a.m.]

Original Notice.

Title of Rule: Pharmacy assistants—Various.

Purpose: Allows pharmacy assistants to perform nondiscretionary, manipulative tasks which will free up pharmacists to perform more patient care duties.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This establishes rules for training and special procedures related to pharmacy assistants to perform nondiscretionary, manipulative tasks, which will free up pharmacists to perform more patient care tasks.

Reasons Supporting Proposal: Pharmacists time can more appropriately be used with patient care, allowing the manipulative tasks to be done by pharmacy assistants with special training.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 1300 Quince S.E., Olympia, WA 98504-7863, 753-6834.

Name of Proponent: Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule change would establish rules by which pharmacy assistants could receive special training and could perform certain nondiscretionary, manipulative tasks, allowing pharmacists to perform more patient oriented tasks.

Proposal Changes the Following Existing Rules: Establishes those guidelines which must be followed for training and procedures to allow the pharmacy assistants to perform those tasks.

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

Hearing Location: Courtyard Inn, 400 Andover Park Boulevard, Tukwila, WA, on March 15, 1994, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, 1300 Quince S.E., P.O. Box 47863, Olympia, WA 98504-7863, by March 11, 1994.

Date of Intended Adoption: March 15, 1994.

February 1, 1994
Donald H. Williams
Executive Director

NEW SECTION

WAC 246-901-010 Definitions. (1) "Consultation" means:

(a) A communication or deliberation between a pharmacist and a patient, a patient's agent, and/or a patient's health care provider in which the pharmacist uses professional judgment to provide advice about drug therapy.

(b) A method by which the pharmacist meets patient information requirements as set forth in WAC 246-869-220.

(2) "Dispense" as defined in RCW 18.64.011(16).

(3) "Intravenous admixture preparation" means the preparation of a drug product that combines two or more ingredients using aseptic technique and is intended for administration into a vein.

(4) "Parenteral" as defined in WAC 246-871-020.

(5) "Pharmacy assistant specialized function" means a function that the board has determined does not require the supervision normally required by a Level A pharmacy assistant but does require additional training.

(6) "Prescription" as defined in RCW 18.64.011(8).

(7) "Responsible manager" as defined in WAC 246-869-070.

(8) "Unit-dose" and "unit-dose drug distribution system" as defined in WAC 246-865-010.

(9) "Unit-dose medication cassettes" means containers for a patient's medications into which each individually packaged and labeled drug is placed.

(10) "Verification" means that the pharmacist has reviewed a patient drug order initiated by an authorized prescriber, has examined the patient's drug profile, and has approved the drug order after taking into account pertinent drug and disease information to insure the correctness of the drug order for a specific patient. The verification process must generate an audit trail that identifies the pharmacist.

The pharmacist who performs the verification of a drug order is responsible for all reports generated by the approval of that order. The unit-dose medication fill and check reports are an example.

AMENDATORY SECTION (Amending Order 277B, filed 5/28/92, effective 6/28/92)

WAC 246-901-020 Level A pharmacy assistants utilization. (1) Level A pharmacy assistants may assist in performing, under the immediate supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy.

(2) Immediate supervision shall include visual and/or physical proximity that will insure adequate safety controls(~~(7) except that the board of pharmacy may apply the standards of the joint commission on accreditation of hospitals for facilities licensed pursuant to chapters 70.41 or 71.12 RCW~~)).

(3) The following shall not be considered to be manipulative and nondiscretionary functions associated with the practice of pharmacy:

(a) Consultation with the prescriber regarding the patient and his prescription.

(b) Receipt of a verbal prescription other than refill approval or denial from a prescriber.

(c) Consultation with the patient regarding the prescription, both prior to and after the prescription filling and/or regarding any information contained in a patient medication record system.

(d) Interpretation and identification of the contents of the prescription document.

(e) Determination of the product required for the prescription.

(f) Extemporaneous compounding of the prescription, except in accordance with written policies and procedures in accordance with WAC 246-901-100, whereby the accuracy, correct procedure and preparation, and safety of pharmaceutical constituents can be verified by the pharmacist.

(g) Interpretation of data in a patient medication record system.

(h) Final check on all aspects of the completed prescription and assumption of the responsibility for the filled prescription, including but not limited to accuracy of drug, strength, labeling, and proper container provided that a Level A pharmacy assistant may perform specialized functions. The employer and the responsible manager are responsible and liable for the acts performed by the Level A pharmacy assistant as set forth in WAC 246-901-100(2) board-approved utilization plan.

(i) Dispense prescriptions to patient with proper patient information as required by WAC 246-869-220.

(j) Any duty required by law, rule or regulation to be performed only by a registered pharmacist.

(4) Except for a specialized function approved by the board for the location, a Level A pharmacy assistant shall not release any drug ordered for a specific patient from the pharmacy or satellite pharmacy that has not been checked by a licensed pharmacist.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91)

WAC 246-901-030 Level A education and training.

(1) The education and/or training of Level A pharmacy assistants shall be obtained (~~((#))~~ from one of the following (~~((manners))~~):

(a) Formal academic program for pharmacy assistant training approved by the board.

(b) On-the-job training program (~~((following guidelines))~~) approved by the board.

(2) The minimum educational (~~((requirement))~~) prerequisite for entering a training program shall be high school graduation or G.E.D.

(3) Applicants whose academic training has been obtained in foreign countries shall meet certification requirements in one of the following:

(a) Foreign pharmacy school graduates. Board approval of program completed for the degree.

(b) Foreign medical school graduates. Board approval of program completed for the degree.

(c) In addition, foreign trained applicants must earn five hundred twenty hours of supervised experience in an approved pharmacy assistant training program.

(4) All foreign graduates for whom English is not the primary language shall provide proof of receiving a score of at least 550 on the Test of English as a Foreign Language (TOEFL) prior to certification.

(5) Prior to performing specialized functions, Level A pharmacy assistants shall complete specialized training and meet proficiency criteria.

(a) Unit-dose medication checking. The training proficiency criteria requires demonstration of 99% accuracy in medication checking.

(b) Intravenous admixture preparation. The training proficiency criteria requires demonstration of 100% accuracy in intravenous admixture preparation of a representative sample of preparations provided by the facility using aseptic technique.

NEW SECTION

WAC 246-901-035 Pharmacy assistants specialized functions. A Level A pharmacy assistant who meets established criteria for employment, experience, training and demonstrated proficiency may perform specialized functions. The criteria shall be specified in the utilization plan of the pharmacy for Level A pharmacy assistants performing specialized functions required in WAC 246-901-100 (2)(b). Records of Level A pharmacy assistant training and of demonstration of proficiency shall be kept on file in the pharmacy. Specialized functions include the following:

(1) Unit-dose medication checking. Following verification of the drug order by a licensed pharmacist, a Level A pharmacy assistant may check unit-dose medication cassettes filled by another Level A pharmacy assistant or pharmacy intern in pharmacies serving facilities licensed pursuant to chapter 70.41, 71.12, 71A.20 or 74.42 RCW. No more than a forty-eight hour supply of drugs may be included in the patient medication cassettes and a licensed health professional must check the drug before administering it to the patient.

(2) Intravenous admixture and other parenteral preparations. A Level A pharmacy assistant may prepare intravenous admixtures and other parenteral drugs. Each parenteral drug prepared by a Level A pharmacy assistant must be checked by a licensed pharmacist.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-901-100 Board approval of pharmacies utilizing pharmacy assistants. (1) Application. All licensed pharmacies may apply on a form supplied by the board for permission to utilize the services of pharmacy assistants.

(2) Utilization plan for Level A pharmacy assistants.

(a) General. The application for approval must describe the manner in which the pharmacy assistants will be utilized and supervised, including job descriptions, task analysis or similar type documents that define the duties performed and the conditions under which they are performed, number of positions in each category, as well as other information as may be required by the board. The board will be notified of all changes to the utilization plan. A copy of the utilization plan must be maintained in the pharmacy.

(b) Specialized function. The utilization plan for Level A pharmacy assistants performing specialized functions. The utilization plan must include:

(i) The criteria for selection of Level A pharmacy assistants to perform specialized functions;

(ii) A description of the methods of training and of initial demonstration of proficiency;

(iii) A copy of the part of the section of the pharmacy's quality assurance plan related to pharmacy assistants specialized functions;

(iv) As well as other information that may be required by the board.

(c) To gain approval for specialized functions, a pharmacy must follow board-approved guidelines regarding pharmacy assistant training, implementation and evaluation.

(3) Utilization plan for Level B pharmacy assistants. The application for approval shall list the job title or function of the pharmacy assistant.

(4) The board may give conditional approval for pilot or demonstration projects for innovative applications in the utilization of pharmacy assistants.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-901-130 Pharmacist to pharmacy assistant ratio. (1) RCW 18.64A.040 establishes a ratio of pharmacists to Level A pharmacy assistants who are performing Level A functions. This ratio is one pharmacist to one Level A pharmacy assistant in most pharmacies, including hospital outpatient activities and one to three in pharmacies associated with inpatient hospital services including those pharmacies operating in connection with facilities licensed pursuant to chapter 70.41, 71.12, 71A.20 or 74.42 RCW.

(2) In determining which pharmacists may be included in the calculation of the ratio, the board will consider approval of pharmacy assistant utilization plans which include all pharmacists within the pharmacy who are engaged in the actual practice of pharmacy. When the

pharmacy provides service to inpatients of a hospital or extended care facility, pharmacists who are practicing pharmacy outside of the confines of the licensed pharmacy (e.g., performing nursing unit inspections, reviewing charts, consulting with health professional staff) may be included in the ratio, provided:

(a) There are sufficient numbers of pharmacists within the pharmacy to properly supervise the work of the pharmacy assistants;

(b) The pharmacy is not open to the public;

(c) The medications are being checked by another health professional before being given to the patient;

(d) Drug orders are not dispensed from the pharmacy without being checked by a licensed pharmacist or pharmacy intern except for board-approved Level A pharmacy assistant specialized functions provided a Level A pharmacy assistant may check unit-dose medication cassettes.

WSR 94-04-113
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed February 2, 1994, 10:05 a.m.]

Original Notice.

Title of Rule: Examinations/reciprocity.

Purpose: Establishes time limits and procedures on abandoned reciprocity and score transfer applications and clarifies requirements for score transfer applicants.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: Sets a time limit on applications for reciprocity actions and for score transfer and denies refund of fees paid after the time limit is reached. Also, establishes that score transfer applicants must meet the same requirements as those testing in Washington state.

Reasons Supporting Proposal: To prevent backlogs of actions which have not been completed in a timely manner and are therefore considered abandoned and to determine disposal of abandoned fees. Also, clarifies requirements for score transfer applicants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, Board of Pharmacy, 1300 Quince S.E., P.O. Box 47863, Olympia, 98504-7863.

Name of Proponent: Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will establish time limits on reciprocity applications and score transfer and procedures to be followed when those time limits have passed. Also, clarifies requirements to be met by score transfer applicants identical to those who took the exam in Washington state.

Proposal Changes the Following Existing Rules: Establishes some new deadlines and procedures for applications considered abandoned and clarifies requirements for score transfer applicants.

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

Does not affect businesses, only individuals.

Hearing Location: Courtyard Inn, 400 Andover Park Boulevard, Tukwila, WA, on March 15, 1994, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, 1300 Quince S.E., P.O. Box 47863, Olympia, WA 98504-7683, by March 11, 1994.

Date of Intended Adoption: March 15, 1994.

February 1, 1994

Donald H. Williams
 Executive Director

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-863-020 Examinations. (1) The examination for licensure as a pharmacist shall be known as the full board examination in such form as may be determined by the board.

(2) The score required to pass the examination shall be 75. In addition, the score achieved in the jurisprudence section of the exam shall be no lower than 75.

(3) An examinee failing the jurisprudence section of the full board examination shall be allowed to retake the jurisprudence section at a time and place to be specified by the board.

(4) An examinee who fails the jurisprudence examination three times shall not be eligible for further examination until he or she has satisfactorily completed a pharmacy law course provided by a college of pharmacy or board directed study or tutorial program approved by the board.

(5) A person taking the licensing examination in another state for the purpose of score transfer to Washington shall be required to meet the same licensure requirements as a person taking the licensing examination in Washington. All of the documentation, fees, intern hours and reports shall be submitted. In order for the score transfer application to be valid, the licensing process must be completed within one year of the date the score transfer notification is received in the board office.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-863-030 Applicants—Reciprocity applicants. (1) Applicants for license by reciprocity whose applications have been approved shall be required to take and pass the jurisprudence examination given by the board prior to being issued his or her license. The jurisprudence examination shall be offered at least once in every two months. If the licensing process has not been completed within two years of the date of application, the application shall be considered abandoned.

Refund of the state application fee shall not be made for any request not received within one year or for those applicants who have attempted the jurisprudence examination and have failed to achieve a passing score.

(2) An applicant for license by reciprocity who has been out of the active practice of pharmacy for between three and five years must take and pass the jurisprudence examination and additionally must either serve an internship of 300 hours or take and pass such additional practical examinations as may be specified by the board in each individual case.

(3) An applicant for license by reciprocity who has been out of the active practice of pharmacy for over five years

must take and pass the full board examination and serve an internship of 300 hours.

WSR 94-04-114
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 2, 1994, 10:06 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations; and repealing WAC 232-28-226 1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations.

Purpose: Adopt WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule adopts the hunting seasons for deer and black bear for the next three years.

Reasons Supporting Proposal: Establishes time, place and manner of deer and bear hunting seasons to provide recreational opportunity and prevent overharvest of the deer and bear resource.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes time, place and manner of deer and bear hunting seasons to provide recreational opportunity and prevent overharvest of the deer and bear resource.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.; and at the Red Lion Inn, 1507 North First Street, Yakima, WA 98901, on March 26, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 2, 1994
 Dave Britnell
 Acting Deputy Director
 for Rich Poelker
 Administrative Rules Officer

NEW SECTION

WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations

DEER

Bag Limit: One (1) deer per hunter during an annual (July 1-March 31) hunting season.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, and 450.

Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

General Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
Northeastern				
100-124 (See late buck for extended whitetail season).	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only
Southeastern				
127-185 Except closed in 157	Oct. 15-23	Oct. 14-22	Oct. 12-20	3 pt. min.
Okanogan & Chelan				
200-242	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMUs 203 and 231.
300-316	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMU 306
Columbia Basin				
248-278, 278, 284	Oct. 15-21	Oct. 14-20	Oct. 12-18	Buck only
281	Oct. 15-23	Oct. 14-22	Oct. 12-20	Either sex
Colockum and Central				
328-334	Oct. 15-25	Oct. 14-25	Oct. 12-25	Buck only
335-370	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only
Western				
405-472, 580, 601- 684. Closed in GMU 522. Permit only in GMU 485.	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except either sex in GMUs 410, 480, and 564; and 2 pt. min. in GMUs 433, 478, 558, 636, and 681; and 3 pt. min. in GMU 450.
574, 576, 584, 586, 588	Oct. 15-Nov. 6	Oct. 14-Nov. 14	Oct. 12-Nov. 6	2 pt. min.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
105-124	Nov. 1-20	Nov. 1-19	Nov. 1-25	Whitetail buck only

All 400, 500, & 600 Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, 588	Nov. 17-20	Nov. 16-19	Nov. 21-24	Buck only except 2 pt. min. in GMUs 433, 478, 558, 636, and 681 and 3 pt. min. in GMU 450 and either sex in GMU 410 and 564
--	------------	------------	------------	---

Archery Deer Seasons

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

Early Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
100-118, 121, 124, 215, 233, 300, 316	Sept. 15-Oct. 8	Sept. 15-Oct. 7	Sept. 15-Oct. 5	Either sex
127, 130 133	Sept. 15-Oct. 8	Sept. 15-Oct. 7	Sept. 15-Oct. 5	3 pt. min. or or antlerless
136-154, 160-169, 175-185, 231, 306	Sept. 15-Oct. 12	Sept. 15-Oct. 11	Sept. 15-Oct. 9	3 pt. min. or or antlerless
200, 206, 218, 224, 239, 248-284, 308, 335-340, 352, 356, 364, 370, 405-426, 440, 442, 454-472, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554, 556, 560, 568, 572, 580, 601, 602, 607, 615, 618, 621, 627, 633, 638, 642-658, 663, 667, 669, 678	Sept. 15-Oct. 12	Sept. 15-Oct. 11	Sept. 15-Oct. 9	Either sex
433, 478, 558, 574, 576, 584, 586, 588, 681	Sept. 15-Oct. 12	Sept. 15-Oct. 11	Sept. 15-Oct. 9	2 pt. min. or or antlerless
328-334, 480	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
203, 301, 450	Sept. 15-Oct. 8	Sept. 15-Oct. 7	Sept. 15-Oct. 5	3 pt. min. or antlerless
172, 302	Sept. 15-28	Sept. 15-28	Sept. 15-28	3 pt. min. or antlerless
119, 242, 304, 360, 448, 484, 564, 603, 612, 624, 666, 672, 684	Sept. 15-28	Sept. 15-28	Sept. 15-28	Either sex
636	Sept. 15-28	Sept. 15-28	Sept. 15-28	2 pt. min. or antlerless
660	Sept. 15-Oct. 8	Sept. 15-Oct. 7	Sept. 15-Oct. 5	2 pt. min. or antlerless
501, 506	Sept. 15-Oct. 4	Sept. 15-Oct. 8	Sept. 15-Oct. 6	Either sex
Bow Area 802	Sept. 15-Oct. 12	Sept. 15-Oct. 11	Sept. 15-Oct. 9	Either sex

Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
103, 118, 121, 124	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Whitetail only; either sex
127, 166, 178	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
209, 215, 233, 242, 272, 300, 304, 316, 346, 352, 364	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
558, 584, 588, 636, 681	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min or antlerless
417, 418, 426, 440, 448, 460, 466, 480, 510, 512, 514, 516, 520, 572, 601, 607, 612, 615, 618, 638, 648, 669, 678	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
450	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min
Bow Areas	1994 Dates	1995 Dates	1996 Dates	Legal Deer
802	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Either sex
820	Dec. 24-Jan. 8, 1995	Dec. 24-Jan. 8, 1996	Dec. 24-Jan. 8, 1997	Either sex

Extended Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
405, 410, 442, 454, 484, 505, 506, 564, 568, 603, 624, 627*, 642, 660, 663, 666, 667, 672, and Deer Areas 041 and 042	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
433	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	2 pt. min. or antlerless

* Submarine Base Bangor within GMU 627 is antlerless only.

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits except on Private Land Management Area 201.

High Buck Hunt

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

Early Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
119, 209, 242, 564, 666	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
506	Oct. 6-12	Oct. 5-11	Oct. 3-9	Buck only
302, 304, 360, 368, 484, 603, 612, 624, 672	Oct. 1-12	Oct. 1-11	Oct. 1-9	Buck only

Late Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
113	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Whitetail only either sex
130, 133, 136, 139, 181	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	3 pt. min or antlerless
304	Nov. 12-20	Nov. 11-19	Nov. 10-18	Buck only
410	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
478	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min. or antlerless
501, 504, 550	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
580	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Buck only
576, 586	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min
602, 633, 651, 684	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
666	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex

Muzzleloader Area

925	Dec. 1-31	Dec. 1-31	Dec. 1-31	Antlerless only
926	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Either sex

Firearm Restricted Deer Hunts Open To All Deer Hunters

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

GMUs	Weapon Permitted	1994 Dates	1995 Dates	1996 Dates	Legal Deer
410 & 480	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex
564	Archery, Shotgun, Muzzleloader	Nov. 17-Dec. 31	Nov. 16-Dec. 31	Nov. 21-Dec. 31	Either sex
627*	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex

*Only that portion of GMU 627 (Kitsap) on Vashon, Maury and Heron Islands.

Private Land Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	Special Restrictions
Archery	Sept. 15-Oct. 12	Antlerless or 2 pt. min.
Modern Firearm		
General	Oct. 15-31	2 pt. min.
Late Buck	Nov. 17-20	2 pt. min.
Muzzleloader	Nov. 23-Dec. 8	Antlerless or 2 pt. min.

BLACK BEAR

Bag Limit: Fall general - One (1) black bear.

Tag Sale Deadline: Bear tags must be purchased by midnight of the day preceding modern firearm deer season opener. Actual dates are: Oct. 14, 1994; Oct. 13, 1995; Oct. 11, 1996.

PURSUIT ONLY SEASON

It is lawful to pursue or tree black bears during established pursuit-only seasons, provided any bear pursued or treed is NOT killed or injured. Hunters participating in a pursuit only season for black bear must have a valid hound stamp, and hunting license. A bear tag is not required to pursue black bear during the pursuit only season.

Aug. 1-31, 1994, 1995, and 1996, in GMUs 100-111, GMU 113 outside of Selkirk Grizzly Bear Recovery Zone*, GMUs 118-124 and GMUs 200 and 206.

The following regulations apply to the practice of HUNTING BLACK BEAR WITH BAIT and are effective June 1, 1994.

Definition of Bait: A bait shall be defined as any substance placed with the intent of attracting bear.

Bait Types: The following materials are legal baits for hunting and pursuing black bear: Unprocessed plant and plant parts including fruit, inedible parts of legally obtained game fish, and game animals, carcasses of legally trapped furbearing animals (hide removed), carcasses of food fish, unclassified fish and unclassified wildlife, and parts of domestic livestock carcasses.

Baits may not contain paper, cardboard, plastic, glass, aluminum, tin, or styrofoam, or other packaging materials.

All other baits are illegal.

Placement of Bait: Baits for black bear may not be placed in an area until ten days prior to the start of that area's established bear harvest season.

A bait may not be placed within fifty yards of any body of water (lake, pond, reservoir, stream, river, and spring), and not within two hundred yards of any publicly maintained trail and/or open road.

A bait may not be placed within one-half mile of any publicly designated administrative site, campground, picnic area, landfill or dump site, and not within one-quarter mile of any permanent residence or seasonal dwelling (except that private landowners may bait on their property within one-quarter mile of their own residence or seasonal dwelling when such baiting does not violate any of the aforementioned distance requirements with adjacent landholders).

Bait Containers: Bait must be contained within an excavated pit, or within a confine constructed of materials located at the site. Such containment structures might include, but not be restricted to, log cubbies, rock pilings and stumps. Containers may also be used to hold bait, but if used, must be securely fastened (to tree, ground, post, etc.).

Any items used to fasten bait containment materials such as nails, screws, bolts, rope, reinforcing rod, and spikes shall be removed from the area within ten days of the close of the bear harvest season. Excavated pits shall be filled, the area shall be returned to pre-baiting condition. Materials used to construct and erect tree stands overlooking the bait shall be removed within the same ten day period (except that tree stands may be left on private property with landowner's permission).

Options To Be Considered (for the regulation of baiting):

Bait Types: All baits types are legal, including, but not limited to, inedible portions of game fish and game animals, carcasses of legally trapped furbearing animals (Hide, removed), food fish carcasses, and carcasses of unclassified wildlife. Domestic livestock carcasses may not be used as bait.

Baits may not contain paper, cardboard, plastic, glass, aluminum, tin styrofoam, or other packaging materials.

Placement of Bait: Baits for black bear may not be placed in an area until 30 days prior to the start of that areas established bear harvest season.

Bait Containers: No container requirements for bait.

Any items used to fasten bait containment materials such as nails, screws, bolts, rope reinforcing rod, and spikes shall be removed from the area within 48 hours of the close of the bear harvest season, and the area returned to pre-baiting condition. Materials used to construct and erect tree stands overlooking the bait shall be removed within the same 48 hours period (except that tree stands may be left on private property with landowner's permission).

Options To Be Considered:

Maintain the current unregulated practice of hunting bear with bait.

Retain the practice of hunting black bears with bait, and require hunters to affix an identifying number at their sites.

Eliminate hunting bear with bait.

OPEN SEASON

(Bear may be killed.)

Eastern Washington*

Sept. 7-Oct. 31, 1994, Sept. 6-Oct. 31, 1995, Sept. 4-Oct. 31, 1996, except restrictive season below in Walla Walla and Columbia counties outside of Umatilla National Forest.

*Walla Walla and Columbia counties: Bear season open on private lands to boot hunters only (no hounds or bait may be used to hunt bear), Sept. 7-Oct. 31 1994; Sept. 6-Oct. 31, 1995; and Sept. 21-Oct. 31, 1996.

* Use of hounds and bait to hunt black bear prohibited in that part of GMU 113 within the Selkirk Grizzly Bear Recovery Zone*.

*Selkirk Grizzly Bear Recovery Zone: (Pend Oreille County): Beginning at the junction of the Canadian-Washington border and State Route 31 by Boundary Lake; then east along the Canadian border to the Idaho border; then south along the Idaho-Washington border to the ridge top between Bath Creek and Lamb Creek at Section 1, Township 35 North, Range 45 East; then west along said ridge top to USFS Road 310; then west along USFS Road 310 to the peak of Gleason Mountain; then west along USFS Trail 162 to Hungry Mountain; then south and west along the ridge top between Fourth of July Creek and Middle Creek to the mouth of LeClerc Creek; then north along the ridge top between the Pend Oreille River and the West Branch LeClerc Creek (Dry Canyon Ridge) to Sullivan Lake Road; then north and east along Sullivan Lake Road to Sullivan Lake; then north along the east shoreline of Sullivan Lake to Sullivan Lake Road; then north and west along Sullivan Lake Road to the city limits of Metaline Falls; then north along the city limits of Metaline Falls to State Route 31; then north along State Route 31 to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map.)

(Draft) North Cascades Grizzly Bear Recovery Zone (D)NCGBRZ - Special Regulations

NOTE: A boundary description of the North Cascades Grizzly Bear Recovery Zone will appear in the hunting season pamphlet when the area is officially designated.

Hunting black bear with the use or aid of bait is prohibited in the (D) NCGBRZ within designated Situation 1 areas, which include all wilderness areas and the North Cascades National Park Complex.

Hunters may bait for black bear in undesignated areas of the (D)NCGBRZ during the 1994 season. Educational information and baiting permits will be available on a voluntary basis during the 1994 season, and hunters are encouraged to participate. Beginning in 1995, hunters wishing to use bait in undesignated (D)NCGBRZ areas will be required to be an Advanced Hunter Graduate (AHE), and/or to obtain a bait hunter education certificate from the Washington Department of Wildlife.

Western Washington

Aug. 1-Oct. 31, 1994; Aug. 1-Oct. 31, 1995; Aug. 1-Oct. 31, 1996, EXCEPT Sept. 14-Oct. 31, 1994; Sept. 13-Oct. 31, 1995; and Sept. 11-Oct. 31, 1996; in Bow Area 802. CLOSED in GMUs 485 and 522.

HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684, and Bow Area 802.

TOOTH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper and lower jaw for age determination. Tooth envelopes are available from Department of Wildlife regional offices.

REPORT CARDS

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Wildlife within ten days after taking a deer or bear.

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 94-04-115
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed February 2, 1994, 10:07 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-241 1994-95, 1995-96, 1996-97 Official hunting hours and small game seasons; and repealing WAC 232-28-228 1991-92, 1992-93, and 1993-94 Official hunting hours and small game seasons.

Purpose: Adopt WAC 232-28-241 1994-95, 1995-96, 1996-97 Official hunting hours and small game seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule adopts the hunting hours and small game seasons for 1994, 1995 and 1996.

Reasons Supporting Proposal: Establishes time, place and manner of hunting seasons to provide recreational opportunity and prevent overharvest of the resource.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes time, place and manner of hunting seasons to provide recreational opportunity and prevent overharvest of the resource.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.; and at the Red Lion Inn, 1507 North First Street, Yakima, WA 98901, on March 26, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 2, 1994

Dave Brittell

Acting Deputy Director

for Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-241 1994-95, 1995-96, and 1996-97

Official hunting hours and small game seasons

1994-95 OFFICIAL HUNTING HOURS*
September 1, 1994 to January 31, 1995

Dates (Inclusive)	Western Washington			Eastern Washington		
	A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time						
Thurs. Sept. 1 - Sun. Sept. 4	6:00		7:45	5:45		7:35
Mon. Sept. 5 - Sun. Sept. 11	6:05		7:35	5:55		7:25
Mon. Sept. 12 - Sun. Sept. 18	6:15		7:20	6:05		7:10
Mon. Sept. 19 - Sun. Sept. 25	6:25		7:10	6:10		6:55
Mon. Sept. 26 - Sun. Oct. 2	6:35		6:55	6:25		6:40
Mon. Oct. 3 - Sun. Oct. 9	6:45		6:40	6:35		6:25
Mon. Oct. 10 - Sun. Oct. 14	6:55		6:25	6:40		6:15
Opening Weekend**		Sat. Oct. 15	7:00	6:20		6:10
		Sun. Oct. 16	7:00	6:20		6:10
Mon. Oct. 17 - Sun. Oct. 23	7:05		6:10	6:55		6:00
Mon. Oct. 24 - Sat. Oct. 29	7:15		6:00	7:00		5:50
Pacific Standard Time						
Sun. Oct. 30	6:20		4:55	6:10		4:45
Mon. Oct. 31 - Sun. Nov. 6	6:25		4:50	6:15		4:35
Mon. Nov. 7 - Sun. Nov. 13	6:35		4:40	6:25		4:25
Mon. Nov. 14 - Sun. Nov. 20	6:45		4:30	6:35		4:20
Mon. Nov. 21 - Sun. Nov. 27	6:55		4:25	6:45		4:10
Mon. Nov. 28 - Sun. Dec. 4	7:05		4:20	6:55		4:10
Mon. Dec. 5 - Sun. Dec. 11	7:15		4:20	7:00		4:05
Mon. Dec. 12 - Sun. Dec. 18	7:20		4:20	7:10		4:05
Mon. Dec. 19 - Sun. Dec. 25	7:25		4:20	7:10		4:10
Mon. Dec. 26 - Sun. Jan. 1	7:25		4:25	7:15		4:15
Mon. Jan. 2 - Sun. Jan. 8	7:25		4:30	7:15		4:20
Mon. Jan. 9 - Sun. Jan. 15	7:25		4:40	7:10		4:30
Mon. Jan. 16 - Sun. Jan. 22	7:20		4:50	7:10		4:40
Mon. Jan. 23 - Sun. Jan. 29	7:15		5:00	7:00		4:50
Mon. Jan. 30 - Tues. Jan. 31	7:10		5:05	6:55		4:55

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern

- firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1995-96 OFFICIAL HUNTING HOURS*
September 1, 1995 to January 31, 1996

Dates (Inclusive)	Western Washington			Eastern Washington		
	A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time						
Fri. Sept. 1 - Sun. Sept. 3	6:00		7:50	5:45		7:35
Mon. Sept. 4 - Sun. Sept. 10	6:05		7:40	5:55		7:25
Mon. Sept. 11 - Sun. Sept. 17	6:15		7:25	6:05		7:10
Mon. Sept. 18 - Sun. Sept. 24	6:25		7:10	6:10		6:55
Mon. Sept. 25 - Sun. Oct. 1	6:35		6:55	6:20		6:45
Mon. Oct. 2 - Sun. Oct. 8	6:45		6:40	6:30		6:30
Mon. Oct. 9 - Fri. Oct. 13	6:50		6:30	6:40		6:15
Opening Weekend** Sat. Oct. 14	6:55		6:20	6:45		6:10
Weekend** Sun. Oct. 15	6:55		6:20	6:45		6:10
Mon. Oct. 16 - Sat. Oct. 22	7:05		6:15	6:50		6:00
Mon. Oct. 23 - Sat. Oct. 28	7:10		6:05	7:00		5:50
Pacific Standard Time						
Sun. Oct. 29	6:20		5:00	6:05		4:45
Mon. Oct. 30 - Sun. Nov. 5	6:25		4:50	6:10		4:40
Mon. Nov. 6 - Sun. Nov. 12	6:35		4:40	6:25		4:30
Mon. Nov. 13 - Sun. Nov. 19	6:45		4:30	6:35		4:20
Mon. Nov. 20 - Sun. Nov. 26	6:55		4:25	6:45		4:15
Mon. Nov. 27 - Sun. Dec. 3	7:05		4:20	6:55		4:10
Mon. Dec. 4 - Sun. Dec. 10	7:15		4:20	7:00		4:05
Mon. Dec. 11 - Sun. Dec. 17	7:20		4:20	7:05		4:05
Mon. Dec. 18 - Sun. Dec. 24	7:25		4:20	7:10		4:10
Mon. Dec. 25 - Sun. Dec. 31	7:25		4:25	7:15		4:10
Mon. Jan. 1 - Sun. Jan. 7	7:30		4:30	7:15		4:20
Mon. Jan. 8 - Sun. Jan. 14	7:25		4:40	7:15		4:30
Mon. Jan. 15 - Sun. Jan. 21	7:20		4:50	7:10		4:35
Mon. Jan. 22 - Sun. Jan. 28	7:15		5:00	7:00		4:45
Mon. Jan. 29 - Sun. Jan. 31	7:10		5:05	6:55		4:55

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1996-97 OFFICIAL HUNTING HOURS*
September 1, 1996 to January 31, 1997

PROPOSED

Dates (Inclusive)					Western Washington		Eastern Washington	
					A.M.	P.M.	A.M.	P.M.
Daylight Savings Time								
Sun.	Sept.	1 - Sun.	Sept.	8	6:00	7:45	5:45	7:30
Mon.	Sept.	9 - Sun.	Sept.	15	6:10	7:30	6:00	7:15
Mon.	Sept.	16 - Sun.	Sept.	22	6:20	7:15	6:10	7:00
Mon.	Sept.	23 - Sun.	Sept.	29	6:30	7:00	6:20	6:45
Mon.	Sept.	30 - Sun.	Oct.	6	6:40	6:45	6:30	6:35
Mon.	Oct.	7 - Fri.	Oct.	11	6:50	6:30	6:40	6:20
Opening Weekend**			Sat.	Oct.	12	7:00	6:45	6:10
			Sun.	Oct.	13	7:00	6:45	6:10
Mon.	Oct.	14 - Sun.	Oct.	20	7:00	6:20	6:50	6:05
Mon.	Oct.	21 - Sat.	Oct.	26	7:10	6:05	7:00	5:55
Pacific Standard Time								
Sun.	Oct.	27			6:10	5:05	6:00	4:55
Mon.	Oct.	28 - Sun.	Nov.	3	6:20	4:55	6:10	4:50
Mon.	Nov.	4 - Sun.	Nov.	10	6:30	4:45	6:20	4:30
Mon.	Nov.	11 - Sun.	Nov.	17	6:40	4:35	6:30	4:20
Mon.	Nov.	18 - Sun.	Nov.	24	6:50	4:25	6:40	4:15
Mon.	Nov.	25 - Sun.	Dec.	1	7:00	4:20	6:50	4:10
Mon.	Dec.	2 - Sun.	Dec.	8	7:10	4:20	7:00	4:10
Mon.	Dec.	9 - Sun.	Dec.	15	7:15	4:20	7:05	4:10
Mon.	Dec.	16 - Sun.	Dec.	22	7:20	4:20	7:10	4:10
Mon.	Dec.	23 - Sun.	Dec.	29	7:25	4:25	7:10	4:15
Mon.	Dec.	30 - Sun.	Jan.	5	7:25	4:30	7:15	4:15
Mon.	Jan.	6 - Sun.	Jan.	12	7:25	4:35	7:15	4:25
Mon.	Jan.	13 - Sun.	Jan.	19	7:20	4:45	7:10	4:35
Mon.	Jan.	20 - Sun.	Jan.	26	7:15	4:55	7:05	4:45
Mon.	Jan.	27 - Fri.	Jan.	31	7:10	5:05	7:00	4:55

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)
Sept. 1-30, Nov. 23-Dec. 14, 1994 and Jan. 16-31, 1995;
Sept. 1-30, Nov. 22-Dec. 14, 1995 and Jan. 16-31, 1996;
Sept. 1-30, Nov. 27-Dec. 14, 1996 and Jan. 16-31, 1997;
except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; and Sept. 1-Oct. 11, 1996.

OPEN SEASON

(Bobcat may be killed)
Oct. 15-31, 1994 and Dec. 15, 1994-Jan. 15, 1995; Oct. 14-31, 1995 and Dec. 15, 1995-Jan. 15, 1996; Oct. 12-31, 1996 and Dec. 15, 1996-Jan. 15, 1997.

Options To Be Considered:

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Sept. 1-30, 1994, Dec. 25, 1994-Jan. 31, 1995; Sept. 1-30, 1995, Dec. 25, 1995-Jan. 31, 1996; Sept. 1-30, 1996, Dec. 25, 1996-Jan. 31, 1997; except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; and Sept. 1-Oct. 11, 1996.

OPEN SEASON

(Bobcat may be killed.)

Oct. 15-31, and Nov. 24-Dec. 24, 1994; Oct. 14-31, and Nov. 23-Dec. 24, 1995; Oct. 12-31, and Nov. 28-Dec. 24, 1996.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11, 1996; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)

Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season EXCEPT for the following areas and dates. (This does not permit the hunting of deer or elk with the use of hounds.)

Eastern Washington

	<u>1994</u>	<u>1995</u>	<u>1996</u>
GMUs 100-124.	Oct. 5-12	Oct. 4-11	Oct. 2-9
GMUs 127-185.	Nov. 10-17	Nov. 9-16	Nov. 14-21
Yakima County within two (2) miles of the Yakima River below Union Gap.	Oct. 29- Nov. 13	Oct. 28- Nov. 12	Oct. 26- Nov. 10

Western Washington

Oct. 15-Nov. 20, 1994; Oct. 14-Nov. 19, 1995; Oct. 12-Nov. 24, 1996; in GMU 405 (west of Highway 9), GMUs 454, 627, 633, and the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill raccoon with use of hounds during early archery seasons.

Raccoon may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill raccoon with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; Sept. 1-Oct. 11, 1996; except CLOSED to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest.

OPEN SEASON

(Raccoon may be killed)

Oct. 15, 1994-Jan. 15, 1995; Oct. 14, 1995-Jan. 15, 1996; Oct. 12, 1996-Jan. 15, 1997.

Western Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11, 1996; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed).

Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

COYOTE

Coyote may be taken year around EXCEPT that coyote may only be killed and/or pursued with hounds during the following periods:

Eastern Washington

Sept. 1-Jan. 31, 1994-95, 1995-96, 1996-97

Western Washington

Aug. 1-Mar. 15, 1994-95, 1995-96, 1996-97

Coyote may not be taken by any means from September 15 to November 30 in the following closed areas: Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within external boundaries of the

Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1-Dec. 31 during 1994, 1995, and 1996; except CLOSED in GMU 522.

UPLAND BIRDS

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 15-Dec. 31, 1994; Noon Oct. 14-Dec. 31, 1995; Noon Oct. 12-Dec. 31, 1996.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994 - Jan. 15, 1995; Noon Oct. 14, 1995 - Jan. 7, 1996; Noon Oct. 12, 1996 - Jan. 12, 1997.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two (2) cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Oct. 1-Nov. 30, 1994; Sept. 30-Nov. 30, 1995; and Sept. 28-Nov. 30, 1996; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 15, 1994; Oct. 14, 1995; Oct. 12, 1996; except CLOSED in GMU 522.

An Upland Game Bird Punch Card is required to hunt pheasant and quail in western Washington, in addition to a current hunting license. Pheasant kills only must be recorded. Upon taking a pheasant, the holder of an Upland Game Bird Punch Card must immediately enter on the corresponding space the date and location of kill.

There are three punch card options available for the 1994, 1995, 1996 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Juvenile (under 15): Allows the harvest of six (6) pheasants.
- (3) 2-Day Option: Allows the harvest of four (4) pheasants during two consecutive days.

Every person possessing an Upland Game Bird Punch Card must by December 31, return the punch card to the Department of Wildlife. The number of punch cards purchased per person is not limited.

A hunter may select one or more valid options at the time they purchase their western Washington upland bird permit.

Special Restriction: Steelshot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Hunting is restricted on weekend mornings at Lake Terrell (all units including ARCO and INTELCO), Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) Wildlife Areas. Only hunters with western Washington upland bird permits marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered weekend days. Only hunters with western Washington upland bird permits marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters that select the two day option and juvenile hunters 14 years of age or younger may hunt during either weekend day morning. Juvenile hunters must be accompanied by an adult with an appropriately marked upland bird permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

Statewide: April 19-May 14, 1995; April 17-May 12, 1996; April 16-May 11, 1997.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. 22-26, 1996.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. 22-26, 1996. Only hunters that successfully complete the Department of Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid hunting license and turkey transport tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per calendar year for 1994. One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year in 1995 and 1996. Subspecies are defined by county of kill.

Eastern Wild Turkey: All of western Washington excluding Skamania and Klickitat counties.

Rio Grande Wild Turkey: All of eastern Washington excluding Klickitat, Ferry, Pend Oreille, and Stevens counties.

Merriam's Wild Turkey: Skamania, Klickitat, Pend Oreille, Ferry and Stevens counties.

Tag Sale Cutoff: To purchase multiple turkey tags, hunters must send \$36 and their original 1995 or 1996 turkey tag to: Upland Bird Program, Washington Department of Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. All multiple tag requests must be received by March 31, each year; a single statewide tag may be purchased at any time.

Hunting Hours: One-half hour before sunrise to sunset during spring seasons and as noted under Official Hunting Hours during fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey transport tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

Sage and Sharp-tailed Grouse

Season Closed Statewide

BIRD DOG TRAINING SEASON Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; and Aug. 1, 1996-Mar. 15, 1997, except from Oct. 1-Nov. 30, 1994, Sept. 30-Nov. 30, 1995, and Sept. 28-Nov. 30, 1996, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Vancouver Wildlife Area; Region Six - Scatter Creek Wildlife Area.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

Sept. 1-12, 1994; Sept. 1-12, 1995; Sept. 1-12, 1996.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington-Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to Highway 101 at the Astoria/Megler Bridge, then west on SR 101 to the city of Ilwaco, then west on Gray Drive to Canby Road, then southwest on Canby Road to the north jetty, then southwest on the north jetty to its end, then southeast to the Washington-Oregon state line, then upstream along the Washington/Oregon border to the point of origin.

Steel Shot Requirement: It is unlawful to possess while hunting for or to take geese with shotshells or a muzzleloader shotgun loaded with any metal other than steel in the open area of the September Canada goose season.

BAND-TAILED PIGEON

Western Washington: Closed Season Statewide, 1994, 1995, 1996.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15 during 1994, 1995, and 1996; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and White-tailed Jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, and waterfowl during established seasons.

Statewide: Sept. 1-15 and Oct. 1-Dec 31, 1994; Sept. 1-15 and Oct. 1-Dec. 31, 1995; Sept. 1-15 and Oct. 1-Dec. 31, 1996.

Rabbit and Hare - Falconry

Daily bag: Ten (10) rabbits or hares per day; straight or mixed bag.

Statewide: Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; Aug. 1, 1996-Mar. 15, 1997, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

WSR 94-04-116
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed February 2, 1994, 10:08 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations; and repealing WAC 232-28-227 1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations.

Purpose: To adopt WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule adopts the hunting seasons for elk for the next three years.

Reasons Supporting Proposal: Establishes time, place and manner of elk hunting seasons to provide recreational opportunity and prevent overharvest of the elk resource.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes time, place and manner of elk hunting seasons to provide recreational opportunity and prevent overharvest of the elk resource.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.; and at the Red Lion Inn, 1507 North First Street, Yakima, WA 98901, on March 26, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 2, 1994

Dave Brittell

Acting Deputy Director

for Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations

ELK SEASONS

Bag Limit: One (1) elk per hunter during the annual (July 1-March 31) hunting season.

Hunting Method: Elk hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Tag Required: Elk hunters must choose one of the four elk hunting areas (Blue Mountains, Yakima, Colockum or Western Washington) to hunt in and buy the appropriate tag for that area.

Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Definition: Visible Antler is defined as a horn-like growth projecting above the hairline.

Spike Bull Restriction GMUs: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branch antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 160-185, 314-329, 340-368, and 472.

Branched Antler Restriction GMUs: Bull elk taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points may include eye guards but antler points on the lower half of either main beam must be at least four (4) inches long. All other antler points must be at least one inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: 418, 460, 466, 478, 490, 506, 524, 530, 556, 558, 572, 601, 602, 607, 636, 638, 681; and GMUs 157 and 485 by permit only.

Special Permits: Modern firearm late season elk tag holders along with muzzleloader tag holders may apply to be drawn in special elk permit seasons. Only hunters with elk tags identified in the Special Elk Permits tables may apply for special bull permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Modern Firearm Elk Information

Modern firearm elk hunters have early and late hunts in all elk areas. Those who choose the early tag have the first opportunity to hunt bulls, but only those who choose the late tag are able to apply for special elk permits except as outlined above for bull permits.

Options To Be Considered:

Discontinue the early/late modern firearm bull tags.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched modern firearm elk tag as listed below on his/her person.

Hunting Method: May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Modern Firearm Elk Seasons

Legal Elk: Male elk with visible antlers are legal throughout the state except in GMUs 145-154, 160-185, 314-329 340-368, and 472 spike bull restrictions apply and in branched-antler areas branched antler restrictions apply.

Options To Be Considered:

- A. Three point minimum in both Colockum and Yakima tag areas starting in 1994.
- B. Spike only seasons with branched antlered bulls by permit in the Colockum tag area and, three point minimum for bulls in the Yakima tag area. Both changes would begin in 1994.

- C. Any bull legal during modern firearm elk season in both Yakima and Colockum tag areas (current season structure).

Blue Mountains - Open Area: 100 series GMUs; GMUs 127, 130, and 157 limited to permit hunters only. GMUs 145-154, 160-185 are spike bull only, except by permit.

- BE - Blue Mountains Early Tag
- BL - Blue Mountains Late Tag
- BA - Blue Mountains Archery Tag
- BM - Blue Mountains Muzzleloader Tag

Colockum - Open Area: Chelan County portion of GMU 302 and GMUs 300, 301, 304, 306, 308, 314, 316, 328, 329, 330 (permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334). GMUs 314-329 are spike bull only, except by permit.

- CE - Colockum Early Tag
- CL - Colockum Late Tag
- CA - Colockum Archery Tag
- CM - Colockum Muzzleloader Tag

Yakima - Open Area: Kittitas County portion of GMU 302 and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 366, 368, and 370. GMUs 340-368 are spike bull only except by permit.

- YE - Yakima Early Tag
- YL - Yakima Late Tag
- YA - Yakima Archery Tag
- YM - Yakima Muzzleloader Tag

Western Washington - Open Area: All 400, 500, and 600 GMUs except closed in GMU 417, 522, 621 and moder firearm restrictions in portions of GMU 660 and 638. GMUs 417 (Bald Mountain) and 621 (Olympic) are closed to all elk hunting as a Conservation Closure. Permit only in GMUs 485, 524, 554, 556, and 602. GMU 472 is spike bull only, except by permit.

- WE - Western Washington Early Tag
- WL - Western Washington Late Tag
- WA - Western Washington Archery Tag
- WM - Western Washington Muzzleloader Tag

	<u>1994</u>	<u>1995</u>	<u>1996</u>
Blue Mountains			
BE - Blue Mountains Early Elk Tag	Oct. 26-Nov. 6	Oct. 25-Nov. 5	Oct. 30-Nov. 10
BL - Blue Mountains Late Elk Tag	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10
Colockum			
CE - Colockum Early Elk Tag	Oct. 26-Nov. 3	Oct. 26-Nov. 3	Oct. 26- Nov. 3
CL - Colockum Late Elk Tag	Oct. 29-Nov. 3	Oct. 29-Nov. 3	Oct. 29-Nov. 3
Yakima			
YE - Yakima Early Elk Tag	Nov. 5-15	Nov. 5-15	Nov. 5-15
YL - Yakima Late Elk Tag	Nov. 8-15	Nov. 8-15	Nov. 8-15
Western Washington			
WE - Western Washington Early Elk Tag	Nov. 2-13	Nov. 1-13	Nov. 6-17
WL - Western Washington Late Elk Tag	Nov. 5-13	Nov. 4-13	Nov. 9-17

Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Only archery elk hunters with tags identified in the Special Permits tables may apply for special bull permits. Please see permit table for tag eligibility. If drawn, archers must hunt with archery equipment and hunt branched bulls during the permit archery season.

Early Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountains (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
100-118, 121-142, 178	BA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
145-154, 160-169, 175, 181-185	BA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Spike or antlerless only
300, 306, 308, 316	CA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
328, 329, 330	CA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Spike or antlerless only
335, 356, 370	YA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
336, 340, 352, 364	YA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Spike or antlerless only
405-410, 426-454, 504, 505, 510, 512, 514, 516, 520, 550, 554, 560, 568, 574, 576, 586, 588, 615, 618, 642-658, 663, 667, 669, 678	WA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
460, 466, 478, 490, 530, 558, 572, 601, 607, 638, 681	WA	Oct. 1-12	Oct. 1-11	Oct. 1-9	3 pt. min. or antlerless
472	WA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Spike or antlerless only
484	WA	Oct. 1-7	Oct. 1-7	Oct. 1-7	Either sex
418	WA	Oct. 1-12	Oct. 1-11	Oct. 1-9	3 pt. min.
660	WA	Oct. 1-8	Oct. 1-7	Oct. 1-5	Either sex
Bow Area 802	WA	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex

Options To Be Considered:

Early Archery Elk Season dates:

Sept. 1-12, 1994, 1995, 1996

Sept. 10-21, 1994, 1995, 1996

Late Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
103, 118, 121, 124, 127, 178	BA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
166	BA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Antlerless only
328	CA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Spike or antlerless only
336, 346, 352	YA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Spike or antlerless only
405, 433, 454, 484, 505, 520, 564, 588, 603, 612, 615, 648, 672	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
506, 530, 638, 681*	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
636	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min.
Bow Areas					
802	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	YA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
841	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex

* Except closed between U.S. Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallcut River.

Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as listed below on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Early Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
172	BM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
302	CM, YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Bull only
314*	CM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
342, 368	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
603, 612	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Bull only
460, 506, 636	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	3 pt. min.
484, 501, 564, 684	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Either sex
Muzzleloader					
Area 910	YM	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex

* The portion of GMU 314 bordered by the Colockum Pass Road (Road 10), Naneum Ridge Road (Road 9), and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.

Late Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

PROPOSED

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
130, 133, 136, 139	EM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
184	BM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Antlerless only
346	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless only
484	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
501, 568, 574, 576, 586	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
505	WM	Nov. 15-20	Nov. 14-19	Nov. 19-24	Either sex
504, 550	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Bull only
601	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. bull min.
684	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
Muzzleloader Areas					
910	YM	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Spike bull or antlerless only
944	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless only

Special Elk Hunts Open to Specified Tag Holders

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

Antlerless or Either Sex Elk Hunts

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
100, 103, 105, 108, 121, 124 west of SR 395, 133, 136,	BE, BL	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10	Either sex
178	BE, BL	Nov. 5-6	Nov. 4-5	Nov. 9-10	Either sex
370	CM, YE, YL, YM	Nov. 5-13	Nov. 5-13	Nov. 5-13	Either sex
564*	WA, WM, WE, WL	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
501, 568, 574, 576, 586, 588	WE, WL	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
300, 304, 306, 308, 316 east of Highway 2	CE, CL, CM	Dec. 9-18	Dec. 9-17	Dec. 9-16	Either sex
Elk Area 001	Any Elk Tag	Nov. 1-15	Nov. 1-15	Nov. 1-15	Either sex

* Archery or Muzzleloader Equipment Only. Modern Firearm elk tag holders may hunt but must use primitive weapons.

Private Land Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	Special Restrictions
Archery	Oct. 1-12	Antlerless or Spike Bull
Modern Firearm	Nov. 2-13	Spike Bull Only
Muzzleloader	Nov. 23-Dec. 5	Spike Bull Only

Report Cards

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Wildlife within 10 days after taking an elk.

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 94-04-117
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 2, 1994, 10:09 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-243 1994-95 Special closures and firearm restriction areas; and repealing WAC 232-28-238 1993-94 Special closures and firearm restriction areas.

Purpose: To adopt WAC 232-28-243 1994-95 Special closures and firearms restriction areas.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule identifies hunting prohibited areas, big game closures, upland bird closures, horse restrictions and hunting firearm restriction areas.

Reasons Supporting Proposal: This rule identifies restrictions that help prevent conflicts between landowners and hunters.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule identifies restrictions that help prevent conflicts between landowners and hunters.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.; and at the Red Lion Inn, 1507 North First Street, Yakima, WA 98901, on March 26, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 2, 1994

Dave Brittell

Acting Deputy Director

for Rich Poelker

Administrative Rules Officer

NEW SECTION

WAC 232-28-243 1994-95 Special closures and firearm restriction areas

SPECIAL CLOSURES

HUNTING PROHIBITED AREAS

IT IS UNLAWFUL TO HUNT WILD ANIMALS (INCLUDING WILD BIRDS) IN THE FOLLOWING AREAS:

1. Little Pend Oreille Wildlife Area: The southern part of the Little Pend Oreille Wildlife Area in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31, 1994. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 to the intersection with Road 2.0 in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.
2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds EXCEPT during the period Aug. 1-Sept. 30, 1994. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunts, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands

PROPOSED

owned or controlled by the City during all times of the year.

5. McNeil Island: McNeil Island (part of GMU 480) is closed to the hunting of all wild animals (including wild birds) year around.
6. As posted on Bailey Youth Ranch, Franklin County, hunting is closed on Mondays, Tuesdays, Thursdays, and Fridays.
7. As posted, hunting is closed on Department owned land on the Sunnyside Wildlife Area in Yakima County.

BIG GAME CLOSURES

1. Cathlamet: Those lands between State Highway 4 and the Columbia River between Cathlamet and Skamokawa, and all of Puget Island in Wahkiakum County; closed to all big game hunting. This closure is established to protect the endangered Columbian Whitetail Deer.
2. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
3. Willapa National Wildlife Refuge: Except for Bow Area No. 802 (Long Island), Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles.
5. Colockum elk hunting restrictions: No entry in GMU 330 (West Bar) except permit holders, October 23-25, 1994. Closed to entry (no trespassing) October 26-November 7, 1994.
6. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.
7. Baleville: Closed to hunting of all big game animals on those lands between State Highway 105 and the Willapa River west of Raymond.

UPLAND BIRD CLOSURES

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

1. From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)
2. Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

HORSE RESTRICTIONS

Colockum horse restrictions: GMU 330 (West Bar)—It is unlawful to ride horses, mules, or other livestock during any open elk season in GMU 330 PROVIDED, however, that livestock may be used for transporting camp gear and elk carcasses. GMU 329 (Quilomene)—It is unlawful to allow a horse to enter the Brushy and Cape Horn agricultural fields prior to 9 a.m. from October 23-November 1, 1994.

HUNTING FIREARM RESTRICTION AREAS

In firearm restriction areas, handguns, centerfire and rimfire rifles are not legal for hunting except as provided below. Hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 484 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloader or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

<u>County</u>	<u>Area</u>
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Crannberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.

The following two restrictions apply only during the modern firearm elk season:

That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road, then southeast on South Bank Road to the Delezene Road Road; then south on the Delezene Road to the L Line logging road, then south on the L Line to the L-100; then south on the L-100 to a junction with the A-Line; then south on

the A-Line to the T-Line; then south on the T-Line to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point beginning

(Quinault Valley) - That portion of GMU 638 (Quinault) described as follows: Beginning at the junction of Wright Canyon Road and South Shore Road; then north to the shoreline of Lake Quinault; then north along Lake Quinault to the Olympic National Park (ONP) boundary; then east along ONP boundary to its intersection with the South Shore Road and U.S. Forest Service boundary; then west along the U.S. Forest Service boundary to the Wright Canyon Road Junction with the South Shore Road and point of beginning.

Island That portion of GMU 410 (Island) located on Camano and Whidbey Islands.

Jefferson Indian and Marrowstone Islands.

See Quinault Valley above for additional restriction in Grays Harbor and Jefferson counties.

King The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury Islands.

The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)

Kitsap East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to North Lake Way, north of North Lake Way and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.

Kittitas GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.

Mason GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Hartstene Island.

Pacific GMU 684 (Long Beach) west of Sand Ridge Road.

Pierce GMU 480 (Anderson and Ketron Islands) limited to archery, shotgun, and muzzleloader shotgun. McNeil Island closed to hunting.

See GMU 484 restriction area outline for King County.

GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.

Snohomish West of Highway 9.

Skagit Guemes Island and March Point north of State Highway 20.

Thurston GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.

Whatcom Area west of I-5 and north of Bellingham city limits including Point Roberts.

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

Reviser's note: The typographical 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 94-04-118
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 2, 1994, 10:10 a.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-131 Permits for special hunting and trapping seasons.

Purpose: Amend WAC 232-12-131 Permits for special hunting and trapping seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will eliminate the two year waiting period for disabled, blind/visually handicapped, muzzleloader elk hunters from the two year waiting period after drawing an elk permit. This will also eliminate additional waiting periods for persons applying when they are ineligible.

Reasons Supporting Proposal: There is no reason to have a two year waiting for these hunters. Applicant numbers for special permits is low and insufficient to draw all permits allotted. The additional disqualification penalty for those applying when ineligible is no longer necessary because of computerized drawing.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: There is no reason to have a two year waiting for these hunters. Applicant numbers for special permits is low and insufficient to draw all permits allotted. The additional disqualification penalty for those applying when ineligible is no longer necessary because of computerized drawing.

Proposal does not change existing rules.

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

Hearing Location: Issaquah Holiday Inn, 1801 12th Avenue N.W., Issaquah, WA 98027, on March 12, 1994, at 8:00 a.m.; and at the Red Lion Inn, 1507 North First Street, Yakima, WA 98901, on March 26, 1994, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 2, 1994

Dave Brittell

Activity Deputy Director

for Rich Poelker

Administrative Rules Officer

AMENDATORY SECTION [(Amending Order 289, filed 5/29/87)]

WAC 232-12-131 Permits for special hunting and trapping seasons. (1) Holders of valid hunting licenses may apply for permits for special hunting seasons as prescribed by the commission.

(2) Holders of valid trapping licenses may apply for permits for special trapping seasons as prescribed by the commission.

(3) It is unlawful for a person receiving a special modern firearm or archery hunting season elk permit to apply for such a permit for the next two years. Disabled, blind/visually handicapped, and muzzleloader hunters are exempt from the two year waiting period. ~~((A person applying for an elk permit during that period will be disqualified for an additional two years, in addition to any other penalty provided by law.))~~

(4) It is unlawful for a person receiving a special hunting season goat permit to apply for such a permit for the next five years. A person applying for a goat permit during that period will be disqualified for an additional five years, in addition to any other penalty provided by law.

(5) It is unlawful for a person receiving a special hunting season permit for mountain sheep to apply for another permit for that species if they are successful in taking a mountain sheep. A person who receives a special permit for mountain sheep and is unsuccessful in taking a sheep may reapply after waiting for five years. A person applying for a permit during that period will be disqualified for an additional five years, in addition to any other penalty provided by law.

(6) It is unlawful for a person receiving a moose permit to apply for another permit for that species.

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

WSR 94-04-119

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed February 2, 1994, 10:17 a.m.]

Original Notice.

Title of Rule: WAC 296-116-500 Tug escort requirements for oil tankers.

Purpose: To create a rule to establish a measurement standard by which to determine the criteria for taking a tanker escort tug.

Statutory Authority for Adoption: RCW 88.16.190(2).

Statute Being Implemented: RCW 88.16.190(2).

Summary: This proposed rule will disallow the temporary remeasurement of an oil tanker which does not structurally alter the vessel.

Reasons Supporting Proposal: RCW 88.16.190(2) requires all loaded oil tankers in excess of 40,000 dwt to use a tug escort while navigating in Washington state pilotage grounds. Some oil tankers are being temporarily remeasured to less than 40,000 deadweight tons.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pilotage Commission, 1008 Western Avenue, Seattle, 464-7818.

Name of Proponent: Washington State Board of Pilotage Commissioners, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposed rule enhances this agency's mandate to regulate tanker safety laws of Washington state.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule would name the *Lloyd's Register of Ships* as a standard by which an oil tanker is measured in terms of deadweight tonnage. This measurement standard will establish a clear definition of what this agency recognizes as qualifying criteria for determining the required use of a tug escort.

Proposal does not change existing rules.

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

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Pier 52, Seattle, WA 98104, on March 10, 1994, at 9:00 a.m.

Submit Written Comments to: Armand L. Tiberio, 801 Alaskan Way, Pier 52, Seattle, WA 98104-1487, by March 1, 1994.

Date of Intended Adoption: March 10, 1994.

February 1, 1994

Armand L. Tiberio

Chair

NEW SECTION

WAC 296-116-500 Tug escort requirements for oil tankers. (1) RCW 88.16.190(2) requires the escort of a tug or tugs for all oil tankers 40,000 DWT or greater when not in ballast. For purposes of that provision only, deadweight tonnage shall be the maximum summer deadweight tonnage that was assigned to the vessel at the time of construction as reported in *Lloyd's Register of Ships*. Unless the vessel

was structurally altered and remeasured to less than 40,000 DWT, this original deadweight tonnage shall be used for purposes of determining if the vessel requires the appropriate tug escort.

(2) It shall be a violation of this regulation to provide pilotage services to an oil tanker not in compliance with this rule when the pilot has actual knowledge of the noncompliance.

(3) Oil tankers found to be in violation of the provisions of this regulation shall be subject to the provisions of RCW 88.16.150.

(4) The deadweight tonnage provision of this rule is to be used strictly for determining the required use of a tug escort.

WSR 94-04-121
WITHDRAWAL OF PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed February 2, 1994, 10:35 a.m.]

The Public Disclosure Commission hereby withdraws WSR 94-03-087, filed January 18, 1994. It includes WAC 390-16-324, 390-17-300, and 390-17-315.

Karen M. Copeland
 Administrative Officer

WSR 94-04-122
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed February 2, 1994, 10:56 a.m.]

Original Notice.

Title of Rule: WAC 392-140-500 through 392-140-519, Finance—Special allocations—1994-95 Student learning improvement grants.

Purpose: Application process and distribution of moneys to school districts.

Statutory Authority for Adoption: RCW 28A.300.138.

Statute Being Implemented: RCW 28A.300.138 and the Biennial Operating Appropriations Act.

Summary: These rules prescribe the application process and distribution of moneys to school districts for staff development and planning intended to improve student learning for all students.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Old Capitol Building, Olympia, 753-2298; Implementation: Thomas J. Case, Old Capitol Building, Olympia, 753-6708; and Enforcement: Dr. David Moberly, Old Capitol Building, Olympia, 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary above.

Proposal does not change existing rules.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, Olympia, Washington 98504, on March 8, 1994, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-7200, by March 8, 1994.

Date of Intended Adoption: March 15, 1994.

February 2, 1994
 Judith A. Billings
 Superintendent of
 Public Instruction

NEW SECTION

WAC 392-140-500 1994-95 Student learning improvement grants—Applicable provisions. WAC 392-140-500 through 392-140-519 apply to the application process, distribution of moneys to school districts and reporting for student learning improvement grants RCW 28A.300.138 and 28A.305.145 (HB 1209, Education Reform—Improvement of Student Achievement) and section 518(1), chapter 24, Laws of 1993 sp.s. (the state Operating Appropriations Act).

NEW SECTION

WAC 392-140-501 1994-95 Student learning improvement grants—Definition—Purpose of student learning improvement grant. As used in WAC 392-140-500 through 392-140-519, "purpose of student learning improvement grant" means a grant pursuant to RCW 28A.300.138 and 28A.305.145 and section 518(1), chapter 24, Laws of 1993 sp.s., with the purpose of staff development and planning intended to improve student learning for all students, including students with diverse needs, consistent with the student learning goals in RCW 28A.150.210 as amended by section 101, chapter 336, Laws of 1993 (HB 1209, Education Reform—Improvement of Student Achievement).

NEW SECTION

WAC 392-140-503 1994-95 Student learning improvement grants—Definition—School district. As used in WAC 392-140-500 through 392-140-519, "school district" means the same as defined in WAC 392-140-069 and the Washington state school for the deaf and the Washington state school for the blind.

NEW SECTION

WAC 392-140-504 1994-95 Student learning improvement grants—Definition—Eligible school district. As used in WAC 392-140-500 through 392-140-519, "eligible school district" means a school district whose board of directors has completed adoption of policies regarding sharing of instructional decisions with school staff, parents, and community members. "Eligible school district" also means the Washington state school for the deaf and the Washington state school for the blind provided policies regarding sharing of instructional decisions with school staff and parents are adopted.

NEW SECTION

WAC 392-140-505 1994-95 Student learning improvement grants—Definition—School. As used in WAC 392-140-500 through 392-140-519, "school" means the same as defined in RCW 28A.150.020. "School" also means the Washington state school for the deaf and the Washington state school for the blind.

NEW SECTION

WAC 392-140-506 1994-95 Student learning improvement grants—Definition—Eligible school-based application. As used in WAC 392-140-500 through 392-140-519, "eligible school-based application" means an application for a student learning improvement grant by a school in an eligible school district in the format prescribed by SPI that contains assurances that the application:

- (1) Has been developed by school personnel, parents, and community members;
- (2) Enumerates all specific activities to be carried out as part of the grant and all such specific activities are consistent with the purpose of student learning improvement grants;
- (3) Identifies the technical resources desired and their availability;
- (4) Includes a proposed budget in the format prescribed by SPI;
- (5) Is approved by the school principal and representatives of teachers, parents, and the community;
- (6) Is approved by the school district board of directors after the board conducted at least one public hearing on the application; and
- (7) Is submitted to SPI by the school district not later than May 2, 1994.

NEW SECTION

WAC 302-140-507 1994-95 Student learning improvement grants—Definition—Approved application. As used in WAC 392-140-500 through 392-140-519, "approved application" means an eligible school-based application approved by SPI by June 1, 1994. If a school-based application meets the eligibility requirements stated in WAC 392-140-506, SPI will approve the application by June 1, 1994.

Reviser's note: The section above was filed by the agency as WAC 302-140-507. However, the other rules for the Superintendent of Public Instruction are found in Title 392 WAC. The section above appears to be WAC 392-140-507, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

NEW SECTION

WAC 392-140-508 1994-95 Student learning improvement grants—Definition—Certificated employee. As used in WAC 392-140-500 through 392-140-519, "certificated employee" means the same as defined WAC 392-121-200.

NEW SECTION

WAC 392-140-509 1994-95 Student learning improvement grants—Definition—Full-time equivalent (FTE) certificated staff. As used in WAC 392-140-500 through 392-140-519, "full-time equivalent (FTE) certificated staff" means the number of staff units determined for certificated employees in a school using the methodology prescribed in WAC 392-121-215.

NEW SECTION

WAC 392-140-510 1994-95 Student learning improvement grants—Definition—Form S-275. As used in WAC 392-140-500 through 392-140-519, "Form S-275" means the same as defined in WAC 392-121-220.

NEW SECTION

WAC 392-140-511 1994-95 Student learning improvement grants—Definition—FTE certificated staff employed in a school. As used in WAC 392-140-500 through 392-140-519, "FTE certificated staff employed in a school" means the FTE certificated staff reported in a school on Form S-275 for the 1993-94 school year as of December 30, 1993. A school district has the option of requesting SPI to use the number of FTE certificated staff employed in a school as of any school day during the 1993-94 school year prior to April 2, 1993, if the district maintains documentation available for audit that verifies:

- (1) The total FTE certificated staff employed in the district increases after October 1, 1993; or
- (2) The number of certificated staff reported as employed in each school building on Form S-275 does not reflect FTE certificated staff whose assignments are district-wide and nonspecific in terms of time and responsibilities at various schools as per page twenty-one of the SPI Form S-275 instructions for 1993-94; or
- (3) Both subsections (1) and (2) of this section.

FTE certificated staff shall be determined for the Washington state school for the deaf and the Washington state school for the blind in a similar manner.

NEW SECTION

WAC 392-140-512 1994-95 Student learning improvement grants—Definition—Allocation rate. As used in WAC 392-140-500 through 392-140-519, "allocation rate" means the lesser of six hundred dollars or the available appropriation for student learning improvement grants for the 1994-95 school year divided by the total number of certificated staff employed in schools with approved applications.

NEW SECTION

WAC 392-140-516 1994-95 Student learning improvement grants—Allocation of moneys. SPI shall allocate for each school that has an approved application in an eligible school district an amount of money equal to the product of the allocation rate multiplied by the FTE certificated staff employed in the school. The sum of the total allocations for all schools in the school district shall be paid according to the schedule in RCW 28A.510.250.

NEW SECTION

WAC 392-140-517 1994-95 Student learning improvement grants—Conditions and limitations on expenditures. Expenditure of moneys by school districts allocated pursuant to WAC 392-140-500 through 392-140-519 is subject to the following conditions and limitations:

- (1) Allocated moneys shall be expended according to the budget that is part of each school-based application.
- (2) Allocated moneys shall not be expended for indirect costs.
- (3) Allocated moneys shall be expended for the 1994-95 school year.
- (4) Allocated moneys may be claimed for grant-related activities conducted during the period of July 1, 1994, through August 31, 1995.
- (5) School districts shall account for expenditures in program 58, Special and Pilot Programs, State. The Washington state school for the deaf and the Washington state school for the blind shall account for expenditures in a similar manner.
- (6) School districts shall report to SPI as provided in WAC 392-140-518.

NEW SECTION

WAC 392-140-518 1994-95 Student learning improvement grants—School district reporting. School districts receiving student learning improvement grant funding shall report to SPI prior to November 2 of the following school year, the school district shall report on forms prescribed by SPI.

NEW SECTION

WAC 392-140-519 1994-95 Student learning improvement grants—Recovery of unexpended grants. In January 1996 or thereafter, the superintendent of public instruction shall compare each school district's total student learning improvement grant allocation made pursuant to WAC 392-140-516 and its direct expenditures reported pursuant to WAC 392-140-518. If the allocation exceeds expenditures, the difference shall be recovered.

WSR 94-04-124

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 2, 1994, 11:15 a.m.]

Original Notice.

Title of Rule: Overpayment subject to interest charges.

Purpose: To amend WAC 192-28-145 as the result of the amendment made to RCW 50.20.190(6) in the 1993 legislative session.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.20.190(6).

Summary: This amendment will provide for interest on overpayments assessed pursuant to RCW 50.20.070.

Reasons Supporting Proposal: The 1993 legislative session amended the statute to require assessment of interest on overpayments resulting from fraud or misrepresentation.

Name of Agency Personnel Responsible for Drafting: Bob Wagner, 212 Maple Park, (206) 586-8486; Implementation and Enforcement: Marie Brillante, 212 Maple Park, (206) 753-5120.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The 1993 legislative session amended RCW 50.20.190(6) to require the assessment of interest on overpayments assessed pursuant to RCW 50.20.070 (misrepresentation). This rule is being proposed to succeed an emergency rule filed December 29, 1993. A section defining "month" has been added for clarification.

Proposal Changes the Following Existing Rules: WAC 192-28-145 is amended to comply with RCW 50.20.190(6) as amended.

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

Hearing Location: Employment Security Department, Training Annex Room 1, 106 Maple Park Drive, Olympia, WA 98504, on March 8, 1994, at 3:30 p.m.

Submit Written Comments to: Employment Security Department, Attn: John Nemes, Rules Coordinator, OMR, P.O. Box 9046, Olympia, WA 98507-9046, by March 8, 1994.

Date of Intended Adoption: April 30, 1994.

February 2, 1994

Marie Brillante

Assistant Commissioner

UI Division

AMENDATORY SECTION [(Amending WSR 90-17-105, filed 8/21/90)]

WAC 192-28-145 Overpayment subject to interest charges. (1) Overpayments assessed by another state, but collected by this department, will not be charged interest.

(2) No interest will be charged in months when the minimum monthly payment is received on or before the due date except on overpayments assessed pursuant to RCW 50.20.070. If a claimant appeals a charge of misrepresentation, interest continues to accrue during the period of the appeal. Interest is assessed if the overpayment is upheld.

(3) Overpayments based on misrepresentation (RCW 50.20.070) will be charged interest at the rate of one percent per month ~~((if one or more minimum monthly payments are delinquent))~~.

(4) Overpayments not based on misrepresentation will be charged interest at the rate of one percent per month if two or more minimum monthly payments are delinquent.

(5) Overpayments containing both misrepresentation and nonmisrepresentation will be charged interest in accordance with (3) and (4) above.

(6) If unusual circumstances exist, the commissioner or authorized delegate may suspend the assessment or collection of interest charges.

(7) A month, with respect to the charging of interest, begins on the day following the last Saturday of one month and ends on the last Saturday of the next month.

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

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

WSR 94-04-125
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER
[Filed February 2, 1994, 11:55 a.m.]

Original Notice.

Title of Rule: Restrictions on the use of preexisting condition limitations.

Purpose: To restrict health care service contractors, health maintenance organizations and disability insurers from using preexisting conditions to deny, exclude or limit access to health care coverage.

Other Identifying Information: Insurance Commissioner Matter # R 94-6.

Statutory Authority for Adoption: RCW 48.01.200, 48.02.060, 48.20.540, 48.21.340, and 48.46.550.

Statute Being Implemented: RCW 48.20.540, 48.21.340, and 48.46.550.

Summary: Prohibits certified health plans from excluding or denying groups and individuals coverage based on a preexisting condition. Sets an open enrollment period starting July 1 and ending September 30, 1994. After this period certified health plans must accept applicants regardless of health conditions except that they may impose a 3-month waiting period before providing benefits for preexisting conditions.

Reasons Supporting Proposal: The existence of preexisting condition limitations and exclusions significantly limits the availability of health care coverage for residents of the state of Washington. These rules are required to increase access to health care coverage during the period prior to implementation of full health care reform.

Name of Agency Personnel Responsible for Drafting: John Conniff, Insurance Building, Olympia, 664-3786; Implementation and Enforcement: Mark M. McDermott, Insurance Building, Olympia, 753-7302.

Name of Proponent: Office of the Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal does not change existing rules.

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

This rule implements the short-term insurance reform provisions of the 1993 Health Care Reform Act which were specifically designed to impact all insurers, health care service contractors, and health maintenance organizations regardless of their size, number of employees, cost per employee, cost per hour of labor or cost per \$100 of sales. The statute passed requires these insurers, contractors, and

HMOs to modify their health insurance practices for the benefit of all Washington residents.

Hearing Location: House Hearing Room E, John L. O'Brien Building, Olympia, Washington, on March 14, 1994, at 10:00 a.m.

Submit Written Comments to: Arloween Manley, P.O. Box 40257, Olympia, WA 98504-0257, by March 21, 1994.

Date of Intended Adoption: April 5, 1994.

February 2, 1994

Deborah Senn

Insurance Commissioner

NEW SECTION

WAC 284-10-050 Restrictions on the denial, exclusion, or limitation of health benefits for pre-existing conditions. (1) Whenever there is a conflict between this section and other sections of this chapter, the provisions of this section governing the denial, exclusion, and limitation of coverage for pre-existing conditions supersede other provisions of this chapter governing the same or similar subject matter; including 030(2). For purposes of this section "pre-existing condition" means any health condition, illness, or injury which existed at any time prior to the effective date of health insurance coverage.

(2) Notwithstanding other provisions of this chapter or Title 284 of the Washington Administrative Code, for the period beginning July 1, 1994 and continuing until October 1, 1994, no insurer may reject any individual and no insurer may deny, exclude, or otherwise limit coverage for an insured's pre-existing conditions as defined in this section.

For example, if the insured needs a heart transplant and the policy provides coverage for heart transplants, the insurer may not do any of the following: deny or exclude coverage for heart transplants as to this particular insured because the insured has a pre-existing condition; impose any waiting period before providing coverage for the heart condition; or deny coverage altogether for that individual. In addition, an insurer may not condition issuance of a group policy upon the exclusion of an individual within the group nor may an insurer issue a separate policy to an individual within the group to avoid inclusion of the individual under the group policy. However, nothing contained in this section shall be deemed to require an insurer to provide benefits not ordinarily available under the policy. For example, if the insured needs a heart transplant and the policy does not cover heart transplants, the insurer has not improperly denied coverage for a pre-existing condition. This rule also does not prohibit an insurer from imposing waiting periods or other limitations with respect to particular medical procedures or treatments for all insureds covered by the policy; rather, the rule prohibits an insurer from imposing waiting periods, riders, or other restrictions on the basis of the health status of a specific individual.

(3) After October 1, 1994, no insurer may reject an individual for health insurance coverage based upon pre-existing conditions of the individual and no insurer may deny, exclude, or otherwise limit coverage for an individual's pre-existing health conditions; except that an insurer may impose a three-month benefit waiting period for pre-existing conditions for which medical advice was given, or for which a physician recommended or provided treatment

within three months before the effective date of coverage. For example, if an individual were treated for a heart condition in the three-month period before the effective date of coverage under a policy, the insurer could impose a three-month waiting period before providing any type of coverage for the heart condition. No waiting period can be imposed for the heart condition if the person did not receive medical advice or a physician's recommendation or treatment for the heart condition in the three-month period before the effective date of coverage.

On and after July 1, 1994, no insurer may enforce a policy provision that conflicts with the provisions of this section. For example, if a policyholder purchased coverage on April 1, 1994 and the policy contained a twelve month waiting period, that waiting period could not be enforced after July 1, 1994 when the open enrollment period begins, because enforcement of the waiting period would conflict with the provisions of this section. By way of additional example, if a policyholder purchased coverage on March 1, 1994 and the policy contained an exclusion for that individual for problems related to asthma, the exclusion could not be enforced by the insurer after July 1, 1994 and coverage would have to be extended for asthma.

(4) No insurer may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. For example, an insurer could not create a new rate classification for "uninsurable risks."

WSR 94-04-126
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Filed February 2, 1994, 11:57 a.m.]

Original Notice.

Title of Rule: Short-term health insurance reform, portability of health insurance benefits and guaranteed continuity of health care coverage.

Purpose: To implement the short-term health insurance reforms enacted by the legislature during the 1993 session to improve individual and group access to needed health insurance coverage during the transition to a fully reformed health services system.

Other Identifying Information: Matter # R-94-7.

Statutory Authority for Adoption: RCW 48.01.200, 48.01.030, 48.02.060 (3)(a), 48.20.540, 48.21.340, 48.30.300, 48.44.480, 48.44.490, 48.46.550, and [48.46.]560.

Statute Being Implemented: RCW 48.20.540, 48.21.340, 48.30.300, 48.44.480, 48.44.490, 48.46.550, and 48.46.560.

Summary: This rule requires all disability insurance companies, health care service contractors, and health maintenance organizations issuing and renewing individual and group health coverage to waive certain preexisting condition exclusions for persons applying for coverage who had similar insurance in the immediately preceding three-

month period. Insurers, contractors, and HMOs may not avoid these requirements by refusing to issue coverage or by limiting coverage because of health conditions covered under the applicant's prior insurance policy; nor, may carriers set rates based upon the health conditions of persons applying for coverage under portability. For purposes of this requirement, similar coverage is broadly defined. If a comparison between the two policies reveal the new policy is no more than twenty-five percent richer in benefits, the policies are similar. Health insurance policies, health care service contracts and health maintenance agreements issued or renewed on or after July 1, 1994, must be guaranteed renewable. Coverage may be cancelled or nonrenewed for certain causes including nonpayment of premium and material breach of the contract. Coverage may be discontinued for health reasons only if the insurer has obtained similar coverage without medical underwriting for the person being cancelled. Certain types of coverage need not be guaranteed renewable if the insurer obtains advance written permission from the Insurance Commissioner after a commissioner finding that the policy in question is of a unique, limited, or short-term purpose. In addition, an insurer may request the use of a guaranteed renewable endorsement that conditions renewal on the insurer's legal ability to continue the sale of such coverage after long-term health care reform measures become effective.

Reasons Supporting Proposal: Many citizens of this state fear a change of employment because of the potential for the loss of health insurance benefits that may arise with the new insurer's imposition of conditions, limitations, and exclusions of coverage for preexisting health conditions. In some instances, the person changing employment may not be able to obtain new insurance at all. The portability of benefits rules will remedy most of these problems by prohibiting health insurers, contractors, and HMOs from imposing and new coverage restrictions, conditions, or limitations that were not contained in a similar, previous health plan covering the applicant. These same rules will apply to policies purchased and replaced by the individual rather than by an employer. In addition, health insurer, contractors, and HMOs will be required to guarantee the continuity of health insurance on or after July 1, 1994, and will be permitted to cancel coverage under limited circumstances. These rules will protect individuals and groups from an insurer's decision to discontinue the individual or group coverage because of a decline in the health of the individual or group.

Name of Agency Personnel Responsible for Drafting: John Conniff, Insurance Building, 664-3786; Implementation and Enforcement: Mark McDermott, Insurance Building, 753-7302.

Name of Proponent: Office of Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal does not change existing rules.

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

This rule implements the short-term insurance reform provisions of the 1993 Health Care Reform Act which were

specifically designed to impact all insurers, health care service contractors, and health maintenance organizations regardless of their size, number of employees, cost per employee, cost per hour of labor or cost per \$100 of sales. The statute passed requires these insurers, contractors, and HMOs to modify their health insurance practices for the benefit of all Washington residents.

Hearing Location: House Hearing Room E, John L. O'Brien Building, Olympia, Washington, on March 14, 1994, at 10:00 a.m.

Submit Written Comments to: Arlo Manley, P.O. Box 40255, Olympia, WA 98504, by March 21, 1994.

Date of Intended Adoption: March 28, 1994.

February 2, 1994

Deborah Senn
Insurance Commissioner
by John Conniff

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 premium. 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 supple-

ment 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.

benefit provisions of WAC 284-10-030 as to the addition of covered persons to the group."

Chief Executive Officer

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 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.

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 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

WSR 94-04-001
PERMANENT RULES
DEPARTMENT OF
VETERANS AFFAIRS

[Filed January 20, 1994, 9:07 a.m.]

Date of Adoption: January 10, 1994.

Purpose: This section defines how resident's income and resources are utilized.

Citation of Existing Rules Affected by this Order: Amending WAC 484-20-065.

Statutory Authority for Adoption: RCW 43.60A.070 and 72.36.120.

Pursuant to notice filed as WSR 93-24-090 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: The following **highlighted additions/deletions** were made due to testimony received at public hearings which indicated that proposed language may be confusing to the veterans served by the two state veterans homes.

(5) **Deleted** — "**For residents in non-Medicaid funded programs, the contribution will not exceed**" and **inserted** — "**For residents in non-Medicaid funded programs the contribution shall be calculated by applying community property rules to all income except any nonservice connected benefit paid by the federal Department of Veterans Affairs, which is paid specifically to the veteran due to his/her residency in a state veterans home.**" This change was made to give more specific details as to how the veteran's contribution to a spouse or other dependent residing in the community is calculated.

(5) **Added** — Any spousal/dependent benefit included in the resident's federal Department of Veterans Affairs nonservice connected benefits shall be included in the spousal/dependent contribution. These additions were made to clarify that the contribution to a community spouse/dependent will include any spousal/dependent benefit which the veteran receives.

(7)(b) **Added** — The federal Department of Veterans Affairs resource limit — For any resident who has a fiduciary/**representative payee** assigned by the federal Department of Veterans Affairs.

(7)(c) **Added** — Three months cost of care—For non-Medicaid residents without a federally assigned fiduciary/**representative payee** will be billed at the facility's private rate until such time as accumulated funds are reduced to established limits or request voluntary discharge. This addition was made to clarify that federal entities may assign either a fiduciary or a representative payee.

(8) **Delete** — Provision of this subsection shall apply to all **current** residents of the two state veterans homes thirty days after final rule adoption. This deletion made to clarify that the provision applies to all residents of the state veterans homes; to include current residents as well as any residents admitted in the future or any current resident whose resource may exceed established limits at some future date.

(9) **Added** — Residents whose resource level exceeds established limits shall receive the necessary assistance; **to include a recommendation to seek legal advice**; to reduce their resource below established limits. This addition was made to clarify current practices. Residents now receive recommendations to seek legal advice when they are in a situation which requires them to reduce their resources.

(10) **Added** — In the event funds received are a **retroactive or lump sum** back award of benefits. This addition was made to clarify that back awards are generally retroactive in nature and are awarded in a lump sum to cover the retroactive period of eligibility.

(10)(a) **Added** — Medicaid eligible residents shall be required to report the **retroactive or lump sum** back award to the appropriate **Department of Social and Health Services** community service office and have a new **Medicaid** award letter issued. The addition of retroactive or lump sum was made to clarify that back awards are generally retroactive in nature and are awarded in a lump sum to cover the retroactive period of eligibility. The addition of Department of Social and Health Services (DSHS) was made to clarify that the community service offices are operated by DSHS and that the Department of Veterans Affairs does not determine Medicaid eligibility. The addition of Medicaid was made to differentiate from award letters which are received by the veterans from the federal Department of Veterans Affairs and/or the Social Security Administration.

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

January 10, 1994

A. J. "Beau" Bergeron
 Director

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-065 Use of residents' income and ~~((assets))~~ resources. (1) Residents shall ~~((relinquish))~~ pay on a monthly basis, within time limits established by ~~((WDVA))~~ department policy, all income in excess of ~~((their))~~ the established personal needs allowance to the ~~((veterans' home or soldiers'))~~ state veterans' home ~~((revolving fund))~~ except as outlined in subsections (2) and (5) of this section. The amount ~~((relinquished))~~ paid shall not exceed the total cost of care ~~((of the resident determined consistent with subsection (8) of this section))~~. ~~((The superintendent))~~

(2) Residents may ~~((make exceptions for))~~ also retain the following:

(a) Income of individuals on approved rehabilitation furlough who are attempting to reestablish residency within the community ~~((and for))~~;

(b) Earnings of residents in an approved vocational rehabilitation program which has reemployment in the community as a primary rehabilitation goal; and

(c) Earnings of residents participating in therapeutic employment programs ~~((indicated))~~ as documented in their ~~((patient care))~~ plan of care.

~~((2))~~ (3) Couples residing in ~~((the home(s)))~~ a state veterans' home shall each be allowed ~~((maximum))~~ the established personal needs ~~((allowances as provided in this chapter))~~ allowance as long as each individual's income equals or exceeds the ~~((maximum))~~ established personal needs allowance. Should one of the individual's income fall below the ~~((maximum))~~ established personal needs allowance, his/her personal needs allowance shall be limited to the income to which (s)he has an individual right.

~~((3))~~ The personal needs allowance shall be increased by a portion of each future increase of the maximum annual income limitation as set for a single veteran without depen-

dents as authorized by P.L. 95-588. The increase will be determined by the formula $P \times A/12$ rounded to the nearest dollar. ('P' equals the percent of increase, 'A' equals the amount of increase.))

(4) Residents shall be required to apply for any and all entitlements or benefits as soon as they become eligible ((home)). Facility staff are available to assist with applications for entitlements and benefits.

(5) A resident may contribute toward the necessary support of a nonresident spouse, dependent children or a dependent parent. For residents in a Medicaid funded program, the contribution will not exceed ((the family member's personal income and/or)) limits established under medical assistance eligibility rules (chapter 388-95 WAC). For residents in non-Medicaid funded programs, the contribution shall be calculated by applying community property rules to all income except any nonservice connected paid by the federal Department of Veterans Affairs which is paid specifically to the veteran due to his/her residency in a state veterans home. Any spousal/dependent benefit((s)) included in the resident's federal Department of Veterans Affairs nonservice connected benefits shall be included in the spousal/dependent contribution. The spouse's/dependent's personal income shall not be considered as an available resource when calculating the resident's contribution toward cost of care. An additional contribution from the resident's personal needs allowance may be considered.

(6) ((Computation of the amount owed by the resident to have towards the cost of care shall be computed on the basis of the resident's actual entitlement.

(7)) Subsection (4) of this section applies to residents of the colony at the Washington soldiers' home. The ((provisions)) remaining subsections of this section do not apply to residents of the colony at the soldiers' home.

((8)) (7) A resident who receives or accumulates funds equal to or greater than ((three months' cost of his/her care must relinquish the excess assets to the revolving fund)):

(a) The established Medicaid resource limit—For Medicaid eligible residents;

(b) The federal Department of Veterans Affairs resource limit—For any resident who has a fiduciary/representative payee assigned by the federal Department of Veterans Affairs; and

(c) Three months cost of care—For non-Medicaid residents without a federally assigned fiduciary/representative payee will be billed at the facility's private rate until such time as accumulated funds are reduced to established limits or request voluntary discharge((, unless such resident is admitted under the provisions of WAC 484-20-030(1))).

(8) Provisions of this ((paragraph)) subsection shall apply ((only)) to all residents ((admitted after adoption of this section)) of the two state veterans' homes thirty days after final rule adoption.

(9) Residents whose resource level exceeds established limits shall receive the necessary assistance; to include a recommendation to seek legal advice; to reduce their resources below established limits. Assistance shall occur concurrent with the rule adoption process and the resource reduction process shall be completed within the thirty-day period following final rule adoption.

(a) For Medicaid eligible residents, Medicaid rules for disposal of excess resources shall apply.

(b) For residents with a federal Department of Veterans Affairs fiduciary assigned, federal Department of Veterans Affairs guidelines shall apply.

(c) For non-Medicaid residents without a federally assigned fiduciary, subsection (7)(c) of this section shall apply.

(d) Staff shall assist residents as requested with the resource reduction process.

(e) Any resident with excess resources at the end of a thirty-day period shall be billed at the private rate until the applicable resource level is reached.

(10) In the event funds received are a retroactive or lump sum back award of benefits; despite the source:

(a) Medicaid eligible residents shall be required to report the retroactive or lump sum back award to the appropriate department of social and health services community service office and have a new Medicaid award letter issued.

(b) Non-Medicaid program residents shall have the funds counted as available resources and subsection (9)(b) through (e) of this section shall apply.

(11) The estate of any individual who is a resident at the time of death will be charged for the balance of any cost of care which the resident did not pay during his/her ((residence)) residency in the state veterans home. Reasonable allowances will be made for funeral costs.

((9)) (12) Residents and their spouses are required to disclose to the department all income and assets ((at least annually, or whenever there is a change in family income or assets)). For residents in Medicaid funded programs, disclosure will be accomplished following medical assistance rules. For residents in non-Medicaid funded programs and the colony at the Washington soldiers' home, disclosure will be done at least annually or when there is a change in income and/or assets, using forms provided by the facility.

(13) The resident's contribution for cost of care shall be applied first as payment for partial months of residency.

WSR 94-04-002
PERMANENT RULES
HORSE RACING COMMISSION
 [Filed January 20, 1994, 12:22 p.m.]

Date of Adoption: January 18, 1994.

Purpose: WAC 260-36-080 Duration of license, to amend licensing expiration when a racing meet encompasses a two year span. WAC 260-70-040 Horses to be tested, to preserve the integrity of the horse testing program, to be able to test horses in a more efficient manner.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-080 and 260-70-040.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to notice filed as WSR 93-24-118 on December 1, 1993.

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

January 20, 1994

Bruce Batson
 Executive Secretary

AMENDATORY SECTION (Amending Order 86-02, filed 4/21/86)

WAC 260-36-080 Duration of license. Every permit or license ~~((for a three year period shall expire on December 31st of the third year after it was issued. Every permit or license for a one year period shall expire on December 31st of the year it was issued.))~~ issued by the commission shall expire on December 31st of the year for which it was issued; Provided, however, (a) all permits or licenses shall be considered expired if the licensee is no longer performing the duties for which he or she was licensed, or, if applicable, the licensee is no longer employed by the employer who hired the licensee; (b) the commission may, at its sole discretion, reinstate an expired license in cases where the licensee is reemployed prior to December 31st of the year in which the license was issued, or extend a license in cases where a license has been issued for a single race meeting which spans two calendar years.

AMENDATORY SECTION (Amending Order 82-02, filed 3/9/82)

WAC 260-70-040 Horses to be tested. The ~~((S))~~ stewards or commission veterinarian may, ~~((at any time))~~ at their sole discretion to preserve the integrity of the sport, order the taking of a blood, urine, or saliva specimen from any horse on the grounds of an association. Any owner or trainer may at any time request that a specimen be taken from a horse he/she owns or trains by the commission veterinarian to be tested by the commission chemist, providing the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the commission veterinarian or his/her assistant shall take a ~~((urine))~~ sample for testing by the commission chemist from all horses which: Finish first in any race; ~~((finish first or second in any quinella or exacta race;))~~ finish first, second or third in any ~~((trifecta or))~~ stake race; any horse selected at random, or designated from the racing program by ~~((any horse whose performance in a race, in the opinion of))~~ the stewards or commission veterinarian. ~~((, may have been altered by a prohibited drug.))~~ No owner, trainer or other person owning, in charge of, or having the care of a horse on the grounds may refuse to submit such a horse for testing when directed by a steward or the commission veterinarian.

WSR 94-04-003

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 20, 1994, 12:25 p.m.]

Date of Adoption: January 18, 1994.

Purpose: To ensure that the signal being satellited into an approved facility is encrypted thereby ensuring that the signal is picked up by only those authorized/approved to receive such signal.

Citation of Existing Rules Affected by this Order: Amending WAC 260-72-020 Transmission of race results.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to notice filed as WSR 93-24-022 on November 19, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 20, 1994
Bruce Batson
Executive Secretary

AMENDATORY SECTION (Amending Rules of Racing, § 385, filed 4/21/61)

WAC 260-72-020 Transmission of race results. (1) No association licensed by this commission shall knowingly transmit or allow to be transmitted by telephone, telegraph, teletype, semaphore, signal device, radio, television or other method of electrical, manual or visual communication from the enclosure of its track the result of any race until at least fifteen minutes after said race is declared official, with the exception of the final race of the program: *Provided, however,* associations licensed by this commission may allow radio or television broadcasts of racing programs upon approval of the commission, as stipulated in WAC 260-72-030.

(2) A racing association may seek approval to broadcast its races for the purpose of satellite wagering as authorized in RCW 67.16.200 Satellite locations—Parimutuel wagering. The association shall ensure that the audio-visual signal of such broadcast shall be encrypted or manipulated to mask the original video content of the signal and so cause such signal to be indecipherable and unrecognizable to any unauthorized receiver.

WSR 94-04-004

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 20, 1994, 1:16 p.m.]

Date of Adoption: January 10, 1994.

Purpose: To implement statutory changes establishing fees sufficient to recover costs of water works operator certification program.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-292-120, 246-292-130, 246-292-140, 246-292-150 and 246-292-990; and amending WAC 246-292-001 through 246-292-110.

Statutory Authority for Adoption: Chapter 70.119 RCW.

Pursuant to notice filed as WSR 93-23-081 on November 17, 1993.

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

January 19, 1994

Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-001 Purpose. Pursuant to the provisions of chapter 70.119 RCW, the regulations set forth in this chapter are adopted for the protection of public health through the establishment of minimum requirements and standards by which systems are operated and operators in ~~((direct responsible))~~ charge of public water systems are examined and certified as to their competency. Certification under this ~~((act))~~ chapter is available to all operators who

can meet the minimum qualifications of a given classification. ~~((All operators are encouraged to be certified to their highest degree of competency based on their responsibilities and their particular specialties within the field.))~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-010 Definitions. Abbreviations:

BAT - backflow assembly tester.

BTO - basic treatment operator.

CCS - cross connection control specialist.

GWU - ground water under the direct influence of surface water.

NTNC - nontransient noncommunity.

OIT - operator-in-training.

TNC - transient noncommunity.

WDM - water distribution manager.

WDS - water distribution specialist.

WTPO - water treatment plant operator.

"Basic filtration technology" means slow sand filtration and alternate filtration technologies such as cartridge filters, bag filters, and ultrafiltration.

~~((1))~~ "Board" ((-The board established pursuant to RCW 70.95B.070 which shall be known as the)) means the water and wastewater operator certification board of examiners as established under RCW 70.95B.070 and 70.119.080.

"Certificate" means a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.

"Certified operator" means a person who has met the applicable requirements of chapter 246-292 WAC and holds a valid certificate.

"Complex filtration technology" means conventional, direct, in-line or diatomaceous earth filtration.

~~((2))~~ "Continuing education unit (CEU)" ((-A)) means a nationally recognized unit of measurement similar to college credits. One CEU is awarded for every ten contact ((lecture)) hours of participation in an organized continuing education experience((;)) under responsible sponsorship, capable direction and qualified instruction. ((One CEU will also be awarded for twenty contact laboratory hours of approved training)) Forty-five relevant CEUs equals forty-five relevant college quarter credits or thirty relevant college semester credits as determined by the department.

"Contract operator" means a person in charge of the active, daily, technical operation of more than two public water systems.

"Cross connection control program" means a program protecting the health of water consumers and the potability of the public water supply as required under WAC 246-290-490.

~~((3))~~ "Department" ((-The)) means the Washington state department of ((social and)) health ((services)).

~~((4))~~ "Direct responsible charge (DRC)" DRC experience is defined as active daily, on-site charge and performance of the operation of a public water system, purification plant, distribution system, or a major segment of a distribution system or purification plant.

~~((5))~~ "Distribution system" ((-That)) means that portion of a public water system ((not included within the scope of

~~the purification plant. In most cases this shall include source, storage, and distribution network facilities and associated unit processes which are not part of the purification plant)) which conveys water from the source and/or treatment facilities to consumers.~~

~~((6))~~ "Governing body" The policy setting body or individual(s) responsible for the supervision and management of a public water system.

~~((7))~~ "Ground water under the direct influence of surface water (GWU)" means any water beneath the surface of the ground with:

Significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as giardia lamblia; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water condition.

"Group A water system" means a public water system with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

"Group B water system" means a public water system with less than fifteen service connections and serving:

An average of less than twenty-five people per day for sixty or more days within a calendar year; or

Any number of people for less than sixty days within a calendar year.

"Nationally recognized association of certification authorities" ((-An)) means an organization which ((serves)); Serves as an information center for certification activities((;));

Recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems ((and)), wastewater facilities and certification of operators((;));

Facilitates reciprocity between state programs; and Assists authorities in establishing new and updating existing certification programs ((and updating existing ones)).

~~((8))~~ "Nontransient noncommunity water system (NTNC)" means a Group A water system regularly serving twenty-five or more of the same nonresidents for one hundred eighty or more days within a calendar year.

"Owner" ((-The policy setting body or individual(s) responsible for the supervision and management of)) means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

~~((9))~~ "Professional growth reporting period" means a designated time period of not less than three years, in which a certified operator shall demonstrate professional growth.

"Public water system" ((-Any)) means any system ((or water supply intended or used)), excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption ((or other domestic uses)), including ((source)) any collection, treatment, storage, ((transmission and)) or distribution facilities ((where water is furnished to any community,

~~collection or number of individuals, or is made available to the public for human consumption or domestic use, but excluding water systems serving one single family residence))~~ under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system.

~~((10))~~ "Purification plant" (~~(-That)~~) means that portion of a public water system which treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards. Unit processes installed as necessary to perform water filtration, ion exchange, electro dialysis, reverse osmosis, or iron and manganese removal shall be included within the scope of the term purification plant. Unit processes installed as necessary to allow in-line fluoridation, in-line chlorination, or chemical addition to inhibit corrosion shall not be included within the scope of the term purification plant.

~~((11))~~ "Secretary" (~~(-The)~~) means the secretary of the department of ~~((social and))~~ health ~~((services))~~ or the secretary's designee.

~~((12))~~ "Service" (~~(-A connection between the purveyor's distribution system and the customer's system. If the customer's system distributes to more than one single family dwelling, individual dwelling unit, site, or lot, then each single family dwelling, individual dwelling unit, site, or lot shall be considered as one service connection))~~ means a connection to a public water system designed to serve a single family residence or other residential or nonresidential population. When the connection is to a system without clearly defined single family residences or with a nonresident population, the following formulas shall be used in determining equivalent number of services:

For group home or barracks-type accommodation, divide the average population served each day by two and one-half;

For NTNC systems, divide the average population served each day by two and one-half; and

For TNC systems, divide the average population served each day by twenty-five.

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Transient noncommunity water system (TNC)" means a Group A water system:

Having fifteen or more services used less than one hundred eighty days within a calendar year; or

Serving twenty-five or more different nonresidents for sixty or more days within a calendar year; or

Serving twenty-five or more of the same nonresidents for sixty or more days, but less than one hundred eighty days within a calendar year; or

Serving twenty-five or more residents for sixty or more days, but less than one hundred eighty days within a calendar year.

~~((13))~~ "Voluntary certification program" — Operators not required to be certified under the mandatory certification program are encouraged to seek certification under the voluntary certification program which shall be administered by the board and shall be identical to the mandatory certification program.

~~(14)~~ "Water filtration system" — A series of unit processes installed with the intent of reducing the quantity and

~~quality of suspended and dissolved solids such that the treated water meets the quality standards set forth in the rules and regulations of the state board of health regarding public water systems (chapter 248-54 WAC).))~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-020 ((Applicability)) General system requirements. (1) ~~((After January 1, 1979, all public))~~ All Group A water systems ((are required to)) shall have ((a)) at least one certified operator ((if the system serves either)) as required under WAC 246-292-050 if the system:

(a) Serves one hundred or more services in use at any one time; or

(b) ((Twenty five or more persons which are supplied from a stream, lake or other surface water supply source and which are required by law to use a water filtration system)) Has a surface water or GWI source.

(2) ((Certified personnel)) When a certified operator is required, the operator shall be in ((direct responsible)) charge of the active, daily, technical ((direction and supervision)) operation of ((the following)) all portions of ((affected)) a public water ((systems):

(a) The entire public water system; or

(b) A major segment of a public water system necessary for monitoring or improving the quality of water provided separate individuals are assigned decision-making authority; or

(c) Shift supervisors, if shift work is practiced)) system.

(3) Where shift work is practiced, a certified operator shall be in charge of each operating shift. The certified operator shall be present or on call.

(4) When a system apportions responsibility for segments of a public water system, the system shall ensure that a certified operator is responsible for each segment.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-030 Certification board. (1) The water and wastewater operator certification board of examiners ~~((established pursuant to RCW 70.95B.070))~~ (board) shall oversee the administration of the certification program as required under RCW 70.95B.070 and 70.119.080.

(2) The board shall be composed of:

(a) One member from the department of ecology((-);

(b) One member from the department of ~~((social and))~~ health ~~((services));~~

(c) One member who is required to employ a certified operator and who holds the position of city manager, city engineer, director of public works, superintendent of utilities, or an equivalent position ~~((and employs a certified operator));~~

(d) Two members ~~((who are))~~ certified as water works operators holding a ~~((certificate of at least the second highest operator classification.))~~ WDM 3 or WTPO 3 certificate or higher;

(e) Two members ~~((who are))~~ certified under department of ecology certification rule as wastewater operators holding a ~~((certificate of at least the second highest classification))~~ wastewater treatment plant operator 3 certificate or higher;

PERMANENT

(f) One member who is a water district commissioner; and

(g) One member who is a sewer district commissioner. Board members are appointed by the governor with the exception of the department of health and the department of ecology members who are appointed by their respective agency heads.

(3) ((Duties of the)) The board or its designee shall ((include)):

(a) ((Recommend to the secretary classifications of distribution systems and purification plants and maintain records thereof;

(b) Develop operator qualification standards consistent with the distribution system and purification plant classification system and examine the)) Examine qualifications of ((applicants)) operators applying for certification;

(b) Forward examination result recommendations to the secretary;

(c) ((Assist in the development of rules and regulations; prepare, administer and evaluate examinations of operator competency as required by law; and)) Recommend the issuance or revocation of certificates;

(d) Approve classification criteria applicable to purification plants and distribution systems;

(e) Approve operator qualification standards consistent with the purification plant and distribution system classifications;

(f) Approve criteria for determining the kind and nature of continued professional growth for renewal of certification; and

(g) Assist in the development of rules and regulations.

(4) ((To assist in the administration of this chapter.)) The board shall, either directly or through its review and oversight, prepare, administer, and evaluate the operator certification examinations. The department representative ((from the department on the board)) shall serve as board secretary on issues relating to the water works operator certification program.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-040 Classification ((schedule for)) of public water systems. ((The secretary shall use classification procedures recommended by a nationally recognized association of certification to classify purification plants and distribution systems.))

(1) ((Purification)) The secretary shall classify purification plants ((are classified by the secretary in four)) into groups((:)) according to the "Purification Plant Criteria" approved by the board in November 1993. Copies of the "Purification Plant Criteria" are available on request by contacting the Water Works Certification Program, Airdustrial Center #3, P.O. Box 47822, Olympia, Washington 98504-7822.

<u>((a)) Classification</u>	<u>Total Points Assigned</u>
<u>Group 1</u>	<u>30 and less</u>
<u>Group 2</u>	<u>31 to 55</u>
<u>Group 3</u>	<u>56 to 75</u>
<u>Group 4</u>	<u>76 and greater</u>

(b) Points are assigned to every item in Table 1 that applies to the purification plant being evaluated.

**TABLE 1
PURIFICATION PLANT CLASSIFICATION**

<u>ITEM</u>	<u>POINTS ASSIGNED</u>
SIZE	
Maximum Population Served (Peak Day)	1 point per 10,000 or part Maximum of 10 points
Design Flow (Average Day) Or Peak Month's Production (Average Day); Whichever Is Larger	1 point per MGD or part Maximum of 10 points
WATER SUPPLY SOURCE	
Groundwater	3
Surface Water	5
Average Raw Water Quality (Good to Poor)	See Table 2 for Variable Point Guide
COAGULATION, SEDIMENTATION, FILTRATION	
Presettling	4
Addition of Coagulant	4
Mixing, flocculation, settling, or Upflow solids contact	4 8
Filtration	6
CHEMICAL PRECIPITATION SOFTENING	
Presettling	4
Addition of chemicals/coagulants	4
Mixing, flocculation, settling, or Upflow solids contact	4 8
Recarbonation	2
Filtration	6
ION EXCHANGE SOFTENING	
Ion Exchange Softening	10
IRON OR IRON/MN REMOVAL	
Chemical Oxidation by KMnO ₄	4
Chemical Oxidation by Cl ₂	4
Aeration	4
Filtration	6
ADJUSTMENT — Points assigned only for specific chemical treatment in addition to those listed above or where it is the only treatment provided.	
Chemical Addition for Stabilization (polyphosphate, soda, lime, pH adjustment, etc.)	4
Taste and Odor or Color Control (KMnO ₄ , activated carbon, etc.)	8
ADVANCED TREATMENT (demineralization)	15
WASTE HANDLING	
In-plant treatment of sludge	6
FLUORIDATION	5
DISINFECTION	
Chlorination or Comparable	5
On-site Generation of Disinfectant	5
LABORATORY CONTROL BY PLANT PERSONNEL (See Table 2 for Variable Point Guide)	
Bacteriological (Complexity)	3-10

Chemical/Physical (Complexity)	1	10
Total		

* Each category should be considered a major unit process and points assigned only once for each unit or combined unit, i.e. for iron removal using oxidation and precipitate removal by filtration, only add ten points for iron removal and nothing for filtration.

(c) Table 2 is to be used as a supplement to Table 1.

**TABLE 2
PURIFICATION PLANT VARIABLE POINT GUIDE**

Variation in Raw Water Quality	0	10
The key concept is the variation or change in the quality of the raw water source. Point values are:		
Little or no variation; no treatment provided except chlorination.	0	
Raw water quality (other than turbidity) varies enough to require treatment changes approximately 10 percent of the time.	2	
Raw water quality (turbidity) varies severely enough to require pronounced and/or very frequent treatment changes.	5	
Raw water quality subject to periodic serious industrial waste pollution.	10	
Laboratory Control by Plant Personnel		
Bacteriological/biological (complexity) The key concept is to credit bacti/bio lab work done on site by plant personnel. Point values are:	0	10
Lab work done outside the plant.	0	
Membrane filter procedures.	3	
Use of fermentation tubes or any dilution method; fecal coliform determination.	5	
Biological identification.	7	
Virus studies or similarly complex work conducted on site.	10	
Chemical/physical (complexity) The key concept is to credit chemical/physical lab work done on site by plant personnel. Point values are:	0	10
Lab work done outside the plant.	0	
Push button or colorimetric methods for simple tests such as chlorine residual, pH, up to	3	
Additional procedures such as titration, jar tests; alkalinity, hardness up to	5	
More advanced determinations such as numerous inorganics up to	7	
Highly sophisticated instrumentation such as atomic absorption and gas chromatography.	10	

(2) The secretary shall classify distribution systems (are classified by the secretary in four groups, according to the population served. The classification schedule is) into groups as follows:

Classification	Population Served*
Group 1	less than 1,500
Group 2	1,501 - 15,000
Group 3	15,001 - 50,000
Group 4	greater than 50,000

* If the population served is not known(=then), apply this formula:
Number of Service Connections x ((3+)) 2.5 = Population Served

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-050 Minimum certification requirements for public water systems. (1) ((Public water systems)) Owners shall ((be classified by the secretary in

~~accordance with the procedures in WAC 248-55-050. Accordingly, an operator) have at least one certified ((at the appropriate level shall be)) operator in ((direct responsible)) charge of the active, daily, technical ((direction and supervision)) operation of ((the following portions of the public water)) their system((-)) as follows:~~

~~(a) ((Purification plant--)) A ((water treatment plant operator (-)) WTPO((+)) shall be ((in direct)) responsible ((charge of that portion of any public water system which is classified as a purification plant and which meets the conditions of WAC 248-55-030 (1)(a) or (b). The WTPO shall be responsible for the administration and)) for the operation of ((the)) a purification plant ((and shall be certified at a level determined by the complexity of the purification plant as determined by a point rating system. (See WAC 248-55-050(1) for point rating system details.)) utilizing complex filtration technology;~~

~~(b) ((Water distribution system--)) A BTO shall be responsible for the operation of:~~

~~(i) A purification plant utilizing basic filtration technology; or~~

~~(ii) An unfiltered Group A surface water or GWI system with less than one hundred services in use at any one time.~~

~~(c) A ((water distribution manager (WDM) shall be in direct responsible charge of all public water systems which meet the conditions of WAC 248-55-030 (1)(a) or (b). The)) WDM shall be responsible for the ((administration and)) operation of ((the entire public water system or)) a ((major segment of a public)) Group A water system ((necessary for monitoring or improving the quality of water and shall be certified at a level determined by the population served)) with:~~

~~(i) One hundred or more services in use at any one time; or~~

~~(ii) A purification plant utilizing complex filtration technology.~~

~~(2) Owners required to develop a cross-connection control program shall ensure that a CCS is responsible for:~~

~~(a) The system's cross-connection control program;~~

~~(b) Initial inspection of premises served by the system, for cross-connections; and~~

~~(c) Periodic reinspection of premises served by the system, for cross-connections.~~

~~(3) Owners shall ensure that a BAT is responsible for inspecting, testing, and monitoring backflow prevention assemblies in accordance with WAC 246-290-490. ((See WAC 248-55-050(2) for rating details.))~~

~~(e) Distribution system specialties—A third classification of operator certification, water distribution specialist (WDS), shall be available to operators on a voluntary basis. Any person who is engaged in a specialized phase of waterworks operation such as main repair, meter repair, pump maintenance and operation, service installation, chlorination process operation, or watershed control but is not working in a direct responsible charge capacity is encouraged to become certified as a water distribution specialist.~~

~~(2) If) (4) Owners may utilize a WDS to accomplish routine technical duties, provided they are under the supervision of an operator certified in accordance with WAC 246-292-020.~~

PERMANENT

(5) A WTPO and WDM shall be certified at a level equal to or higher than the water system's classification rating assigned by the secretary in accordance with WAC 246-292-040.

(6) When the ((public)) Group A water system ((normal-ly)) practices shift work((~~-then-a~~)), the certified operator in charge of each shift shall be ((in direct responsible charge for each operating shift)) certified at a minimum of one level lower than the classification of the purification plant or distribution system.

((3) The same individual may be certified as a WDM, WTPO, or WDS.))

NEW SECTION

WAC 246-292-055 Minimum requirements for contract operators. (1) Contract operators shall mean persons who are in charge of the active, daily, technical operation of more than two public water systems.

(2) Contract operators responsible for operation of a system shall be certified as follows:

- (a) At a minimum, a WDM and CCS, with the WDM level determined by the largest public water system operated;
- (b) A BTO for public water systems with basic filtration technology; and
- (c) A WTPO for public water systems with complex filtration technology.

(3) Contract operators shall maintain twenty-four-hour telephone availability.

(4) Contract operators shall submit two copies of all signed operations contracts to the department within thirty days of the effective date.

(5) Contract operators who are satellite management agencies shall also comply with the provisions of RCW 70.116.134.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-060 Minimum education and experience requirements for water works operators. (1) Minimum education and experience requirements for the following water works operator classifications and ((grades of operators)) levels shall be as indicated in Table 1:

((Table 3

MINIMUM EDUCATION AND EXPERIENCE REQUIREMENTS
EDUCATION/OPERATING EXPERIENCE

((DRC))	EDUCATION/OPERATING EXPERIENCE				
	OIT*	I	II	III	IV
Water Distribution Manager (WDM)	12/3 months	12/1	12/3	14/4(2)	16/4(2)
Water Treatment Plant Operator (WTPO)	12/3 months	12/1	12/3	14/4(2)	16/4(2)
Water Distribution Specialist (WDS)	12/3 months	12/1	12/3	14/4(2)	16/4(2)
Cross-Connection Control Specialist (CC)	NA	**	***	NA	NA

(Education and experience requirements are expressed in years unless otherwise noted.)

*Operator in training experience can be fulfilled by 3 months experience or 30 hours of relevant classroom training (3 CEU)

**Experience required is a special 30-hour backflow prevention device testers class that includes hands-on training, lectures, and a field trip

***Experience required is training as a cross-connection control instructor and certification as a CCI)

Table 1
MINIMUM EDUCATION AND EXPERIENCE REQUIREMENTS

WATER WORKS OPERATOR CLASSIFICATIONS	LEVEL									
	OIT*		1		2		3		4	
	Education	Experience	Education	Experience	Education	Experience	Education	Experience	Education	Experience
Water Distribution Manager (WDM)	12 years	2 months	12 years	1 year	12 years	2 years	12 years	4 years	12 years	4 years
Water Treatment Plant Operator (WTPO)	12 years	2 months	12 years	1 year	12 years	2 years	12 years	4 years	12 years	4 years
Water Distribution Specialist (WDS)	12 years	1 month	12 years	1 year	12 years	1 year	NA	NA	NA	NA
Cross-Connection Control Specialist (CC)	NA		12 years	2 months	12 years	1 year	NA		NA	
Backflow Assembly Tester (BAT)	NA		NA		NA		NA		NA	
Basic Treatment Operator (BTO)	NA		NA		NA		NA		NA	

* OIT experience may be fulfilled by three months operating experience or thirty hours of relevant classroom training (three CEUs or college credits).

(2) ((Substitution -)) Minimum education shall be the acceptable level of education, or experience which may be substituted for education. A department guideline titled "Water Works Certification Program Guideline" is available to assist operators in determining acceptable education and experience.

(3) Minimum experience shall be the routine on-site performance of duties in a water purification plant or distribution system. Those duties shall affect plant or system performance and/or water quality.

(4) The board may allow substitutions of a person's relevant experience when ((short of)) the person cannot meet the formal education requirement, or vice versa in the WDM, WTPO, WDS and CCS classifications as outlined in the department guideline titled "Water Works Certification Program Guideline" available on request.

((3) Policy - A listing of minimum requirements and responsibilities for each classification and grade including rules regarding substitutions shall be adopted by the board and published by the department.))

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-070 Application and examination. (1) ((The board shall prepare examinations to be used in determining the competency of operators)) Applicants for any classification of water works operator shall:

(a) Meet the minimum education and experience criteria for the level of certification for which they are applying in accordance with WAC 246-292-060;

(b) Submit a completed application and applicable fee to the secretary;

(c) Pass the written examination for the appropriate classification and level; and

(d) For the BAT and BTO classifications, pass the practical examination.

(2) ((Periodic review and revision of the examinations shall be undertaken as necessary to ensure validity and applicability.

(3) Certificates of competency shall be issued to applicants who successfully pass the examination for the

PERMANENT

~~classification and grade for which they were eligible)) The secretary shall:~~

~~(a) Conduct examinations at least three times annually at convenient places and times as set by the board;~~

~~(b) Provide notice of places and times of regularly scheduled examinations; and~~

~~(c) Issue applicable certificates to applicants meeting all the conditions for certification.~~

~~((4)) (3) Applicants who fail ((to pass an)) or do not appear for their scheduled examination may ((repeat the same examination at no additional fee at the next)) reapply for a regularly scheduled examination by submitting a new application along with the applicable fee to the secretary.~~

~~((5) Examinations shall be held at least three times annually at convenient places and times as set by the board. Advance announcements of places and times shall be published by the department.~~

~~(6) The board shall forward its recommendations for certification to the secretary.)~~

NEW SECTION

WAC 246-292-075 Reciprocity. The secretary may issue a certification without examination provided:

(1) A completed application and applicable fee are submitted to the secretary; and

(2) The applicant possesses a certificate from a state or province having substantially equivalent standards as determined by the secretary after consultation with the board.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-080 Temporary certification ~~((without examination))~~. (1) The secretary ~~((shall))~~ may issue a temporary certificate ~~((s without examination under the following conditions:~~

~~(a) Certificates, in appropriate classifications, shall be issued to operators who on January 1, 1978, held certificates of competency attained through the voluntary certification program sponsored jointly by the Pacific Northwest Section of the American Water Works Association and the department.~~

~~(b) Certificates shall be issued to persons certified by a governing body or owner of a public water system to have been the operators of a purification plant or distribution system on January 1, 1978, but only to those who are required to be certified in accordance with WAC 248-55-030. A certificate so issued shall be conditioned to be valid only for operating the existing plant or system.~~

~~(c) A nonrenewable certificate, temporary in nature, may be issued) to an operator ((for a period not to exceed twelve months to fill a vacated position required to have a certified operator)) without examination, provided:~~

~~(a) The public water system submits:~~

~~(i) A letter requesting a temporary certificate for the operator; and~~

~~(ii) The applicable fee.~~

~~(b) The operator completes and submits a certification application; and~~

~~(c) The operator meets or will meet the minimum education and experience requirements of the mandatory~~

classification for the vacated position, prior to the expiration date of the temporary certificate.

(2) Only one ((such)) temporary certificate may be issued ((subsequent to)) in each instance of vacation of any ((such)) position.

~~((d) The board may, at its discretion, waive examinations for applicants holding certificates or licenses issued by other states or provinces having equivalent standards as determined by the board, and issue a class of certificate in accordance with the requirements contained herein.~~

~~(2) Certificates without examination shall be issued only upon receipt of a completed application form and fees as required in this chapter.) (3) The temporary certificate shall be valid for up to twelve months.~~

(4) The temporary certificate shall be specific to the designated system.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-090 Renewal of certificates. (1) The ~~((terms for all))~~ operator certificate ~~((s))~~ shall be ~~((for one))~~ renewed by January 1st of each year ~~((from the date of issuance))~~. ~~((Every certificate shall be renewed annually upon the payment of a renewal fee and satisfactory evidence presented to the board that the operator has demonstrated continued professional growth in the field. The accumulation of three college credits or continuing education units every three years is considered satisfactory evidence of professional growth.))~~

(2) The secretary shall renew the operator certificate upon payment of the renewal fee and demonstration of professional growth in accordance with subsections (3), (4), and (5) of this section. The applicant shall provide evidence of professional growth acceptable to the department within the designated professional growth reporting period. A department guideline titled "Water Works Certification Program Guideline" is available to assist the applicant.

(3) To demonstrate professional growth, a holder of WDM, WTPO, WDS, or CCS certification shall accomplish one of the following activities during each professional growth reporting period:

(a) Accumulate a minimum of three CEUs, or college credits relevant to the operation, maintenance, or management of a water system;

(b) Advance by examination in the Washington water works operator certification program within the same classification to a level 2, 3, or 4; or

(c) Achieve certification by examination in a different classification as shown below:

(i) WDM to WTPO;

(ii) WTPO to WDM;

(iii) WDS to WDM or WTPO; or

(iv) CCS to WDM, WTPO, or WDS.

(4) To demonstrate professional growth, a holder of a BAT certification shall satisfactorily complete the board's backflow assembly tester practical and written examination during each professional growth reporting period.

(5) To demonstrate professional growth, a holder of a BTO certification shall satisfactorily complete the board's basic treatment operator refresher practical and written

examinations during each professional growth reporting period.

(6) The secretary shall notify an operator(s) failing to renew the operator certificate ((before the end of the certificate year)) by December 31st, that the certificate((s-are)) is temporarily valid for two months ((following the end of the certificate year)) beginning January 1st.

(7) A certificate(s) not renewed during the two month period shall become invalid. The secretary shall notify the holder(s) of an invalid certificate(s) with a written notice.

((3)) (8) An operator failing to renew ((the certificate pursuant to the)) their certification under provisions of this section may reapply for certification((-The board may require the operator to)) and shall meet the requirements ((established)) for a new applicant(s).

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-100 Revocation. (1) The secretary may((-with the recommendation of the board and after hearing before same;)) revoke ((a)) an operator's certificate ((if)) when the operator:

(a) ((It is found to have been obtained)) Obtains a certificate by fraud or deceit;

(b) ((The operator)) Demonstrates gross negligence in the operation of a ((water)) purification plant or a ((public water)) distribution system((s operation or major segment thereof)); or

(c) ((The operator)) Intentionally violates the requirements of this chapter or any ((lawful)) department rules((-order or regulation of the secretary)) or orders.

(2) ((No person whose certificate has been revoked under this section shall be eligible for a certificate for one year from the effective date of the final order of revocation. Any such person who reapplies for recertification shall meet all the requirements established for new applications)) The secretary shall provide written notice of violation and reasonable opportunity for correction prior to taking action on revocation of a certificate.

(3) No action to revoke a certificate shall be initiated by the secretary unless and until the board has conducted a hearing to consider the appropriateness of revocation and the board has recommended revocation to the secretary.

(4) A revocation action brought under this section shall be conducted in accordance with RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-292-110 ((Violations)) Enforcement. ((1)) Following thirty days written notice by the secretary violation of WAC 248-55-030 is a misdemeanor. Each day that a public water system operates in violation of WAC 248-55-030 constitutes a separate offense. Upon conviction, violators are subject to fines not exceeding one hundred dollars for each such offense.

(2) In the case of fraud, deceit, or gross negligence under WAC 248-55-120 (1)(a) and (b), no revocation citation or change shall be made until proper written notice of violation and reasonable opportunity for correction has been made.)) When any Group A water system or operator

is out of compliance with these regulations, the department may initiate appropriate enforcement actions as authorized under chapter 70.119 and 70.119A RCW. These actions may include any one or combination of the following:

(1) Issuance of informal letters instructing or requiring appropriate corrective measures;

(2) Issuance of a compliance schedule;

(3) Issuance of a departmental order;

(4) Issuance of civil penalties for up to five thousand dollars per day per violation;

(5) Prosecution as a criminal misdemeanor with fines up to one hundred dollars per offense; and

(6) Other legal action by the attorney general or local prosecutor.

NEW SECTION

WAC 246-292-160 Water works certification fees.

(1) Operator fees:

(a) Applicable fees shall be as indicated in Table 2;

Table 2 WATER WORKS OPERATOR FEES

Table with 5 columns: OPERATOR CLASSIFICATION, APPLICATION FEE, REAPPLICATION FEE, ANNUAL RENEWAL FEE, LATE FEE. Rows include WTPO, WDM, WDS, CCS, BAT, BTO.

The annual renewal fee and late fee for a WTPO, WDM, WDS and CCS certification shall be twenty-five dollars regardless of the number of classifications held.

(b) A late fee shall be assessed to operators failing to submit the required fee within the time period specified on the renewal form; and

(c) The fee for application for reciprocity shall be one hundred dollars per classification.

(2) Group A system fees:

(a) Applicable fees shall be as indicated in Table 3.

Table 3 ANNUAL SYSTEM CERTIFICATION FEES

Table with 2 columns: SYSTEM SIZE (Number of Equivalent Services), SYSTEM FEE. Rows include Less than 601 Services, 601 through 6,000 Services, 6,001 through 20,000 Services, More than 20,000 Services.

Systems designated by the department as approved satellite management agencies (SMAs) shall pay a fee based on total services in all systems owned by the SMA.

(b) Group A system fees shall be paid in conjunction with the system's annual operating permit fee required in chapter 246-294 WAC.

(c) A late fee shall be assessed against any system not submitting the applicable fee to the department within the designated time period. The late fee shall be based on the water system's classification and shall be an additional ten percent of the applicable system fee or twenty-five dollars, whichever is greater.

(d) The system fee for issuance of a temporary certificate shall be fifty dollars for each temporary position.

(3) Fees shall be nonrefundable and transfers of fees shall not be allowed.

(4) Payment of fees required under this chapter shall be in the form of a check or money order made payable to the

PERMANENT

department of health and shall be mailed to Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099, or such successor organization or address as designated by the department.

NEW SECTION

WAC 246-292-170 Severability. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-292-120 Purpose.
- WAC 246-292-130 Notice of decision—
Adjudicative proceeding.
- WAC 246-292-140 Certificate denial—
Adjudicative procedure.
- WAC 246-292-150 Certificate suspension, modification, or revocation—
Adjudicative procedure.
- WAC 246-292-990 Waterworks operator certification fees.

WSR 94-04-005
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed January 20, 1994, 1:20 p.m.]

Date of Adoption: January 3, 1994.

Purpose: To establish specific criteria for reinstating a dental hygiene license.

Statutory Authority for Adoption: RCW 18.29.071 Renewals.

Pursuant to notice filed as WSR 93-22-051 on October 28, 1993.

Changes Other than Editing from Proposed to Adopted Version: Changed to reinstatement of expired dental hygiene licenses only and dropped requirement for payment of back fees and retaking of the dental hygiene examination. Added the requirement for completing a reinstatement application.

Effective Date of Rule: Thirty-one days after filing.
January 3, 1994
Bruce Miyahara
Secretary

NEW SECTION

WAC 246-815-300 Reinstatement of a dental hygiene expired license Reinstatement of an expired dental hygiene license shall require:

- (1) The filing of an application for reinstatement.
- (2) The payment of the current renewal fee and late penalty fee.
- (3) The total delinquent qualifying continuing education for the most recent two years the license was expired and shall be verified by affidavit at the specific rate for the applicable years.

WSR 94-04-011
PERMANENT RULES
PERSONNEL RESOURCES BOARD

[Filed January 21, 1994, 1:12 p.m., effective March 1, 1994]

Date of Adoption: January 13, 1994.

Purpose: The adoption of the new sections will provide for employee movement between the Washington management service and Washington general service.

Citation of Existing Rules Affected by this Order: New WAC 356-05-477, 356-05-479, 356-06-045, 356-30-285, and 356-30-315.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.150.

Pursuant to notice filed as WSR 93-24-089 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 356-06-045 Movement between Washington general service and Washington management service positions, the overall composition of WAC 356-06-045 was reworded to be consistent with the language that was adopted in WAC 356-56-210 on December 17, 1993. In addition some specific language was amended including adding language to subsections (2) and (4) of the section dealing with minimum qualifications and incorporating the language which was originally proposed as WAC 356-30-328 into subsection (5) of the section. The minimum qualifications language was done as a result of public hearing and is consistent with the original intent of the section. Due to the addition of language to subsection (5) of the section, the originally proposed new section WAC 356-30-328 was withdrawn; WAC 356-30-285 Probationary period or trial service period—Appointment to higher position in Washington management service, the overall composition of WAC 356-30-285 was reworded to be consistent with the language adopted in WAC 356-56-220(6) on December 17, 1993; and WAC 356-30-315 Reversion from Washington management service, the overall composition of WAC 356-30-315 was reworded to be consistent with the language adopted in WAC 356-56-230 on December 17, 1993.

Effective Date of Rule: March 1, 1994.

January 21, 1994
 Dennis Karras
 Secretary

NEW SECTION

WAC 356-05-477 Washington general service. The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW and exclusively under those chapters of Title 356 WAC that are adopted by the Washington personnel resources board.

NEW SECTION

WAC 356-05-479 Washington management service. The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and RCW 41.06.500 and those chapters of Title 356 WAC that are adopted by the director of personnel.

PERMANENT

NEW SECTION

WAC 356-06-045 Movement between Washington general service and Washington management service positions. (1) Employees who have attained permanent status, or who have completed six months of the review period, in the Washington management service are eligible to compete under promotional recruitments for Washington general service positions.

(2) Permanent employees may transfer from the Washington management service to Washington general service positions if their salary is within the salary range of the Washington general service position. Transfers may require the employee to meet minimum qualifications and take the appropriate examination as determined by the director of personnel or designee.

(3) Permanent employees may transfer from Washington general service to Washington management service positions if their salary is within the salary level of the Washington management service position.

(4) Permanent employees may voluntarily demote between Washington management service and Washington general service positions at a lower pay than their current permanent position. Voluntary demotion to a Washington general service classification may require the employee to meet minimum qualifications and take the appropriate examination as determined by the director of personnel or designee.

(5) During reduction in force, permanent Washington management service employees who also have permanent status in Washington general service will be afforded return rights as follows:

(a) Prior to considering Washington management service positions within the agency which have a lower salary, appointing authorities will consider Washington general service positions within the agency in the same occupational field with the same or similar salary for which the employee is qualified and has held permanent status.

(b) Washington management service employees who have no reduction in force options for the same or similar positions in the Washington management service will be afforded reduction in force rights to the highest Washington general service class held permanently.

NEW SECTION

WAC 356-30-285 Probationary period or trial service period—Appointment to higher position in Washington management service. An employee who is appointed to a higher Washington management service position from a Washington general service position while serving a probationary or trail service period in the same or similar occupational field will serve the trial service or probationary period concurrently with the review period. The employee will attain permanent status in the previous job classification once the original probationary or trial service period elapses.

NEW SECTION

WAC 356-30-315 Reversion from Washington management service. Permanent Washington general service employees who are appointed to a Washington management service position and who do not successfully complete the review period will retain the following rights.

(1) 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.

(2) 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 within 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 funded vacant position is available, the employee may request to be placed on the reversion register as provided in WAC 356-26-030 (3) and (5) and 356-30-320.

(3) Nothing in this reversion 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 these rules.

(4) Employees may not appeal reversion or separation from a Washington management service review period.

**WSR 94-04-018
PERMANENT RULES
WILDLIFE COMMISSION**

[Order 625—Filed January 24, 1994, 4:33 p.m., effective January 25, 1994]

Date of Adoption: January 22, 1994.

Purpose: Establishes wild steelhead release regulations on the Columbia River below Bonneville Dam.

Summary: Eliminate the current harvest of depressed wild stocks in the Columbia River below Bonneville Dam. All winter-run hatchery steelhead in Oregon and Washington are now [now] marked, which will allow the sport fishery to selectively target on abundant hatchery stocks.

Reasons Supporting Proposal: Increase spawning escapements of depressed wild steelhead stocks below Bonneville Dam and increase spawning escapement.

Resource Impacts: The average five-year harvest on wild fish in Washington below Bonneville Dam is 165 fish. Spawning escapement will increase for depressed wild stocks

by approximately the same amount. Sport catch by Washington anglers will be decreased by an average of 165 fish.

Financial Impacts: None.

Statement of Finding: An effective date of January 25, which is earlier than the 31 days after filing is necessary because the time requirements would be contrary to the public interest. Wild winter run steelhead will begin entering the lower Columbia River in late January. Waiting 31 days to implement this regulation will make them vulnerable to harvest. Also, the Oregon Wildlife Commission adopted this regulation effective January 1. Implementing this regulation as soon as possible will limit the time period when regulations for the two states are inconsistent.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 93-24-083 on November 30, 1993.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: See Purpose above.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

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

Effective Date of Rule: January 25, 1994.

January 24, 1994
 J. David Brittell
 Acting Deputy Director
 for John McGlenn
 Chair, Wildlife Commission

NEW SECTION

WAC 232-28-61940 1992-94 and 1994-95 Washington game fish seasons and catch limits—Columbia River. Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Columbia River.

Including the Columbia River and impoundments and all connecting sloughs, except Wells Pond in Region 2.

Columbia River, from the Megler-Astoria Bridge to the I-5 Bridge: Year around season. Wild steelhead release and wild cutthroat release. Closed to fishing for steelhead April 1 - May 16.

From the I-5 Bridge to the Highway 395 Bridge at Pasco; including Drano Lake: Year around season. Wild steelhead release. Closed to fishing for steelhead April 1 - June 15.

All other provisions of WAC 232-28-619 related to the Columbia River remain in effect and unchanged.

WSR 94-04-030
PERMANENT RULES
DEPARTMENT OF ECOLOGY
 [Filed January 26, 1994, 3:20 p.m.]

Date of Adoption: January 26, 1994.

Purpose: To repeal chapter 173-95 WAC, Centennial clean water.

Citation of Existing Rules Affected by this Order: Repealing chapter 173-95 WAC.

Pursuant to notice filed as WSR 93-22-101 on November 3, 1993.

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

January 26, 1994

Mary Riveland

Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-95-010 Purpose and scope.
- WAC 173-95-020 Definitions.
- WAC 173-95-030 Provision of guidelines.
- WAC 173-95-040 Limitations on the use of funds.
- WAC 173-95-050 Compliance with applicable laws, regulations and other requirements.
- WAC 173-95-060 Indemnification.
- WAC 173-95-070 Appropriation of funds by the legislature.
- WAC 173-95-080 General provisions.
- WAC 173-95-090 Funding processes.
- WAC 173-95-100 Marine water facilities funding category.
- WAC 173-95-110 Ground water activities and facilities funding category.
- WAC 173-95-120 Freshwater lakes and rivers activities and facilities funding category.
- WAC 173-95-130 Nonpoint activities and facilities funding category.
- WAC 173-95-140 Discretionary activities and facilities funding category.
- WAC 173-95-150 Financial hardship eligibility and remedies.
- WAC 173-95-160 Applicability of centennial clean water regulation and funds.

WSR 94-04-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3695—Filed January 26, 1994, 3:31 p.m.]

Date of Adoption: January 26, 1994.

Purpose: New chapter 388-275 WAC, Supplemental security income, facilitates on-line (computer) access by eligibility staff in field offices and makes the policies easier to understand. Changes clarify consistency with the state supplemental agreement between the department and Social Security Administration, the Code of Federal Regulations for Supplemental Security Income, and the general assistance RCW.

PERMANENT

Citation of Existing Rules Affected by this Order:
Repealing chapter 388-59 WAC (WAC 388-59-010 through 388-59-100).

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.600 through 74.04.650.

Pursuant to notice filed as WSR 94-01-138 on December 20, 1994 [1993].

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

January 26, 1994

Dewey Brock, Chief
Office of Vendor Services

Chapter 388-275 WAC SUPPLEMENTAL SECURITY INCOME

NEW SECTION

WAC 388-275-0010 Purpose. The purpose of the Supplemental Security Income Program is to provide a minimum income level for persons who are aged, blind, and disabled with limited income and resources.

Authority for the program is found in Title XVI of the Social Security Act amended by P.L. 92-603.

NEW SECTION

WAC 388-275-0020 Definitions. (1) "Conversion" means the process by which a client who was receiving assistance under the former state-administered Old Age Assistance (OAA), Aid to the Blind (AB), or Disability (DA) programs was transferred in January 1974 to the federally administered SSI program.

(2) "Department" means the department of social and health services.

(3) "Eligible couple" means an eligible individual and eligible spouse.

(4) "Eligible individual" means an aged, blind, or disabled person as defined in Title XVI of the Social Security Act.

(5) "Emergency advance SSI payment" means an expedited one-time SSI payment issued by the local SSA office to a person who:

(a) Has an application for SSI pending or just approved with SSA; and

(b) SSA determines is presumptively disabled or blind; and

(c) Has a financial emergency.

(6) "Essential person" means a person who is not eligible for SSI in the person's own right but receives SSI benefits because:

(a) The person is a legal dependant or spouse of an SSI beneficiary and have continuously lived in the home of the eligible person since December 1973; and

(b) At the time of conversion to SSI in 1974 the person's needs were included in the state-administered assistance grant for the aged, blind, and disabled programs.

(7) "Federal Benefit Rate (FBR)" means the federal SSI benefits payment standard.

(8) "Grandfathered" means the special status for a client converted from the state-administered aged, blind, and disabled programs which provides:

(a) Future eligibility determined on the basis of state eligibility criteria in effect at the time of conversion; and

(b) A maintained mandatory minimum payment level.

(c) A "grandfathered" recipient shall retain grandfathered status as long as the recipient continues meeting the eligibility requirements at the time of conversion.

(9) "Ineligible spouse" means a person whose needs are included in the SSI beneficiary's payment and who is:

(a) Not eligible for SSI in the person's own right; and

(b) Living with a SSI eligible individual; and

(c) Married to or "holding out" to the community as married to the eligible individual. SSA considers a man and woman who are not legally married, but are holding out to the community that the couple are husband and wife, as a couple for purposes of determining eligibility and payment amount under SSI.

(10) "Interim assistance" means state funds furnished to or on behalf of the individual for basic needs, including care in alternate care facilities, during the:

(a) Interim period the client's application for SSI is pending and subsequently approved; or

(b) Period the client's SSI benefits were suspended or terminated, and subsequently reinstated for that period.

(11) "Interim assistance period" means the period:

(a) Beginning with the first day:

(i) A client was eligible for SSI benefits; or

(ii) A client's benefits were suspended or terminated, if the client was subsequently found to have been eligible for such benefits; and

(b) Ending with the month payment is made. It includes the last interim assistance payment which the state prepares and cannot stop delivery on, when the client's initial or reinstated (posteligibility) SSI benefit payment is received from SSA.

(12) "Presumptive SSI payment" means an SSI payment, authorized for a maximum of six months, which SSA issues prior to a formal eligibility decision to a person who SSA determines:

(a) Is presumptively disabled or blind; and

(b) Meets all other eligibility requirements.

(13) "Secretary" means the secretary of department of social and health services.

(14) "SSA" means the Social Security Administration.

(15) "SSI benefit payment" means the federal SSI benefit payment and/or the state supplementary payment amount the Social Security Administration determines payable on behalf of the state.

(16) "Supplemental Security Income (SSI) program" means the federal program of Supplemental Security Income for a person who is aged, blind, and disabled established by section 301 of the Social Security Act, and subsequent amendments, and administered by the Social Security Administration (SSA).

(17) "State data exchange (SDX)" means the computer system for exchanging information between SSA and the department regarding SSI clients. SDX provides the department with information to authorize medical coupons and Medicare buy-in for a person eligible for SSI.

(18) "State supplementary payment" means a state money payment authorized by the state and administered by SSA to supplement the federal SSI benefit payment standard.

NEW SECTION**WAC 388-275-0030 Administrative responsibility.**

(1) Social Security Administration (SSA) administers the SSI program.

(a) Except as specified under subsection (2) of this section, SSA administers state supplementary payments as specified under the state supplement agreement between the department and SSA.

(b) An applicant shall make application for SSI benefits, including the state supplement, with the SSA.

(2) The department administers state supplementary payments for individuals or couples:

(a) Residing in a Title XIX certified medical facility; and

(b) SSA determines eligible for a federal SSI benefit payment.

(3) The department shall authorize Title XIX Medicaid based on the SDX for individuals or couples eligible for SSI:

(a) Notwithstanding subsection (3) of this section, the department shall determine eligibility for the SSI client who:

(i) Refuses to provide third party insurance information and assign the insurance rights to the department;

(ii) Disposes of resources for less than fair market value and apply for Medicaid coverage of nursing facility care within thirty months of the date of transfer; or

(iii) Has a Medicaid qualifying trust.

(b) The essential spouse shall remain eligible for Title XIX medical assistance as long as the "grandfathered" essential spouse status does not cease.

(c) The ineligible spouse requesting medical assistance shall make a separate application to the department.

NEW SECTION**WAC 388-275-0040 Effect on other programs.**

(1) SSA shall not pay the SSI ineligible spouse state supplement for a parent eligible for or receiving aid to families with dependent children (AFDC) for or with the parent's children.

(2) The department shall not pay state-funded general assistance when:

(a) The SSI eligible individual is eligible for or receiving an SSI ineligible spouse state supplement for the spouse; or

(b) The spouse of an SSI eligible individual refuses, without good cause, to apply for the SSI ineligible spouse state supplement.

NEW SECTION**WAC 388-275-0050 Waiver of state supplement.**

(1) A person receiving or eligible to receive the state supplementary payments may:

(a) Waive the right to such payments by making a written request for waiver to SSA; and

(b) Revoke the supplemental payment waiver at any time by requesting, in writing, to the SSA.

(2) The department shall not pay state-funded general assistance in lieu of the state supplementary payments to a household that waives supplementary payments.

NEW SECTION

WAC 388-275-0060 Payments. (1) The amounts of state supplementary payment standards are as specified under WAC 388-29-295 and the state supplementary agreement between the department and SSA.

(2) A state supplementary payment is made on a monthly basis and is included in the same check as a federal benefit is payable.

(3) The state supplementary payment is for the same month as the federal benefit.

NEW SECTION

WAC 388-275-0070 Termination of state supplement. SSA shall terminate the state supplement when:

(1) The person dies;

(2) The person ceases to reside in Washington state;

(3) The person fails to apply for and, if eligible, obtain benefits or accept vocational services as specified by SSA;

(4) The person's disability is based on alcoholism or drug addition and the recipient refuses treatment required by SSA;

(5) The person has resided throughout a calendar month in a public institution;

(6) The person ceases to meet the categorical eligibility requirements of aged, blind, or disabled; or

(7) The grandfathered person ceases to meet the definition of aged, blind, and disabled under which the person received assistance for December 1973.

NEW SECTION

WAC 388-275-0080 Overpayment and underpayment. (1) SSA recoupment procedures for SSI benefit amounts shall also apply to the recovery of state supplementary overpaid amounts.

(2) The department shall not compensate an SSI beneficiary for reductions of the beneficiary's SSI benefit or state supplement caused by recoupment procedures.

(3) SSA shall pay the claimant for a state supplementation underpayment; except when the:

(a) Claimant dies before receiving the underpaid amount, SSA shall pay the underpaid amount to the claimant's eligible spouse.

(b) Deceased claimant does not have an eligible spouse, no payment of the underpaid amount is made.

(4) General assistance that is subsequently duplicated by the client's receipt of SSI for the same period and not reimbursed to the state is considered a debt due the state and subject to recovery through all available legal remedies.

(a) The department shall establish a debt for general assistance not reimbursed except when the:

(i) Initial or reinstated SSI payment is sent to the department; and

(ii) SSI payment does not cover the amount of interim assistance issued.

(b) General assistance that is duplicated by emergency advance SSI payments or SSI payments based on presumptive disability or presumptive blindness is not recoverable from the interim assistance reimbursement payment and shall be considered a debt.

NEW SECTION

WAC 388-275-0090 Representative payee. The secretary or the secretary's designee may act as representative payee for a child eligible for SSI benefits.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 388-59 WAC Supplemental security income.

WSR 94-04-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3697—Filed January 26, 1994, 3:32 p.m.]

Date of Adoption: January 26, 1994.

Purpose: To comply with 45 CFR 232 ruling good cause claims for noncooperation with support enforcement. Clarifies when a client claim of good cause for noncooperation with OSE can be approved. If client's good cause claim is based on threat of physical harm and the client cannot provide any evidence to prove the claim is true, the social worker must investigate the claim. If the claim appears credible, the social worker can approve the claim without any evidence.

Citation of Existing Rules Affected by this Order: Amending WAC 388-24-111 Good cause not to cooperate with support enforcement.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 232.

Pursuant to notice filed as WSR 94-01-042 on December 6, 1993.

Effective Date of Rule: Thirty-one days after filing.
 January 26, 1994
 Dewey Brock, Chief
 Office of Vendor Services

AMENDATORY SECTION (Amending Order 3046, filed 7/31/90, effective 8/31/90)

WAC 388-24-111 Good cause not to cooperate with support enforcement. (1) The department shall waive the requirement for client cooperation in WAC 388-24-109 if ~~((the client claims and the department determine cooperation would not be in the best interest of the eligible child))~~:

(a) A client claims good cause for noncooperation due to one of the circumstances listed in subsection (6) of this section; and

(b) The department determines cooperation would not be in the best interest of the child for whom support is sought.

(2) The department shall inform a client of:

(a) How establishing paternity ~~((and))~~, collecting support, and collecting third-party medical coverage may benefit the child; and

(b) ~~((Their))~~ The client's right to claim good cause not to cooperate.

(3) ~~((The department shall require the client who claims good cause to provide:~~

~~(a) Corroborative evidence supporting the good cause circumstances; or~~

~~(b) Enough information, such as the absent parent's name and address, to permit the department to investigate the existence of the claimed circumstances specified in subsection (6) of this section))~~ The burden to substantiate the good cause claim shall be upon the client. The department shall deny a client's good cause claim when the client fails to take the following required actions:

(a) Specify the circumstances which may constitute a valid basis for a good cause claim;

(b) Provide at least some corroborative evidence supporting the existence of these circumstances within twenty days from the date the good cause claim was made, except the department shall:

(i) Give the client a reasonable additional period of time, when the department determines the client will have exceptional difficulty in obtaining corroborative evidence;

(ii) Waive the requirement to provide corroborative evidence if the client meets the conditions in subsection (10) of this section; and

(c) If requested by the department, provide enough information to permit the department to investigate the circumstances involved in the client's good cause claim.

(4) When a client claims to have good cause, the department ~~((IV-A staff will))~~ shall determine if:

(a) The client claim is based on an allowable circumstance under subsection (6) of this section; and

(b) The evidence supplied by the client corroborates that cooperation would be against the best interest of the child; or

(c) Whether an investigation of the claimed circumstances ~~((confirms))~~ can or should be conducted to confirm that cooperation would be against the best interest of the child.

(5) The department shall:

(a) Determine good cause, as quickly as possible, ~~((according to time limits in WAC 388-24-110))~~ within thirty days from the day the good cause claim is made. The department may have additional time when the information required to verify the claim cannot be obtained within thirty days or when the client needs more than twenty days to provide corroborative evidence;

(b) Notify the client, in writing, of the department findings and basis for determination; and

(c) Document the determination, department findings, and the basis for the determination in the ~~((financial and service records))~~ client's record.

(6) The department ~~((IV-A staff))~~ shall only determine cooperation is against the best interest of the child for whom support is sought if ~~((the claim is based on))~~ one of the following circumstances exists:

(a) The client's cooperation can reasonably be anticipated to result in serious physical or emotional harm which is detrimental to the:

(i) Child; or

(ii) Caretaker relative to the extent the impairment reduces ~~((their))~~ the caretaker relative's capacity to adequately care for the child ~~((adequately))~~; or

(b) Establishing paternity or securing support would be detrimental to the child for whom support is sought and:

(i) The child was conceived as a result of incest or forcible rape;

(ii) Legal adoption proceedings of the child are pending before a superior court; or

(iii) The parent is working with a public or licensed child-placement agency(~~(, for up to three months,)~~) to decide whether to keep or relinquish the child for adoption and the discussions have not gone on for more than three months.

~~(7) ((The department shall limit evidence used to determine good cause without further investigation to the following))~~ The client may corroborate a good cause claim with the following types of evidence:

(a) Birth, medical, or law enforcement records which show the child was conceived as the result of incest or forcible rape;

(b) Court or other records which show proceedings for adoption are pending before a superior court;

(c) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records ~~((upon))~~ ~~((the department determines))~~ indicate that the absent parent might inflict emotional or physical harm on the ~~((child or))~~ caretaker relative or the child for whom support is sought;

(d) Medical records or written statements from a mental health professional, with a diagnosis or prognosis ~~((which shows cooperation by))~~ concerning the emotional health of the caretaker relative ~~((would not be in the best interest of the))~~ or the child for whom support is sought;

(e) Child-placement agency verification, including the dates of counseling, regarding the issue of whether to keep or relinquish the child for adoption; or

(f) Sworn statements from ~~((knowledgeable))~~ persons ~~((;))~~ other than the client, ~~((regarding))~~ who have knowledge of the circumstances ~~((upon))~~ which provide the ~~((claim is based))~~ basis of the good cause claim.

~~(8) ((#))~~ When the client requests, the department shall assist the client in obtaining any required evidence which the client cannot reasonably be expected to obtain without assistance.

~~(9) ((If the client cannot obtain required evidence yet continues to claim good cause, the client shall provide information to allow the department to investigate the circumstances of the claim. The department may base good cause on any verifying information acceptable to the department; however, during the investigation the department))~~ The department shall only approve good cause for noncooperation, based on the evidence supplied by the client, after such evidence has been examined and found to actually verify the client's good cause claim.

(10) When a good cause claim is based on the anticipation of physical harm to the child or to the caretaker relative and corroborative evidence of the claim is not provided by the client, the department shall:

(a) Investigate the claim when the department believes:

(i) The claim is credible without evidence; and

(ii) No evidence is available.

(b) Find good cause if the client's statement and the conducted investigation satisfies the department that the client has good cause for refusing to cooperate; and

(c) Subject good cause approved under these circumstances to supervisory approval.

(11) When the client provides evidence, but the client's claim and the evidence the client provides do not give the

department sufficient basis for making a good cause determination, the department may:

(a) Request additional evidence from the client. The department shall notify the client of the specific type of document which is needed; or

(b) Conduct an investigation, if necessary.

(12) When the department conducts an investigation of a client's good cause claim, the department shall:

(a) ~~((Shall not))~~ Contact the absent parent ~~((unless))~~ if such contact is necessary to establish the good cause claim; and

(b) Before such contact, ~~((shall))~~ notify ~~((and allow))~~ the client and give the client the opportunity to:

(i) Present additional evidence or information that makes contact unnecessary;

(ii) ~~((Withdraw))~~ Have the application for assistance withdrawn or assistance terminated; or

(iii) Have the good cause claim denied~~((; or~~

~~((iv) Request a fair hearing)).~~

~~((10) Where))~~

(c) Allow the client to request a fair hearing if the client chooses to have the good cause claim denied.

(13) The department ~~((bases))~~ shall not approve good cause based on a claim of emotional harm~~((;))~~ until the department ~~((shall consider and document the following factors)):~~

(a) Considers and documents whether the client's cooperation is reasonably anticipated to result in emotional harm that substantially affects the functioning of a child or the caretaker relative; and

(b) Obtains the following information:

(i) Past and present emotional state of the ~~((individual))~~ person subject to emotional harm;

~~((b))~~ (ii) Degree and probable duration of the emotional upset;

~~((e))~~ (iii) Degree of cooperation required; and

~~((d))~~ (iv) Extent of the child's involvement in the paternity establishment or support enforcement activity.

~~((11))~~ (14) The department ~~((IV-A staff))~~ shall ~~((also))~~ determine if the office of support enforcement ~~((could))~~ can proceed to collect support without ~~((risk, detrimental to))~~ involving the child or caretaker relative ~~((where the collection activities would not involve their participation. If the title IV-D staff can proceed where such activity will not cause risk of harm, IV-A staff))~~ and without posing a risk or a detriment to the child or caretaker relative. If so, the department shall:

(a) Document this decision in the case file; ~~((and))~~

(b) Notify the client of this decision so the client may withdraw the application; and

(c) If the application is not withdrawn, provide available information about the absent parent to ~~((IV-D))~~ the office of support enforcement staff ~~((if the application is not withdrawn)).~~

~~((12))~~ (15) Before a final determination of good cause, ~~((IV-A staff))~~ the department shall:

(a) Give ~~((IV-D))~~ the office of support enforcement staff the opportunity to review and comment on the finding and basis for the proposed determination;

(b) Consider ~~((IV-D))~~ the office of support enforcement staff comments or recommendations; and

January 26, 1994
 Dewey Brock, Chief
 Office of Vendor Services

(c) Provide ~~((IV-D))~~ the office of support enforcement staff the opportunity to participate in any fair hearing based on a good cause claim.

~~((13))~~ (16) The department shall not deny or delay assistance for a pending good cause determination if the client has:

(a) A valid claim basis as stated in subsection (6) of this section; and

(b) Has provided corroborative evidence and information.

~~((14) If IV-A staff determine)~~ (17) If the department determines that any collection activity ((may)) is reasonably anticipated to place the child or caretaker relative at risk, the ((department)) office of support enforcement staff shall not attempt to establish paternity or secure support.

~~((15) IV-A staff)~~ (18) The department shall review, at least every six months, all active good cause cases. If good cause no longer exists, the department shall require the client to cooperate.

~~((16))~~ (19) When good cause does not exist:

(a) The department shall notify the client and afford the client an opportunity to cooperate, withdraw the application, or request a fair hearing; and

(b) ~~((Continued refusal))~~ If the client continues to refuse to cooperate, the client shall ((result in the loss of)) lose AFDC eligibility ((for the caretaker relative)) as specified ((in)) under WAC 388-24-108(2).

~~((17))~~ (20) The department shall maintain records of good cause claims.

~~((18) IV-A staff)~~ (21) The department shall promptly report to ((IV-D)) the office of support enforcement staff those cases in which:

(a) A client claims good cause ((has been claimed)) and a determination is pending;

(b) A determination of good cause exists;

(c) A determination that good cause does not exist; and

(d) A client requests a fair hearing ((has been requested)) to contest a good cause determination.

WSR 94-04-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3698—Filed January 26, 1994, 3:33 p.m.]

Date of Adoption: January 26, 1994.

Purpose: Updates the Social Security supplemental income (SSI) amounts, effective January 1, 1994. The Community Services Office (CSO) staff use this income information to determine the amount of food stamps a client is eligible to receive.

Citation of Existing Rules Affected by this Order: Amending WAC 388-29-295 Standards of assistance—Supplemental security income (SSI) program.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 94-01-118 on December 17, 1993.

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

AMENDATORY SECTION (Amending Order 3506, filed 1/27/93, effective 2/27/93)

WAC 388-29-295 Standards of assistance—Supplemental security income (SSI) program. Effective January 1, ~~((1993))~~ 1994, the standards of SSI assistance paid to an eligible individual and couple are:

	Federal SSI Standard	State Benefit Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties		
Living alone		
Individual	((462.00-434.00)) <u>\$474.00 \$446.00</u>	28.00
Individual with one essential person	((673.00-651.00)) <u>691.00 669.00</u>	22.00
Couples:		
Both eligible	((674.00-652.00)) <u>691.00 669.00</u>	22.00
Includes one essential person	((673.00-651.00)) <u>691.00 669.00</u>	22.00
Includes ineligible spouse	((626.00-434.00)) <u>638.00 446.00</u>	192.00
Area II: All Counties Other Than the Above		
Living alone		
Individual	((441.55-434.00)) <u>\$453.55 \$446.00</u>	7.55
Individual with one essential person	((651.00-651.00)) <u>669.00 669.00</u>	0
Couples:		
Both eligible	((652.00-652.00)) <u>669.00 669.00</u>	0
Includes one essential person	((651.00-651.00)) <u>669.00 669.00</u>	0
Includes ineligible spouse	((594.15-434.00)) <u>606.15 446.00</u>	160.15
Areas I and II: Shared living (all counties)		
Individual	((295.15-289.34)) <u>\$303.15 \$297.34</u>	5.81
Individual with one essential person	((440.30-434.00)) <u>452.30 446.00</u>	6.30
Couples:		
Both eligible	((440.97-434.67)) <u>452.30 446.00</u>	6.30
Includes one essential person	((440.30-434.00))	6.30

PERMANENT

	<u>452.30</u>	<u>446.00</u>	
Includes ineligible spouse	((408.97 - 289.34))		119.63
	<u>416.97</u>	<u>297.34</u>	

WSR 94-04-036
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3699—Filed January 26, 1994, 3:34 p.m.]

Date of Adoption: January 26, 1994.

Purpose: Repeal chapter 388-53 WAC (IFG) dealing with the relationship between the Department of Social and Health Services and the individual and family grant program. The administration of this program under the Stafford disaster assistance program was moved to the Office of Emergency Management, Department of Community Development.

Citation of Existing Rules Affected by this Order: Repealing chapter 388-53 WAC, Individual and family grant programs—Disaster relief.

Statutory Authority for Adoption: Chapter 38.52 RCW. Pursuant to notice filed as WSR 94-01-011 on December 2, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 26, 1994
Dewey Brock, Chief
Office of Vendor Services

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 388-53 WAC, Individual and family grant program—Disaster relief.

WSR 94-04-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3700—Filed January 26, 1994, 3:35 p.m.]

Date of Adoption: January 26, 1994.

Purpose: Clarifies policies during the transition period between the repeal of chapter 248-172 WAC and full implementation of chapter 388-43 WAC, new WAC 388-43-120 Policies for transition.

Statutory Authority for Adoption: RCW 43.20A.725 (SHB 1752).

Pursuant to notice filed as WSR 94-01-080 on December 10, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 26, 1994
Dewey Brock, Chief
Office of Vendor Services

NEW SECTION

WAC 388-43-120 Policies for transition. (1) A person issued telecommunications equipment from telecommunications access service (TAS) at or before November 15, 1993, shall become the owner of the equipment. TAS shall be absolved of all responsibility for replacement or repair of equipment issued at or before November 15, 1993. An owner issued equipment at or before November 15, 1993, shall be responsible for equipment repairs.

(2) A person issued telecommunications equipment at or before November 15, 1991, who still has the equipment and the equipment breaks shall re-apply for new telecommunications equipment under chapter 388-43 WAC.

(3) A person issued telecommunications equipment from 1988 through November 15, 1993, exchanged for reconditioned equipment at or before November 15, 1993, and who has exchanged equipment an average of less than once per year over the period of issue shall re-apply under chapter 388-43 WAC.

(4) A person with a history of exchanging equipment an average of one or more times per year since the original issue shall wait two years before re-applying for new equipment. If such person received reconditioned equipment, refer to subsection (5) of this section.

(5) A person with no history of damaged equipment and less than one equipment exchange per year who was issued reconditioned equipment in 1993 which has a technical malfunction may apply for new equipment under chapter 388-43 WAC.

(6) The department shall allow a person to apply for equipment under chapter 388-43 WAC who:

(a) Has not previously applied for equipment from TAS; and

(b) Meets the eligibility requirements of WAC 388-43-010 of this chapter.

(7) The department shall allow a person to re-apply for new equipment who:

(a) Received equipment from TAS more than two years ago; and

(b) Has lost contact with the TAS office.

(8) The department shall not allow a person who has lost contact with the TAS office and has had TAS equipment for less than two years to re-apply until two years after the last date the person received new equipment.

(9) There may be a person wishing to re-apply whose situation does not fit subsections (1) through (8) of this section. In such instances, the TAS office and office of deaf and hard of hearing services (ODHHS) shall make determination on a case-by-case basis. TAS and ODHHS shall use the following guidelines to determine when a person may re-apply:

(a) Length of time the person had TAS equipment;

(b) Person's history of taking care of equipment;

(c) Person's history of exchanging equipment; and

(d) Person's contact with the TAS office to advise of address and/or status changes.

PERMANENT

WSR 94-04-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3701—Filed January 26, 1994, 3:36 p.m.]

Date of Adoption: January 26, 1994.

Purpose: Corrects an incorrect cross reference. Assures consistency in reference to when a client shall exhaust a managed care grievance procedure before requesting a fair hearing.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-538-110 Client grievances.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-01-003 on December 1, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 26, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-110 Client grievances. (1) A client aggrieved by a decision of a plan, PCCM, or the department shall have the right to a fair hearing as required under WAC 388-81-040.

(2) A client enrolled in a plan shall:

(a) ~~((shall))~~ Exhaust a plan's grievance procedure before requesting a fair hearing, except in subsection ~~((2)(e)(iii)))~~ (3)(b) and (c) of this section; and

(b) ~~((shall))~~ Receive a written decision from the plan stating the basis for the grievance decision ~~((+e)))~~.

(3) A client may request a fair hearing ~~((when a))~~:

~~((+))~~ (a) When a grievance decision is adverse;

~~((+))~~ (b) If a plan does not respond in writing within thirty days from the date the client requests the grievance; or

~~((3))~~ ~~The client may request a fair hearing at the same time a grievance is filed~~ (c) When the plan denies a client urgently needed medical care, and the client concurrently requests a grievance in writing.

(4) The plan or PCCM shall advise ~~((the))~~ a client of ~~((his or her))~~ the client's right to request a fair hearing at the time the plan or PCCM notifies the client of the grievance decision.

WSR 94-04-041
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Optometry)

[Filed January 27, 1994, 10:41 a.m.]

Date of Adoption: January 21, 1994.

Purpose: Expands organizations offering continuing education courses; prohibits sexual misconduct with a patient.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-851-110.

Statutory Authority for Adoption: RCW 18.54.070.

Pursuant to notice filed as WSR 93-24-026 on November 22, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 21, 1994
Garard M. Gustafson, O.D.
Chair

AMENDATORY SECTION (Amending Order 393B, filed 9/1/93, effective 10/2/93)

WAC 246-851-110 Courses presumed to qualify for credit. Courses offered by the organizations listed in this section will be presumed to qualify as continuing education courses without specific prior approval of the board, but the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy. Organizations for the purposes of this section shall include:

(1) The American Optometric Association.

(2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).

(3) The Washington Association of Optometric Physicians.

(4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.

(5) The state optometry board.

(6) The optometry licensing authority of any other state.

(7) The American Academy of Optometry.

(8) The Optometric Extension Program.

(9) The College of Optometrists in Vision Development.

(10) The National Eye Research Foundation.

(11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.

(12) The Council on Post-Graduate Education of the American Optometric Association.

(13) The Council on Optometric Practitioner Education.

NEW SECTION

WAC 246-851-550 Sexual misconduct. (1) An optometrist shall not engage in sexual contact or sexual activity with a current patient.

(a) A current patient is a patient who has received professional services from the optometrist within the last three years and whose patient record has not been transferred to another optometrist or health care professional.

(b) A referral of the patient record must be in writing and with the knowledge of both the patient and the optometrist or health care practitioner to whom the record is transferred.

(2) The optometrist shall never engage in sexually harassing or demeaning behavior with current or former patients.

WSR 94-04-043
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3696—Filed January 27, 1994, 3:18 p.m.]

Date of Adoption: January 27, 1994.

Purpose: New chapter 388-217 WAC, Transfer of property, changes how department determines the start date and duration of ineligibility period; treats applicant and recipient property transfers in same manner; removes two-year "lid" for ineligibility period; removes references to life estates; and includes penalty for recipients who transfer nonexempt property in order to maintain eligibility for assistance.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-28-370, 388-28-457 through 388-28-465, and 388-28-470 through 388-28-473.

Statutory Authority for Adoption: RCW 74.08.335.

Pursuant to notice filed as WSR 94-01-139 on December 20, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-217-3050 (2)(b) and 388-217-3200 were reworded to clarify the effect of adequate consideration on property transfers. WAC 388-217-3150(2) was reworded to clarify the level of proof required to establish no intent. WAC 388-217-3250(3) was deleted as contrary to RCW. WAC 388-217-3350 (3)(a) was deleted in response to community concerns. This was a minor proposal change to the policy for recipient transfers of exempt personal property.

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

January 27, 1994

Dewey Brock, Chief
Office of Vendor Services

Chapter 388-217 WAC
TRANSFER OF PROPERTY

NEW SECTION

WAC 388-217-3000 Transfer of property—Definitions. (1) "Need under normal conditions of living" means the Washington state gross median income adjusted for family size, as promulgated by the secretary of Health and Human Services (HHS).

(2) "Reasonable value" means the quick-sale value of the property at the time of the property's transfer.

(3) "Transfer" means any intentional act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person. Transfer includes delivery of personal property, bills of sale, deeds, mortgages, pledges or any other instrument conveying or relinquishing an interest in or control over property. Transfer of title to a resource occurs by:

(a) An intentional act or transfer; or

(b) Intentional failure to act to preserve title to the resource.

NEW SECTION

WAC 388-217-3050 Transfer of property—Assessing property transfers. (1) The department shall determine whether a client transferred property:

- (a) Within two years immediately prior to application;
- (b) During the application process; or
- (c) While the client is on assistance.

(2) When a transfer occurred within the time frames above, the department shall determine whether the client:

(a) Received adequate consideration or had a valid reason for receiving less than adequate consideration, as specified under WAC 388-217-3100; and

(b) If the client received less than adequate consideration without a valid reason, the department shall presume the client transferred the property with intent to qualify for assistance, as specified under WAC 388-217-3150.

(3) The transfer of separate property by a spouse who is not included in the assistance unit does not affect the eligibility of the other spouse.

NEW SECTION

WAC 388-217-3100 Transfer of property—Adequate consideration. (1) Adequate consideration exists when the reasonable value of the property transferred is equal to the reasonable value of the goods or services received in exchange for the transferred property.

(2) The market value of the transferred item acts as a guide to the reasonable value of the transferred property. However, less than market value shall be considered adequate consideration if, in view of all existing circumstances and factors, the individual's plan in regard to the transfer had any reasonable basis.

(a) Settlement or transfer of an unresolved claim (such as a claim for damages) by the transfer of property of approximately equal value is regarded as adequate consideration in the absence of evidence indicating fraud or collusion. (The advice of the applicant's attorney suggesting settlement would be substantiating evidence.)

(b) A transfer of property in settlement of a legally enforceable debt approximately equal to the current fair market value of the property transferred represents adequate consideration.

(c) The existence of a debt must be established by any of the following types of evidence:

(i) A legally recorded instrument evidencing the existence of the debt and executed at or about the time the debt was allegedly incurred;

(ii) Other documentary evidence, for example, canceled checks, receipts, notes, mortgages, or written agreements executed by the principals at or about the time the debt was allegedly incurred;

(iii) The sworn affidavits or testimony of at least two disinterested persons not parties to the transaction or directly or indirectly benefiting therefrom, who were in a position to have first-hand knowledge of the situation and arrangements between the principals at the time the debt was allegedly incurred and whose statement corroborates the sworn statement or testimony of the principals;

(iv) Such other evidence as would be accepted by a court of law to establish a debt; or

(v) Debts incurred from the services of a minor child or for loans from a minor child are not recognized as legal obligations.

(3) When a client does not receive adequate consideration for transferred property, the department shall determine whether the client had a valid reason for accepting less than adequate consideration. The department shall take the following factors into account when determining whether a client had a valid reason for accepting less than adequate consideration in exchange for the client's property:

(a) Circumstances necessitating the transaction, including the forced sale of assets;

(b) The business experience or acumen of the seller. One with little experience in business will probably not make as advantageous a deal as one who is experienced and knows how to get the best possible trade;

(c) The market demand for the type of resource transferred. Certain property, such as some securities, automobile, etc., can be readily sold; whereas other property can only be sold on forced sale to speculators, who presumably would pay very little. This might apply to real estate in a locality where there is little demand for real property;

(d) The transfer of property due to a legally enforceable foreclosure procedure; or

(e) The transfer of property by an accelerated sale due to necessity to relocate to accept employment or training or to retain a cohesive family unit.

NEW SECTION

WAC 388-217-3150 Transfer of property—Establishing intent to qualify for public assistance. (1) The client shall have the opportunity to demonstrate that the transfer was for reasons other than to qualify or maintain eligibility for public assistance.

(2) Reasons (noninclusive) below shall, if verified, establish that the transfer was not for the purpose of qualifying or maintaining eligibility for public assistance:

(a) The client was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; provided that the client has been attempting and continues to attempt to recover the property or its equivalent value;

(b) At the time of the transfer, the client was not receiving assistance and did not consider any probable need for assistance in the foreseeable future;

(c) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction;

(d) The client held title only as a trustee for the use and benefit of another person with no beneficial interest himself or herself;

(e) The transfer was to clear title to a resource in which the client had no real beneficial enforceable interest; or

(f) The client can show that his or her eligibility for assistance would not have been affected if he or she had retained, rather than transferred, the transferred property.

NEW SECTION

WAC 388-217-3200 Transfer of property—Effect on need. (1) The transfer shall not affect the client's eligibility for assistance if the department determines that the transfer occurred for reasons other than with intent to qualify for assistance.

(2) If the department determines a client transferred property with intent to qualify for public assistance, the department shall:

(a) Consider the property available to meet the client's needs; and

(b) Establish a period of ineligibility.

NEW SECTION

WAC 388-217-3250 Transfer of property—Period of ineligibility. (1) The department shall determine the amount of uncompensated value for property which was improperly transferred. "Uncompensated value" means the reasonable value of the transferred property, minus:

(a) Encumbrances; and

(b) The amount received; or

(c) The reasonable value of the consideration received.

(2) The department shall calculate the duration of a period of ineligibility by dividing the uncompensated value of the improperly transferred property by the monthly need under normal conditions of living as defined under WAC 388-217-3000.

(3) The period of ineligibility shall start:

(a) For applicants, from the first of the month in the month that the improper transfer occurred; or

(b) For recipients, from the first of the month following the month that the improper transfer occurred.

(4) The department may shorten the period of ineligibility as required under WAC 388-217-3300.

(5) When an improper transfer is taken into account after assistance is authorized, the department shall determine how the improper transfer affects a recipient's eligibility for the assistance the recipient received.

(a) The department shall consider any assistance received by the assistance unit during the period of ineligibility as an overpayment, as defined under WAC 388-44-010.

(b) The department shall not determine the assistance unit as eligible to receive further assistance until the period of ineligibility has expired, unless the period of ineligibility is shortened as described under WAC 388-217-3300.

NEW SECTION

WAC 388-217-3300 Transfer of property—Adjustment in period of ineligibility. (1) The department may reduce the period of ineligibility, as determined under WAC 388-217-3250, when:

(a) The client secures a return of some or all of the transferred property, or the equivalent value of the transferred property. Under these circumstances, the department shall reduce the period of ineligibility to reflect the value of the recovered property; or

(b) During the period of ineligibility:

(i) The client has demonstrable, unusual nonrecurrent expenses from a major unforeseen change in circumstances, such as extensive hospitalization; or

(ii) Undue hardship would exist from the denial of public assistance.

(2) Public assistance paid under this rule shall be the full grant amount and shall not be considered an overpayment.

NEW SECTION

WAC 388-217-3350 Transfer of property—Exempt resource transfers by recipients. (1) Exempt resources which a recipient may retain and remain eligible for assistance must continue to be retained to remain exempt.

(2) If a recipient transfers previously exempt resources contrary to the rules in this section or if the proceeds from the transfer are used for purposes other than described under this chapter, the department shall consider the value of the transferred resources as available to meet need and shall establish a period of ineligibility, as specified under WAC 388-217-3250.

(3) A recipient may transfer exempt personal property without affecting financial need when the recipient:

(a) Saves, spends, or reinvests the proceeds from the transfer; and

(b) Brings the recipient's resources below the department's resource limits within sixty days from the date of the transfer.

(4) A recipient may transfer exempt real property or any interest in such property, without penalty, when the recipient meets the following conditions:

(a) The proceeds of the transfer are used to:

(i) Buy a home or to buy a life estate in a home;

(ii) Make necessary repairs or improvements on the recipient's home; or

(iii) Purchase any exempt personal property.

(b) The recipient receives adequate consideration for the transferred real property and for the proceeds reinvested;

(c) The recipient starts to reinvest the proceeds from the transfer within sixty days; and

(d) The recipient brings his or her resources below the department's resource limits when the exempt real property transfer and reinvestment are completed.

(5) The department may allow a reasonable delay beyond sixty days when the recipient is prevented from carrying out a reinvestment plan of exempt resources because of illness or complications involving the mechanics of the transaction.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-28-370 Community, separate and jointly owned property—Further considerations for determining property of husband and wife.
- WAC 388-28-457 Transfer of property.
- WAC 388-28-458 Definitions.
- WAC 388-28-459 Transfer of property with intent to qualify for public assistance.

- WAC 388-28-460 Transfer within two years prior to application.
- WAC 388-28-461 Transfer of property—Adequate consideration.
- WAC 388-28-462 Transfer of property—Exceptions.
- WAC 388-28-463 Transfer of property—Adjustment in period of ineligibility.
- WAC 388-28-464 Transfer of property—Assistance during period of ineligibility.
- WAC 388-28-465 Transfer of property—Life estate, release, assignment—Adequate consideration.
- WAC 388-28-470 Transfer of exempt property by recipient.
- WAC 388-28-471 Exempt property transferable without consent.
- WAC 388-28-472 Exempt property transferable with consent.
- WAC 388-28-473 Property transferred contrary to WAC 388-28-471 and 388-28-472.

WSR 94-04-044
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 27, 1994, 3:48 p.m.]

Date of Adoption: January 27, 1994.

Purpose: To increase the examination fees only, to meet the increased cost of examination and to change license renewal dates to coincide with the date of birth.

Citation of Existing Rules Affected by this Order: Amending WAC 308-13-150 Landscape architect fees and 308-13-160 Renewal of licenses.

Statutory Authority for Adoption: RCW 18.96.080.

Pursuant to notice filed as WSR 94-01-047 on December 7, 1993.

Changes Other than Editing from Proposed to Adopted Version: The amendment of WAC 308-13-150 Landscape architect fees, will increase by \$28.00 for the cost of the entire examination instead of \$90.00 as was proposed in WSR 94-01-047.

Effective Date of Rule: Thirty-one days after filing.
 January 27, 1994
 M. C. Collins
 Assistant Director

AMENDATORY SECTION (Amending WSR 91-23-021, filed 11/8/91, effective 12/9/91)

WAC 308-13-150 Landscape architect fees. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application fee	\$150.00
Examination (or reexamination) (entire) fee	((400.00)) <u>475.00</u>

PERMANENT

Reexamination <u>administration</u> fee	50.00
<u>Examination Sections:</u>	
Section 1: Legal and administrative aspects of practice	((15.00)) <u>25.00</u>
Section 2: Programming and environmental analysis	((20.00)) <u>35.00</u>
Section 3: Conceptualization and communication	((65.00)) <u>85.00</u>
Section 4: Design synthesis	((65.00)) <u>80.00</u>
Section 5: Integration of technical and design requirements	((80.00)) <u>95.00</u>
Section 6: Grading and drainage	((75.00)) <u>85.00</u>
Section 7: Implementation of design through construction process	((40.00)) <u>45.00</u>
Section 8: Plant identification	40.00
Exam proctor	100.00
Renewal (3 years)	450.00
Late renewal penalty	150.00
Duplicate license	25.00
Initial registration (3 years)	450.00
Reciprocity application fee	200.00
Certification	45.00
Proctoring program	125.00
Replacement certificate	20.00

(a) Effective with the renewal period beginning June 30, 1994, renewals will be prorated at the current renewal rate with the conversion accomplished as follows:

Conversion Renewal Schedule

<u>Birth Date</u>	<u>Span of Renewal Time</u>	<u>Renewal Fee</u>
<u>January</u>	<u>31 Months</u>	<u>\$387.50</u>
<u>February</u>	<u>32 Months</u>	<u>\$400.00</u>
<u>March</u>	<u>33 Months</u>	<u>\$412.50</u>
<u>April</u>	<u>34 Months</u>	<u>\$425.00</u>
<u>May</u>	<u>35 Months</u>	<u>\$437.50</u>
<u>June</u>	<u>36 Months</u>	<u>\$450.00</u>
<u>July</u>	<u>37 Months</u>	<u>\$462.50</u>
<u>August</u>	<u>38 Months</u>	<u>\$475.00</u>
<u>September</u>	<u>39 Months</u>	<u>\$487.50</u>
<u>October</u>	<u>40 Months</u>	<u>\$500.00</u>
<u>November</u>	<u>41 Months</u>	<u>\$512.50</u>
<u>December</u>	<u>42 Months</u>	<u>\$525.00</u>

(b) Current licensees whose licenses expire June 30, 1994, will receive a license with an expiration date of the licensee's birth date in 1997 prorated at the current renewal rate in accordance with (a) of this subsection.

(c) Current licensees whose licenses expire June 30, 1995, will receive a license with an expiration date of the licensee's birth date in 1998 prorated at the current renewal rate in accordance with (a) of this subsection.

(d) Current licensees whose licenses expire June 30, 1996, will receive a license with an expiration date of the licensee's birth date in 1999 prorated at the current renewal rate in accordance with (a) of this subsection.

(2) All initial and reinstated landscape architect licenses will be issued for a three-year period with an expiration date of the licensee's birth date.

AMENDATORY SECTION (Amending Order PM 696, filed 12/9/87)

~~WAC 308-13-160 Renewal of licenses. ((1) Effective with the renewal period beginning June 30, 1987, the annual renewal date for landscape architects will be changed to a three year renewal period. Conversion to this renewal system will be accomplished as follows:~~

~~(a) Current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of July, August, September or October, will be required to pay a fee equal to one years' renewal fee, or one third of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1988. Subsequent renewals will be for a three year period.~~

~~(b) Current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of November, December, January or February, will be required to pay a fee equal to two years' renewal fees, or two thirds of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1989. Subsequent renewals will be for a three year period.~~

~~(c) Current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of March, April, May or June, will be required to pay a fee equal to the current three year renewal fee in order to extend their licenses to expire on June 30, 1990. Subsequent renewals will be for a three year period.~~

~~(2) On or before June 30, 1987, all new or initial landscape architects licenses will be issued for a three year period with subsequent renewals for a three year period.~~

~~(3) Following completion of the conversion to a three year renewal period, licensees will renew every three years on or before June 30.)~~ (1) The renewal for landscape architects licenses will be for a three-year period with the expiration date that of the licensee's birth date.

WSR 94-04-045

PERMANENT RULES

INSURANCE COMMISSIONER

[Order R 94-2—Filed January 27, 1994, 4:00 p.m.]

Date of Adoption: January 27, 1994.

Purpose: To enhance the surveillance of the financial condition, and create uniform reporting, of insurers, certified health plans, health care service contractors, and health maintenance organizations.

Citation of Existing Rules Affected by this Order: Amending WAC 284-07-060, 284-07-100, 284-07-110, 284-07-130, 284-07-140, 284-07-180, and 284-07-220.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.140, 48.44.050, and 48.46.200.

Pursuant to notice filed as WSR 94-01-192 on December 22, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 27, 1994
Deborah Senn
Insurance Commissioner

PERMANENT

AMENDATORY SECTION (Amending Order R 93-1, filed 3/8/93, effective 4/8/93)

WAC 284-07-060 Statement of actuarial opinion. ~~((The NAIC annual statement instructions for property and casualty insurers require such insurers to submit with the annual statement the statement of a qualified actuary, entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to loss and loss adjustment expense reserves.))~~ (1) For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes a certified health plan registered under chapter 48.43 RCW, health care service contractor registered under chapter 48.44 RCW and health maintenance organizations registered under chapter 48.46 RCW.

(2) Each insurer shall include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions and Accounting Practices and Procedures Manuals* promulgated by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of the insurance code or rules thereunder.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

~~((1))~~ (a) A member in good standing of the Casualty Actuarial Society; or

~~((2))~~ (b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries~~((-))~~; or

~~((3))~~ (c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either ~~((subsection (1) or (2) of this section))~~ (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative ~~((3))~~ (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-100 Purpose and scope. (1) The purpose of this regulation, WAC 284-07-100 through 284-07-230, is to improve the Washington state insurance commissioner's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

(2) Every insurer, as defined in WAC 284-07-110, shall be subject to this regulation. Insurers having direct premiums written ~~((in this state))~~ of less than one million dollars in any calendar year and less than one thousand policyholders or certificateholders of directly written policies nationwide at the end of such calendar year shall be exempt from this rule for such year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of one million dollars or more will not be so exempt.

(3) Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

(a) A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the commissioner in accordance with the filing dates specified in WAC 284-07-120, 284-07-190 and 284-07-200, respectively; and

(b) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the commissioner within the time specified in WAC 284-07-180.

Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance.

(4) This rule shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of insurers under the rules, regulations, practices, and procedures of the insurance commissioner.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-110 Definitions. For the purposes of this regulation the following definitions shall apply:

(1) "Audited financial report" means and includes those items specified in WAC 284-07-130.

(2) "Accountant" and "independent certified public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice; for Canadian and British companies, the terms mean a "Canadian-chartered or British-chartered accountant."

(3) "Insurer" ~~((means an insurer with a certificate of authority to transact the business of insurance in the state of Washington))~~ has the same meaning as set forth in RCW 48.01.050. It also includes a certified health plan registered

under chapter 48.43 RCW, health care service contractor registered under chapter 48.44 RCW and health maintenance organizations registered under chapter 48.46 RCW.

(4) "NAIC" means National Association of Insurance Commissioners.

(5) "Policy holder" shall also mean subscriber.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-130 Contents of annual audited financial report. (1) The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the commissioner.

(2) The annual audited financial report shall include the following:

(a) Report of independent certified public accountant.

(b) Balance sheet reporting admitted assets, liabilities, capital, and surplus.

(c) Statement of operations.

(d) Statement of cash flows.

(e) Statement of changes in capital and surplus.

(f) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and any other notes required by generally accepted accounting principles and shall also include:

(i) A reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to RCW 48.05.250, 48.43.050, 48.44.095, or 48.46.080 with a written description of the nature of these differences.

(ii) A summary of ownership and relationships of the insurer and all affiliated companies.

(g) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner, and the financial statements shall be comparative, presenting the amounts as of December 31. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-140 Designation of independent certified public accountant. (1) Each insurer required by this regulation to file an annual audited financial report must, within sixty days after becoming subject to such requirement, register with the commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit required by this regulation. Each insurer(†) not retaining an independent certified public accountant on the effective date of this rule, or the date on which this rule becomes applicable to it, shall register the name and address of their retained certified public accountant not less than ((six)†) two months

before the date when the first audited financial report is to be filed.

(2) The insurer shall obtain a letter from the accountant, and file a copy with the commissioner stating that the accountant is aware of the provisions of the Washington state insurance code, Title 48, and the rules and regulations thereunder, that relate to accounting and financial matters and affirming that the accountant will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the commissioner, specifying such exceptions as are believed appropriate.

(3) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall, within five business days, notify the commissioner of this event. The insurer shall also furnish the commissioner with a separate letter within ten business days of the above notification stating whether in the twenty-four months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The disagreements required to be reported in response to this section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for disagreement; and the insurer shall furnish such responsive letter from the former accountant to the commissioner together with its own.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-180 Notification of adverse financial condition. (1) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus or net worth requirements of the Washington state insurance code as of that date. An insurer who has received a report pursuant to this subsection shall forward a copy of the report to the commissioner within five business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive such evidence

within the required five business day period, the independent certified public accountant shall furnish to the commissioner a copy of its report within the next five business days.

(2) No independent public accountant shall, by virtue of this regulation, be liable in any manner to any person for any statement made in connection with subsection (1) of this section if such statement is made in good faith in compliance with subsection (1) of this section.

(3) If the accountant, subsequent to the date of the audited financial report filed pursuant to this regulation, becomes aware of facts which might have affected his or her report, the accountant should take such action as is prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants.

AMENDATORY SECTION (Amending Order R 92-10, filed 9/9/92, effective 10/10/92)

WAC 284-07-220 Exemptions and effective dates.

(1) Upon written application of any insurer, the commissioner may grant an exemption from compliance with this regulation if the commissioner finds, upon review of the application, that compliance would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from this regulation, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with the rules and procedures pertaining to administrative hearings.

(2) Domestic insurers retaining a certified public accountant on the effective date of this regulation who (~~qualify~~) qualifies as independent shall comply with this regulation for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

(3) Domestic insurers not retaining a certified public accountant on the effective date of this regulation who qualify as independent may meet the following schedule for compliance unless the commissioner permits otherwise.

(a) As of December 31, 1992, file with the commissioner:

- (i) Report of independent certified public accountant;
- (ii) Audited balance sheet;
- (iii) Notes to audited balance sheet.

(b) For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the commissioner all reports required by this regulation.

(4) Foreign insurers shall comply with this regulation for the year ending December 31, 1992, and each year thereafter, unless the commissioner permits otherwise.

(5) An insurer who on December 31, 1993, was not subject to WAC 284-07-100 through 284-07-230, and who on that date retained a certified public accountant, who is qualified as independent, shall comply with this regulation for the year ending December 31, 1993, and each year thereafter unless the commissioner permits by order, bulletin, letter, or otherwise, for a specific insurer or any one or more insurers.

(6) An insurer who on December 31, 1993, was not subject to WAC 284-07-100 through 284-07-230, and who

on that date did not retain a certified public accountant, who is qualified as independent, shall meet the following minimum schedule for compliance unless the commissioner permits by order, bulletin, letter, or otherwise, for a specific insurer or any one or more insurers.

(a) As of December 31, 1993, file with the commissioner by June 1, 1994:

- (i) Report of independent certified public accountant;
- (ii) Audited balance sheet;
- (iii) Notes to audited balance sheet.

(b) And, for the year ending December 31, 1994, and each year thereafter, such insurers shall file with the commissioner all reports required by this regulation.

WSR 94-04-046

PERMANENT RULES

HEALTH SERVICES COMMISSION

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

Date of Adoption: January 28, 1994.

Purpose: The purpose of this chapter is to ensure compliance by the agency with the provisions of chapters 42.17 and 34.05 RCW.

Statutory Authority for Adoption: Chapter 492, Laws of 1993.

Pursuant to notice filed as WSR 94-01-141 on December 20, 1993.

Changes Other than Editing from Proposed to Adopted Version: Beginning at WAC 245-01-140, the letters "n-o-t" were accidentally replaced by a space due to a global word processing error. This error was fully disclosed at the public hearing, and generated no controversy.

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

January 28, 1994
Bernadene Dochnahl
Commission Chair

**Chapter 245-01 WAC
ADMINISTRATION AND OPERATIONS**

**ORGANIZATION, OPERATIONS,
AND PROCEDURES**

NEW SECTION

WAC 245-01-010 Purpose. The purpose of this chapter is to ensure compliance by the Washington health services commission with the provisions of chapters 42.17 and 34.05 RCW.

NEW SECTION

WAC 245-01-020 Definitions. "Act" means the Washington Health Services Act of 1993, chapter 492, Laws of 1993, as amended by chapter 494, Laws of 1993.

"Commission" means the Washington health services commission created by RCW 43.72.020 and also refers to employees of the commission.

"Public record" means any writing containing information relating to the conduct of government 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.

"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 any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion pictures, film and video recordings, magnetic or punch cards, disks, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

The terms defined in the act shall have the same meaning when used in Title 245 WAC.

NEW SECTION

WAC 245-01-030 Description of organization. The commission is a public agency established under the provisions of chapter 43.72 RCW, which exercises essential government functions. The commission consists of five full-time members appointed by the governor, subject to confirmation by the state senate. One member is designated by the governor as chair. The insurance commissioner serves *ex officio* as a nonvoting member. Commissioners shall have no pecuniary interest in any business subject to regulation by the commission and are subject to chapter 42.18 RCW, the Executive Branch Conflict of Interest Act. Commissioners and the professional commission staff are subject to the public disclosure provisions of chapter 42.17 RCW. The administrative office of the commission is located at the Employment Security Building, 605 Woodland Square Loop Southwest, Lacey, Washington.

NEW SECTION

WAC 245-01-040 Operations and procedures. (1) **Uniform procedure rules:** The commission's practices and procedures are governed by the uniform procedure rules codified in WAC 1-08-005 through 1-08-590, as now or hereafter amended. The commission adopts these rules as its own, subject to any additional rules the commission may add from time to time. The commission reserves the right to make whatever determinations are equitable should any question not covered by its rules come before the commission, as long as these determinations are in accordance with the spirit and intent of the act.

(2) **Commission meetings:**

(a) Regular public meetings of the commission will be held pursuant to the schedule published annually in the *Washington State Register*. The purpose of these meetings shall be to conduct the official, substantive business of the commission;

(b) Additional special public meetings necessary to discharge the official, substantive business of the commission may be called from time to time by the chair or by a quorum of the commission;

(c) Commission staff meetings will be held pursuant to the schedule published annually in the *Washington State Register*. The purposes of these informal meetings are to deal with administrative matters, conduct briefings and other presentations, present status reports, share information among commissioners and staff, and determine processes for

conducting commission business. These meetings will not involve public testimony, formal recommendations, substantive decisions on work program tasks, and other final actions, all of which will be addressed at regular and special commission meetings.

(3) **Quorum:** Three voting commissioners shall constitute a quorum. The act of a majority of the voting commissioners present at any meeting, if there is a quorum, shall be deemed the act of the commission.

(4) **Minutes of meetings:** Minutes shall be kept of the proceedings of the commission.

(5) **Rules of order:** The commission shall generally follow *Robert's Rules of Order*, newly revised, in conducting its regular and special meetings.

(6) **Financial interest:** No employee of the commission shall have a direct financial interest in any business subject to regulation by the commission.

NEW SECTION

WAC 245-01-050 Commission activities exempt from the Environmental Protection Act. The commission has reviewed its authorized activities and has found them to be exempt pursuant to WAC 197-11-040(2), 197-11-150 through 197-11-190 and the State Environmental Policy Act, chapter 43.21C RCW.

PUBLIC RECORDS

NEW SECTION

WAC 245-01-060 Public records available. All public records of the commission are deemed to be available for public inspection and copying at the commission's administrative office pursuant to these rules, except as otherwise provided by RCW 42.17.310, the act, and other laws.

NEW SECTION

WAC 245-01-070 Public records officer. The commission's public records shall be under the charge of the public records officer designated by the commission chair. The person so designated shall be responsible for implementing these rules and regulations regarding the release of public records, and generally for ensuring compliance with the public records disclosure requirements of chapter 42.17 RCW and, in particular, RCW 42.17.250 through 42.17.340.

NEW SECTION

WAC 245-01-080 Office hours. Public records shall be available for inspection and copying at the commission's administrative office, from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Mondays through Fridays, excluding legal holidays.

NEW SECTION

WAC 245-01-090 Requests for public records. In accordance with the provisions of chapter 42.17 RCW requiring agencies to prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential

functions of the agency, public records of the commission may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the commission which shall be available at its administrative office. A completed form shall be presented to any member of the commission staff at the commission's administrative office during customary office hours. The request shall include the following information:

(a) The name, mailing address, and telephone number of the person requesting the record and the organization represented, if any.

(b) The time of day and calendar date on which the request was made.

(c) A description of the material requested.

(d) If the matter requested is referenced within the current index maintained by the records officer, 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 a current index, an appropriate identification 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 commissioner or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 245-01-100 Responses to requests for public records. Within five business days of receiving a public records request, the commission must respond by either:

(1) Providing the records;

(2) Denying the public records request; or

(3) Acknowledging that the commission has received the request and providing a reasonable estimate of the time the commission will require to respond to the request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public records request that is unclear, the commission may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the commission need not respond to it.

NEW SECTION

WAC 245-01-110 Copying. No fee shall be charged for the inspection of public records. The commission shall charge twenty-five cents per page for providing copies or duplications of public records, and for use of the commission's photocopy equipment. The charge is the amount necessary to reimburse the commission for its actual copying costs. When copying or duplication of nonstandard items is requested, the fee charged will reflect the total cost, including the time of commission personnel.

NEW SECTION

WAC 245-01-120 Exemptions. (1) The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 245-01-090 is exempt under the provisions of RCW 42.17.310, including, but not limited to, the following:

(a) Personal information in files maintained for commissioners and employees of the commission to the extent that disclosure would violate their right to privacy;

(b) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the commission in connection with any commission action;

(c) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(d) The residential addresses and telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(2) Pursuant to RCW 42.17.260, the commission reserves the right to delete identifying details when it makes available or publishes any public records in all cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The commission will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under these rules.

NEW SECTION

WAC 245-01-130 Review or denial of public records requests. Any person who objects to a denial of a public records request or who objects to the reasonableness of the estimate of the time the commission requires to respond to a public records request, shall petition the superior court in the county in which the record is maintained under the provisions of RCW 42.17.340.

NEW SECTION

WAC 245-01-140 Protection of public records. In order to protect the public records in the custody of the commission, the following guidelines shall be followed by any person inspecting such public records:

(1) No public records shall be removed from the commission's administrative office;

(2) Inspection of any public records shall be conducted in the presence of a commissioner or a member of the commission staff;

(3) No public record may be marked or defaced in any manner during inspection;

(4) Public records maintained in a file jacket or binder, or in chronological order, may not be dismantled except for the purpose of copying, and then only by a commissioner or a member of the commission staff; and

(5) Access to file cabinets, shelves, vaults, and other storage locations is restricted to commissioners and staff.

NEW SECTION

WAC 245-01-150 Records index. (1) The commission shall make available to all persons a current index which provides identifying information for records which have been issued, adopted, or promulgated, as follows:

(a) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the commission;

(b) Administrative staff manuals and instructions to staff that affect any member of the public;

(c) Commission planning policies and goals, and interim and final planning decisions;

(d) Staff, consultant, and scientific reports and studies and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(e) Correspondence and materials referred to therein relating to any regulations, supervisory, or enforcement responsibilities of the commission.

(2) The current index promulgated by the commission shall be available for inspection by all persons under the same rules and on the same conditions as are applied to public records available for inspection.

WSR 94-04-050
PERMANENT RULES
DEPARTMENT OF LICENSING

(Escrow Commission)

[Filed January 31, 1994, 8:43 a.m.]

Date of Adoption: December 13, 1993.

Purpose: These changes are necessary to reflect organizational changes in the Department of Licensing, and to reflect changes in both the escrow and banking industries so that our current rules reflect current standard of practice in the industry.

Citation of Existing Rules Affected by this Order: Amending WAC 308-128A-020, 308-128A-030, 308-128A-040, 308-128C-040, 308-128C-050, 308-128D-010, 308-128D-030, 308-128D-040, 308-128D-070, 308-128E-011, and 308-128F-020.

Statutory Authority for Adoption: RCW 18.44.320.

Pursuant to notice filed as WSR 93-21-063 on October 19, 1993.

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

January 31, 1994
 Kathy Baros Friedt
 Director

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128A-020 Organization. The ~~((real estate))~~escrow program ~~((management of the business and professions administration))~~ of the department of licensing administers the Washington Escrow Agent Registration Act, chapter 18.44 RCW. The escrow commission, composed of the director of the department of licensing and five board members, appointed by the governor, approve examination questions for license applicants, act in an advisory capacity to the director in the activities of escrow agents and escrow

officers and perform such other duties and functions as prescribed by chapter 18.44 RCW. Information regarding escrow licenses, the escrow commission or the ~~((real estate))~~ escrow program ~~((management))~~ may be obtained by writing to the Program Manager, ~~((Real Estate))~~Escrow Program ~~((Management))~~, Department of Licensing, P.O. Box ~~((9012))~~ 9015, Olympia, Washington ~~((98504))~~ 98507.

~~((The office of the real estate/escrow program management is located at 1300 Quince Street, Olympia, Washington.))~~

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128A-030 Meeting notice. Individuals desiring to be informed as to date, time, place and agenda of the escrow commission meetings must make a written request to the Program Manager ~~((of real estate/escrow program management))~~ Escrow Program, Department of Licensing, P.O. Box 9015, Olympia, Washington 98507.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128A-040 Definitions. (1) The terms and definitions used in chapter 18.44 RCW have the same meanings given therein when used in these rules.

(2) "Closing" means the transfer of title of real or personal property or execution of a real estate contract whichever event occurs first.

(3) "Transfer of title" occurs at the time seller acknowledges a deed or executes a bill of sale and such is delivered to the purchaser or recorded.

(4) "Cash deposit" means funds deposited, in lieu of an errors and omissions policy, in an account in a recognized Washington state depository which account is maintained separate and apart from the escrow agent's own funds. The funds shall be deposited in such a manner to permit only the director to withdraw from the principal amount. The escrow agent may withdraw any interest accumulated to the account.

(5) "Securities" means any stock, treasury bill, bond, debenture or collateral-trust certificate tendered in lieu of an errors and omissions policy. It does not mean or include any insurance or endowment policy, annuity contract or letter of credit.

(6) "Unclaimed funds" are those funds for which the rightful owner is unknown, or the location of payee is unknown, or stale-dated checks which have not been cashed.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128C-040 Change of office location. The escrow agent shall notify the department of any change of location or mailing address of the agent's office or branch office prior to engaging in business at the new location or address. Notification shall be made by filing a change of address application with the department, accompanied by all licenses issued to the former address or location, and all applicable fees.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128C-050 Deceptive names prohibited. At the discretion of the director or the director's designated representative, an escrow agent (~~shall~~) may not be issued a certificate nor advertise in any manner using names or trade styles which are similar to currently issued certificates or imply that the agent is a nonprofit organization, research organization, public bureau or public group, are otherwise deceptive, or which uses or makes reference to the existence of financial responsibility. A bona fide franchisee may be issued a certificate using the name of the franchisor with the firm name of the franchisee.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128D-010 Designated escrow officer responsibilities. The designated escrow officer shall be responsible for the custody, safety, and correctness of entries of all required escrow records. The escrow officer retains this responsibility even though another person or persons may be assigned by the escrow officer the duties of preparation, custody, recording or disbursing.

The branch escrow officer shall bear responsibilities for the custody, safety and correctness of entries of all transactions at the branch office.

Prior to issuing a new certificate reflecting a change of the designated escrow officer or branch designated escrow officer of a registered escrow agent, ~~((the agent must submit))~~ evidence must be submitted that the responsibility for preexisting escrows is transferred to the incoming designated escrow officer or incoming branch designated escrow officer. Such evidence ~~((may take either of the following forms:~~

~~(1)) shall be a statement signed by both the outgoing designated escrow officer and the incoming designated escrow officer, listing all outstanding trust liabilities and certifying that funds in hand in the trust account maintained by the agent are adequate to meet all such trust liabilities. At the discretion of the designated escrow officer, the outgoing and incoming branch designated escrow officers may sign the statement.~~

~~((2) An audit, performed at the request of, and at the expense of, the escrow agent by the audit staff of the department. The incoming designated escrow officer shall not be deemed responsible for any discrepancy identified during such audit.))~~

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128D-030 Accuracy and accessibility of records. (1) All records shall be accurate, posted and kept up to date. All records shall be kept at an address where the escrow agent is licensed to maintain an escrow office. Such records shall be retained and available for inspection by the department for a minimum of six years: *Provided, however,* That records of transactions closed or completed for ~~((two))~~ one year((s)) or more may be stored at a remote location. If the records are stored at a remote location, the records shall

be available upon demand of the department and maintained in a manner to be readily retrievable.

(2) Upon closing, transaction records may be stored on magnetic media, such as optical disk or microfilm, provided the retrieval process does not permit modification of the documents. Retrieval process is defined as the on-site ability to view and print the document in its original form. The escrow agent must have in its records a statement signed by the supplier of the system that the program does not permit the user to modify a document after it has been stored on the media.

AMENDATORY SECTION (Amending Order PM 790, filed 11/14/88)

WAC 308-128D-040 Agreements and closings. The escrow agent shall be responsible for the effecting and closing of escrow agreements between the principal parties. The agent shall as a minimum:

(1) Prepare or accept an instrument of escrow instructions among each principal and the agent based upon a written agreement signed by the principals. The escrow instructions shall not be modified except by written agreement signed by the principals and accepted by the agent. The agent shall disclose in writing to the parties to the transaction when a profit, or the potential for a profit on fees and services provided may be realized by the escrow agent. Justifiable costs for fees and services related to the transaction may include, but not be limited to courier fees, credit reports, postage, fax services, and copying of documents. A copy of the disclosure shall be maintained in the transaction file.

(2) Require an addendum to the purchase agreement for any and all material changes in the terms of the transaction, including but not limited to, changes in the financing of the transaction.

(3) Provide the services and perform all acts pursuant to the escrow instructions.

(4) Provide a complete detailed closing statement as it applies to each principal at the time the transaction is closed. The agent shall retain a copy of all closing statements, even though funds are not handled by the agent, in the transaction file. The closing statements shall show:

- (a) The date of closing.
- (b) The total purchase price.
- (c) An itemization of all adjustments, monies or things of value received or paid.
- (d) To whom each item is debited and/or credited.
- (e) Date each adjustment was made.
- (f) Names of payees, makers and assignees of all notes paid, made or assumed.

(g) Pay the net proceeds of sale directly to the seller unless otherwise provided in writing by the seller or a court of competent jurisdiction.

(h) Obtain original signatures of the principals on either the preliminary or final closing statement and maintain a copy of the signed closing statement in the transaction file.

(5) The escrow agent shall provide a copy of the final closing statement to each real estate broker involved with the transaction.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128D-070 Suit or complaint notification.

Every escrow agent and escrow officer shall, within twenty days after service or knowledge thereof, notify the department of ~~((any suit, complaint, counterclaim or cross complaint served or filed in any court of competent jurisdiction, civil or criminal, in which the agent, escrow officer, or employee thereof is named as a defendant; and in which the subject matter involves any escrow or business activity of the defendants therein named))~~ the following:

(1) Any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

(2) Entry of a civil court order, verdict, or judgment, against the licensee in any court of competent jurisdiction in which the subject matter therein involves any escrow or business related activity by the licensee. Notification is required regardless of any pending appeal.

AMENDATORY SECTION (Amending Order PM 825, filed 3/21/89, effective 6/1/89)

WAC 308-128E-011 Administration of funds held in trust. The designated escrow officer or branch designated escrow officer on behalf of the escrow agent shall be responsible for all funds received from any principal or any party to an escrow transaction or escrow collection account and shall hold the funds in trust for the purposes of the transaction or agreement and shall not utilize such funds for the benefit of the agent or any person not entitled to such benefit. The escrow agent shall establish a trust bank account(s) in a recognized Washington state depository. The escrow agent is responsible for depositing, holding, disbursing, and accounting for funds in trust as provided herein.

(1) The trust bank account(s) shall be designated as a trust account in the name of the escrow agent as certified. Trust bank accounts shall be noninterest bearing demand deposit accounts except as follows:

(a) Interest-bearing trust bank accounts or dividend earning investment accounts containing funds pertaining to an individual escrow transaction or escrow collection account may be established by the agent if directed by written agreement signed by the principals to the transaction and specifying the manner of distribution of accumulated interest to the parties to the transaction.

(b) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an owner, vendor, lessor, etc., involving escrow collections may be established by the agent when directed by written agreement or directive signed by the principals: *Provided*, That all interest or earnings shall accrue to the principals as directed in the agreement.

(2) The agent shall establish and maintain a system of records and procedures as provided in this section. Any alternative records or procedures proposed for use by the escrow agent shall be approved in advance by the department.

(3) The agent is responsible for the disbursement of all funds received and held in trust, whether disbursed by personal signature, signature plate, or signature of another person authorized to act on the agents behalf. The designat-

ed escrow officer must have signatory authority on all trust bank accounts. At the discretion of the designated escrow officer, branch designated escrow officers may be delegated signature authority for trust bank accounts at their branch.

(4) All funds received for any reason pertaining to an escrow transaction or collection account shall be deposited in the escrow agents trust bank account(s) not later than the first banking day following receipt thereof except funds owned exclusively by the agent.

(5) All funds received shall be identified by the day received and by the amount, source, and purpose on either a cash receipts journal or duplicate receipt which shall be retained as a permanent record.

(6) All deposits to the trust bank account(s) shall be documented by a duplicate bank deposit slip, validated by bank imprint or attached deposit receipt which shall bear the signature of the authorized representative of the agent indicating that the funds were actually deposited into the proper trust bank account. Receipt of funds by wire transfer are to be posted in the same manner as other receipts and there shall be a traceable identifying name or number supplied by the financial institution or transferring entity. The agent must also make arrangements for a follow-up "hard copy" receipt for the deposit.

(7) An individual client's ledger sheet shall be established and maintained for each escrow transaction for which funds are received in trust and to which all receipts and disbursements shall be posted.

(a) Credit entries must show the date of deposit or wire transfer, amount, and name of remitter.

(b) Debit entries must show the date of check, check number, amount of check, and name of payee.

(8) The reconciled trust bank account(s) must equal at all times the outstanding trust liability to clients. The outstanding trust liability to clients must equal the trial balance of all escrows with undisbursed balances.

(9) The agent shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account receipts and disbursement records. The reconciliation will be signed by the designated escrow officer or branch designated escrow officer. Such reconciliations are to be retained as permanent records.

(10) All disbursement of trust funds shall be made by check, drawn on the trust bank account, and identified on the check as pertaining to a specific escrow transaction or collection account except as provided in (a) through (e) of this subsection. The number of each check, amount, date, payee, and the specific client's ledger sheet debited must be shown in the cash register or cash disbursement journal and all data must agree exactly with the check as written.

(a) No disbursement from the trust account shall be made based upon wire transfer receipt until the deposit has been verified.

(b) The escrow agent must make arrangements with the financial institution in which the trust bank account is located to provide a follow-up "hard copy" debit memo when funds are disbursed via wire transfer.

(c) The escrow agent shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(d) Transfers between closing escrows may be made by ledger entries alone provided a transfer form is used containing the date of the transfer, the amount of the funds being transferred, the identity of the escrow accounts being debited and credited, and the signature of the person authorized to sign checks on the escrow bank account. Intra-bank debit memo transfer forms may be used only where the escrow accounts involved in the transfer are closed through the same bank account. The authorization for the transfer must be placed in each escrow file involved.

(e) Transfers between collection escrows of a recurring nature must be authorized by standing instructions on file from the appropriate parties.

(11) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(12)(a) A separate check shall be drawn on the trust bank account payable to the escrow agent ~~((as certified, for each escrow fee earned as set forth in the escrow instructions or settlement statement upon the closing of the escrow transaction. Each check for escrow fees shall be identified to the transaction to which it applies))~~ for escrow and service fees for which the escrow agent is authorized payment therefor as provided in the escrow instructions. All such fees relating to the transaction may be withdrawn by a single check provided such check is supported by an itemization of the charges on the closing or settlement statement. Each check shall bear the escrow or transaction number.

(b) Collection account fees may be withdrawn by a single check provided such check is supported by a schedule of fees identified to each individual account. Such fees shall be withdrawn at least once monthly or as provided in the collection contract agreement if the fees are payable for a greater term than monthly.

(13) No deposits to the trust bank accounts shall be made of funds that do not pertain to an escrow transaction or not received in connection with an escrow collection account, or that belong to the agent, including fees to "open" the bank account or to keep the account from being closed.

(14) No disbursement from the trust bank account shall be made:

(a) For items not pertaining to a specific escrow transaction or escrow collection account;

(b) In advance of the closing of an escrow transaction, or before the happening of a condition set forth in the escrow instructions, to any person or for any reason without a written release from all principals of the escrow transaction or collection account, except that if the earnest money agreement terminates according to its own terms prior to closing, disbursement of earnest money funds shall be made as provided by the earnest money agreement without a written release unless the funds are handled as provided in WAC 308-128D-060;

(c) Pertaining to a specific escrow transaction or collection account in excess of the actual amount held in the trust bank account in connection with such account;

(d) In payment of a fee owed to any employee of an agent or in payment of any business expense of the agent. Payment of fees to employees of an agent or of any business expense of the agent shall be paid from the regular business bank account of the agent;

(e) For bank charges of any nature. Arrangements must be made with the bank to have any such charges applicable

to the trust bank accounts charged to the regular business bank account, or to provide a separate statement of bank charges so that they may be paid from the agents regular business bank account;

(f) For preauthorization of payments by the financial institution for recurring expenses such as mortgage payments on behalf of the owner if the account contains tenant security deposits or funds belonging to more than one client;

(g) Of funds received as a damage or security deposit involving a lease or rental contract, to the property owner or to any person(s) without the written authority of the lessee. Such funds are to be held until the end of the tenancy when they are to be disbursed to the person(s) entitled to the funds as provided by the terms of the rental or lease agreement and consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.

(h) If the financial institution's automated system does not have the ability to charge fees to another account, or does not provide a separate statement for the service fees as required by (e) of this subsection, and the account is debited for service fees, the escrow agent shall deposit within one banking day after receipt of notice funds from the general business or other nontrust account to cover the service fee charged.

(15) The provisions of this section are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files;

(b) Receipt and check registers will be printed at least once monthly and retained as a permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record;

(c) The escrow agent will maintain a printed, dated source document file to support any changes to existing accounting records;

(d) If the program has the ability to write checks, the check number must be preprinted on the check or retained voucher copy by the supplier (printer). The program may assign suffixes or subaccount codes before or after the check number for identification purposes;

(e) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial ~~((institution))~~ institution's computer;

(f) All checks written must be included within the computer accounting system.

(16) Unclaimed funds are governed by the Uniform Unclaimed Property Act of 1983, chapter 63.29 RCW. If the agent has funds classified as unclaimed, the designated escrow officer or branch designated escrow officer shall contact the department of revenue for disposition instructions. The agent shall maintain a record of the correspondence relating to unclaimed funds for a period of five years.

AMENDATORY SECTION (Amending Order PM 763, filed 9/9/88)

WAC 308-128F-020 Errors and omissions policy. Each certificated escrow agent shall obtain and keep in effect an errors and omissions policy providing coverage in the minimum aggregate amount of \$50,000 or, alternatively, cash deposit or securities in the principal amount of \$50,000.

Securities used ~~((in))~~ as an alternative to an errors and omissions policy shall be ~~((physically))~~ effectively delivered to the director ~~((department of licensing,))~~. For the purpose of fulfilling the requirements of chapter 18.44 RCW and these rules, the escrow agent shall execute an irrevocable assignment and any supporting documentation as required by the director. Securities which are stocks or other interest in the registered escrow agency are not acceptable securities for the purposes of fulfilling the requirements of chapter 18.44 RCW and these rules.

WSR 94-04-051
PERMANENT RULES
GREEN RIVER
COMMUNITY COLLEGE
 [Filed January 31, 1994, 9:36 a.m.]

Date of Adoption: October 21, 1993.

Purpose: Specifies when the college uses brief adjudicative proceedings under the Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Amending WAC 132J-108-050.

Statutory Authority for Adoption: RCW 28B.50.140 and 34.05.482.

Pursuant to notice filed as WSR 93-15-118 on July 21, 1993.

Effective Date of Rule: Thirty-one days after filing.
 January 26, 1994
 Clark Townsend
 Assistant to the President

[Chapter 132J-108 — Practice and Procedure]

AMENDATORY SECTION (Amending Order [WSR 93-04-022], filed 1/27/93)

WAC 132J-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings, except as otherwise provided in another rule;
- (4) Parking and traffic violations, permits, fines, and penalties;
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in institution sponsored athletic events;
- (7) Refund of tuition and special fees under WAC 132J-160-010 through 132J-160-050.

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

WSR 94-04-052
PERMANENT RULES
GREEN RIVER
COMMUNITY COLLEGE
 [Filed January 31, 1994, 9:39 a.m.]

Date of Adoption: October 21, 1993.

Purpose: Controls pedestrian and vehicular traffic on college property.

Citation of Existing Rules Affected by this Order: Repealing WAC 132J-116-020, 132J-116-070 and 132J-116-200; and amending WAC 132J-116-010, 132J-116-040, 132J-116-050, 132J-116-060, 132J-116-080, 132J-116-090, 132J-116-100, 132J-116-110, 132J-116-120, 132J-116-130, 132J-116-140, 132J-116-150, 132J-116-160, 132J-116-170, 132J-116-180, 132J-116-190, 132J-116-210, 132J-116-220 and 132J-116-240; and new section WAC 132J-116-021.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-15-119 on July 21, 1993.

Changes Other than Editing from Proposed to Adopted Version: Corrected typographical errors in WAC 132J-116-021(10), 132J-116-080(2), 132J-116-120, and 132J-116-150. Corrected amendment format in WAC 132J-116-120 and 132J-116-190.

Effective Date of Rule: Thirty-one days after filing.
 January 26, 1994
 Clark Townsend
 Assistant to the President

[Chapter 132J-116 — Traffic and parking rules and regulations]

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-010 Purpose for adopting rules. Pursuant to ~~((the authority granted by))~~ RCW 28B.50.140(10), the board of trustees of Green River Community College, District 10, is granted authority to make rules and regulations for pedestrian and vehicular traffic on ~~((public lands devoted to, operated by,))~~ property owned, operated, or maintained by the college district. The rules and regulations contained in this chapter are ~~((established))~~ adopted under that authority for the following purposes:

- (1) To protect and control pedestrian and vehicular traffic; ~~((and))~~
- (2) To assure access at all times for emergency traffic; ~~((and))~~
- (3) To minimize traffic disturbance during class hours; and
- (4) To facilitate the operation of the community college ~~((of the district))~~ by assuring access for vehicles and ~~((to regulate))~~ regulating the use of parking spaces.

NEW SECTION

WAC 132J-116-021 Definitions. As used in this chapter:

- (1) "Board" shall mean the board of trustees of Green River Community College, District 10, state of Washington.

(2) "Campus" shall mean any and all public lands owned, operated, or maintained by Green River Community College, District 10, state of Washington.

(3) "Campus security officer" shall mean an independent contractor or employee of the college who is designated by the vice president for business affairs as being responsible for campus traffic control, parking, and security.

(4) "College" shall mean Green River Community College, District 10, state of Washington.

(5) "Faculty member" or "academic employee" shall mean any employee of Green River Community College, District 10, state of Washington whose employment is as a teacher, counselor, librarian or academic department head, except an administrator.

(6) "Parking permit" shall mean a writing issued under the authority of the vice president for business affairs which grants a license to its authorized holder to park a designated vehicle on the campus for a time period and under conditions stated thereon.

(7) "Permanent" parking permits shall mean permits which are valid, as specified thereon, for a school term or a portion thereof exceeding one month.

(8) "School term" shall mean, unless otherwise designated, the time period commencing with the summer quarter of a community college calendar year and extending through the immediately subsequent fall, winter, and spring quarters.

(9) "Staff member" shall mean a contracted or classified employee of Green River Community College, District 10, state of Washington.

(10) "Student" shall mean any person who is enrolled in Green River Community College.

(11) "Temporary" parking permits shall mean permits which are valid for a specific period designated on the permit up to a maximum of one month.

(12) "Vehicle" shall mean an automobile, truck, motor cycle, motor scooter, or other motor-driven vehicle.

(13) "Vice president for business affairs" shall mean the college employee designated with that job title or with the responsibilities of that title by the president, and any person designated by the vice president to act for her/him on any matter(s) arising under this chapter.

(14) "Visitor" shall mean any person other than a student, faculty member, staff member, or officer of the college, who lawfully comes upon the campus for purposes which are in keeping with the college's role as an institution of higher education in the state of Washington.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

WAC 132J-116-040 Permits required for vehicles on campus. No student~~((s))~~, faculty member~~((s))~~, staff member~~((s))~~, ~~((guests;))~~ or visitor~~((s shall not))~~ may stop, park, or leave a vehicle whether attended or unattended upon the campus without a valid parking permit issued pursuant to WAC 132J-116-050.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

WAC 132J-116-050 Authorization for issuance of permits. The ~~((dean of students, or his designee;))~~ vice president for business affairs is authorized to issue parking

permits to students, administrators, faculty members, staff members, ~~((guests;))~~ and visitors of the college, ~~((pursuant to the following regulations;))~~ as follows:

(1) A person may be issued a parking permit upon the proper registration of his vehicle with the college.

(2) ~~((The dean of students, or his designee;))~~ A person may be issued a temporary, permanent, visitor, or special use parking permit~~((s when such permits are necessary to enhance the business or operation of the college;)),~~ as appropriate, under standards adopted by the vice president for business affairs.

(3) Additional permits ~~((are available at the current fee schedule))~~ may be issued to an individual who ~~((may be registered to drive any one of several vehicles. It shall be agreed that))~~ shows that s/he drives more than one vehicle but agrees to park only one vehicle ~~((registered to an individual shall be permitted to park))~~ on campus at any one time.

(4) The vice president for business affairs shall determine the fee, if any, to be charged for each type of permit. Persons who pay the current fee for parking permits and later request a refund shall receive refunds according to the refund policy.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

WAC 132J-116-060 Valid permit. (1) A valid parking permit is:

~~((1))~~ (a) an unexpired permanent, temporary, visitor, or special use ~~((parking))~~ permit, ~~((registered and properly displayed; or))~~

~~((2))~~ (b) ~~((A temporary parking permit authorized by))~~ issued under the authority of the ~~((dean of students, or his designee, and properly displayed; or))~~ vice president for business affairs,

~~((3))~~ (c) ~~((A special parking permit authorized by the dean of students, or his designee, and properly displayed; or))~~ used according to its terms, and

~~((4))~~ (d) ~~((A visitor's permit authorized by the dean of students, or his designee, and properly displayed; or))~~ affixed to and visible from outside of the vehicle—and the windshield if the vehicle has one.

~~((5))~~ (2) No permit will be valid for more than one year.

(3) Expired permits shall be removed from the vehicle.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-080 Transfer of permits. (1) Parking permits are not transferable except as provided herein.

(2) If a vehicle is sold or traded, a new permit will be issued to the ~~((permit holder))~~ new owner or driver at no ~~((additional))~~ cost if ~~((the permit holder does the following:~~

~~((1))~~ s/he brings the invalid permit~~((;))~~ or remnant thereof, and the permit number, to the ~~((appropriate))~~ permit-issuing office. ~~((; this office shall then issue the permit holder a new parking permit registered under a new number.~~

(2) If the invalid permit, or remnant thereof, is not submitted to the proper authority, a fee will be charged according to the current fee schedule.)

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-090 Permit revocation. A parking permit ~~((s are))~~ is the property of the college and may be ~~((re-called))~~ revoked by the ~~((dean of students))~~ vice president for business affairs: ~~((for any of the following reasons:))~~

(1) when the purpose for which the permit was issued ~~((changes or))~~ no longer exists or applies; ~~((or))~~

(2) when ~~((a permit))~~ it is used ~~((for an unregistered vehicle or by an unauthorized individual; or))~~ by a person or on a vehicle other than the one for whom or which it was issued;

(3) for falsification on ~~((a parking))~~ the permit application; ~~((or))~~

(4) for the holder's or vehicle's continued or flagrant violations of parking or traffic regulations; or

(5) when it has been altered. ~~((Counterfeiting or altering a parking permit.))~~

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

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-100 Right to ~~((refuse))~~ deny permit. The ~~((college (dean of students or his designee) reserves the right to refuse the issuance of))~~ vice president for business affairs may deny a parking permit to anyone who has had a previous parking permit revoked or refused, or ~~((to anyone))~~ whose driving or parking record indicates a ~~((flagrant))~~ significant disregard for the rights or safety of other people.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-110 Right to appeal. ~~((permit revocation or refusal to grant permit.))~~ (1) When a parking permit has been ~~((re-called))~~ revoked pursuant to WAC 132J-116-090 or has been ~~((refused in accordance with))~~ denied under WAC 132J-116-100, or when a fine or penalty has been levied ~~((against a violator of the rules and regulations set forth in))~~ under this chapter, such action ~~((by the dean of students, or his designee,))~~ may be appealed ~~((pursuant through the established channels.))~~ through a brief adjudicative proceeding.

(2) Such an appeal may be made by filing within twenty days of the challenged action a written request for such a proceeding with the vice president for marketing and student development, or her/his designee, who shall serve as presiding officer.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-120 Responsibility of person to whom permit issued. The person to whom a parking permit is issued ~~((pursuant to the rules and regulations set forth in this chapter,))~~ shall be responsible for ~~((all))~~ every violation ~~((s))~~ of ~~((said))~~ college rules and regulations involving the vehicle. ~~((but))~~ However, such responsibility shall not relieve any other person ~~((s who by their conduct~~

~~with vehicles registered with another permit holder, violate the rules and regulations established by this chapter.))~~ of her/his separate responsibility for the same violation(s). In the event that a vehicle in violation is not registered with the college, the ~~((current))~~ registered owner will be responsible for ~~((the))~~ any violation(s). ~~((of the campus regulations.))~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-130 Designation of parking. (1) ~~((The))~~ Parking spaces available on campus shall be designated and allocated by the ~~((dean of students, or his designee, in such a manner as will best achieve the objectives of the rules and regulations in this chapter.))~~ vice president for business affairs.

~~((1))~~ (2) Faculty and staff spaces shall be so designated ~~((, and))~~.

~~((2))~~ (3) Student spaces will be all spaces designated for parking and not posted for ~~((special use. Special provisions have been made for physically handicapped students, or their designee.))~~ faculty or staff or otherwise restricted.

~~((3))~~ (4) Parking spaces ~~((shall))~~ may also be designated for ~~((use of))~~ visitors ~~((on campus; and (4) Parking spaces may be designated for))~~ or other special purposes ~~((as deemed necessary.))~~.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-140 Parking within designated spaces. (1) ~~((All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.))~~

~~((2))~~ All vehicles must be parked within designated ~~((, marked))~~ parking areas and parking stalls.

~~((3))~~ (2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that ~~((other))~~ another vehicle ~~((s))~~ may have been ~~((so))~~ improperly parked ~~((as to require the vehicle parking to occupy a portion of more than one space or stall in order to park,))~~ shall not constitute an excuse for ~~((a))~~ violation of this section.

~~((4))~~ No vehicle shall be parked on the campus except in those areas set aside and designated for parking.))

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-150 Regulatory signs and directions. The ~~((dean of students, or his designee,))~~ vice president for business affairs is authorized to erect signs, barricades and other structures, and to ~~((paint))~~ make or post marks or other directions upon the entry ways and streets, ~~((on campus and upon the various public lands devoted to, operated by, or maintained by the college district. Such signs, barricades, structures, markings and directions, shall be so made and placed as in the opinion of the dean of students, or his designee, will best))~~ to effectuate the objectives ~~((stated in WAC 132J-116-010 and will best effectuate the rules and regulations contained in))~~ of this chapter. Drivers of vehicles shall observe and obey the signs, barricades,

structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by ~~((the))~~ a campus ~~((patrolmen))~~ security officer in the control and regulation of traffic.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-160 Speed limit. No vehicle shall be operated on the campus at a speed in excess of fifteen miles per hour, or such slower speed as is reasonable and prudent ~~((to))~~ under the circumstances. No vehicle of any type shall at any time use the campus parking lots for testing, racing, or other ~~((unauthorized))~~ activities not authorized by the vice president for business affairs.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-170 Pedestrian's right of way. (1) The operator of a vehicle shall yield right of way ~~((slowing down or stopping, if need be, to so yield))~~ to any pedestrian ~~((but))~~. However, no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle which has slowed or stopped to yield to pedestrian traffic.

(3) Where a sidewalk is provided, pedestrians shall proceed upon such a sidewalk.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-180 Two-wheeled motorbikes or bicycles. (1) All two-wheeled vehicles powered by an engine shall park in a space designated for motorcycles only. No ~~((unauthorized))~~ vehicles shall be ridden on the sidewalks on campus at any time unless authorized by the ~~((dean of students or his designee))~~ vice president for business affairs.

(2) Bicycles and other ~~((nonengine-powered))~~ non-motored cycles shall be subject to posted or published regulations as established by the vice president for business affairs.

AMENDATORY SECTION (Amending 73-4, filed 6/6/73)

WAC 132J-116-190 Report of accidents. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or ~~((total or claimed))~~ damage to ~~((either or both vehicles exceeding \$100))~~ the property of any one person to an apparent extent of at least \$500 shall ((immediately)) within twenty-four hours report such accident in writing to the ((dean of students or his designee)) vice president for business affairs and ((shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report. Other minor accidents may be reported to the office of campus parking and security for insurance record purposes)) to the appropriate law enforcement agency as required by RCW

46.52.030 or other law. Any other accident may be reported, if desired, to a campus security officer.

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-210 Issuance of traffic tickets. Upon observing the violation of any of the rules and regulations contained in this chapter, the ~~((dean of students, his designee or subordinate,))~~ vice president for business affairs or a campus security officer may issue a summons or citation setting forth the date, the approximate time, permit number, license information, infraction, ~~((officer))~~ issuing person, and ~~((schedule of))~~ applicable fine(s). Such summons or ~~((traffic))~~ citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending Order 81-1, filed 6/24/81)

WAC 132J-116-220 Fines and penalties. ~~((The dean of students, or his designee, is authorized to impose the following))~~ (1) The vice president for business affairs is authorized to adopt and impose fines and penalties for ((the)) violation of the rules and regulations contained in this chapter((:)).

~~((1) Except as provided under subsection (2), fines will be levied for all violations of the regulations contained in this chapter.))~~

(2) A vehicle(s) parked in violation of ((current traffic and)) a parking regulation(s) will be subject to a fine and also may be impounded, in accordance with RCW 46.55.070 et seq. and other applicable law, and taken to such place for storage as the ((dean of students, or his designee,)) vice president for business affairs selects. The expenses of such ((impoundings)) impound and storage shall be the responsibility of the registered owner ((or)) and the driver of the vehicle. The college shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(3) ~~((At the discretion of the dean of students,))~~ An accumulation of traffic or parking violations by a student, staff member, administrator or faculty member ((will)) may be cause for disciplinary action, ((and the dean of students shall initiate disciplinary proceedings against such a violator)) to be initiated by an appropriate administrator.

(4) ~~((At the discretion of the dean of students,))~~ An accumulation of ((traffic citations by)) unpaid fines against a student, staff member, administrator or faculty member may be turned over to a private collection agency for ((the)) collection. ((of fines not previously received by the dean of students, or his designee,)) Other appropriate collection procedures may be initiated as deemed necessary.

~~((5) Vehicles involved in violations of these regulations may be impounded as provided for in subsection (2) here in.))~~

AMENDATORY SECTION (Amending Order 73-4, filed 6/6/73)

WAC 132J-116-240 Exceptions. (1) No vehicle owned by a governmental agency, as evidenced by ~~((an exempt))~~ its license plate, will be required to display a

parking permit. Such vehicles will be subject to all other parking and traffic regulations.

(2) No patrol, service, maintenance, or other (~~authorized~~) college (~~vehicles in use for these purposes~~) vehicle, or vehicle authorized by a college officer to be on campus for official college business, will be required to obey parking regulations when (~~they are~~) being used for a college purpose which requires (~~that they be parked, stopped or driven in unusual locations, or in an unusual manner in order to accomplish their lawful and authorized purpose~~) nonconforming parking.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132J-116-020 Definitions.
WAC 132J-116-070 Display of permit.
WAC 132J-116-200 Enforcement.

WSR 94-04-053
PERMANENT RULES
GREEN RIVER
COMMUNITY COLLEGE
[Filed January 31, 1994, 9:41 a.m.]

Date of Adoption: October 21, 1993.

Purpose: Implements statutes regarding tenure for college faculty.

Citation of Existing Rules Affected by this Order:
Repealing WAC 132J-128-010, 132J-128-020, 132J-128-030, 132J-128-040, 132J-128-050, 132J-128-060, 132J-128-070, 132J-128-080, 132J-128-090, 132J-128-100, 132J-128-110, 132J-128-120, 132J-128-130, and 132J-128-140.

Statutory Authority for Adoption: RCW 28B.50.852

Pursuant to notice filed as WSR 93-15-120 on July 21, 1993.

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

January 26, 1994

Clark Townsend

Assistant to the President

[Chapter 132J-128—Tenure]

NEW SECTION

WAC 132J-128-200 Board policy on tenure and dismissals. (1) In accordance with RCW 28B.50.852, the board of trustees of college district no. 10, the appointing authority of Green River Community College, adopts this rules chapter to implement RCW 28B.50.850-.869.

(2) The board of trustees recognizes the importance of faculty tenure and appropriate tenure review and dismissal review processes in a higher education institution. The board further recognizes its own ultimate statutory responsibilities in these regards. Accordingly, the board reserves all of its statutory powers and rights regarding the awarding of faculty tenure and the dismissal of faculty, except as expressly provided otherwise in this chapter.

(3) The board also recognizes the important role of the faculty and the faculty's bargaining representative in helping to determine the college's procedures for awarding tenure

and dismissing faculty—and helping to implement those procedures. Accordingly, the board will continue to negotiate with that bargaining representative to include major aspects of the tenure and dismissal review processes in the faculty collective bargaining agreements.

(4) These rules are intended to avoid unnecessary duplication of the controlling statutes and/or currently-effective provisions of a faculty collective bargaining agreement, while providing for situations not covered thereby.

NEW SECTION

WAC 132J-128-210 Review committees generally.

(1) Except as provided in a contrary, currently-effective provision of a faculty collective bargaining agreement, tenure and dismissal review committees shall be constituted and conducted under this chapter and as further directed by the college president.

(2) The president is authorized to take all necessary actions to assure the composition and appointment of a valid and effective review committee, in accordance with RCW 28B.50.869 and/or other applicable law. If the president determines that there is no effective election or appointment to a position on a review committee, the president may declare that position vacant and either appoint a replacement (if it is an administrative staff member) or request an appointment by the student association or faculty bargaining representative, as appropriate. The association or bargaining representative shall convene any necessary meeting(s), make the appointment, and so advise the president within ten calendar days of receiving notification. If the association or bargaining representative fails to so advise of an appointment within ten days, without an extension of that deadline by the president, the association or bargaining representative shall be deemed to have waived its right to participate in the appointment and the president may conduct whatever meeting(s) may be appropriate to secure the appointment.

(3) A review committee shall meet at a time and location designated by the president, after at least three days' notice to all its members, unless its members agree to a different time and/or location. At its first meeting, the committee shall elect a chair, who thereafter shall maintain all committee records.

(4) Review committee deliberations shall be kept confidential to the extent permitted by law, except for evaluation information shared with a probationer.

(5) The review committee shall report to the board of trustees within any deadline set by the president or the board.

(6) A review committee's failure to properly perform its function shall not prevent the board of trustees from making a decision, after giving appropriate consideration to any recommendations of committee members and/or appropriate administrators.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132J-128-010 Tenure.
WAC 132J-128-020 Tenure review committees.

- WAC 132J-128-030 Granting of tenure.
- WAC 132J-128-040 Tenure review committee defined.
- WAC 132J-128-050 Establishment of criteria and methods for evaluation.
- WAC 132J-128-060 Selection of the tenure review committee.
- WAC 132J-128-070 Evaluation of the probationer.
- WAC 132J-128-080 Final action on tenure.
- WAC 132J-128-090 Dismissal philosophy.
- WAC 132J-128-100 Dismissal hearing committee.
- WAC 132J-128-110 Basis for dismissal.
- WAC 132J-128-120 Dismissal procedure.
- WAC 132J-128-130 Resignation.
- WAC 132J-128-140 Retirement.

January 28, 1994
Robert C. Petersen
Chair

WSR 94-04-054
PERMANENT RULES
GREEN RIVER
COMMUNITY COLLEGE
 [Filed January 31, 1994, 9:42 a.m.]

Date of Adoption: October 21, 1993.
 Purpose: Regulated smoking on the college campus, repealer.
 Citation of Existing Rules Affected by this Order:
 Repealing chapter 132J-136 WAC, Smoking regulations.
 Statutory Authority for Adoption: RCW 28B.50.140.
 Pursuant to notice filed as WSR 93-15-121 on July 21, 1993.
 Effective Date of Rule: Thirty-one days after filing.
 January 26, 1994
 Clark Townsend
 Assistant to the President

[Chapter 132J-136 — Smoking regulations]

REPEALER

The following chapter of the Washington Administrative Code is repealed:
 Chapter 132J-136 WAC — Smoking regulations

WSR 94-04-075
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed January 31, 1994, 11:00 a.m., effective March 4, 1994]

Date of Adoption: January 28, 1994.
 Purpose: To establish fees for housing accommodations at Fort Worden State Park and conference center.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 352-32-25001.
 Statutory Authority for Adoption: RCW 43.51.060.
 Pursuant to notice filed as WSR 94-01-150 on December 21, 1993.
 Effective Date of Rule: March 4, 1994.

AMENDATORY SECTION (Amending WSR 93-01-029, filed 12/7/92, effective 1/7/93)

WAC 352-32-25001 Recreational and conference center housing fees and meeting room fees charged. (1) The following fees shall be charged per day for recreational and conference center housing at Fort Worden State Park:

(a) Renovated housing

Noncommissioned officers' row buildings—#331 and #332 (4 units, each with 2 bedrooms)	\$(72.40) 75.00/unit
Officers' row buildings—#5, #6, and #7 (6 units, each with 3.5 bedrooms)	\$(116.30) 120.00/unit
Officers' row buildings—#4 and #11 (4 units, each with 6 bedrooms)	\$(193.00) 200.00/unit
Charge for additional rollaway beds	\$(40.50) 10.85 per bed

(b) Nonrenovated housing

Officers' row building—#9, #10 and #16 (5 units, each with 3 bedrooms)	\$(89.45) 93.00/unit
Officers' row buildings—#15 (1 unit with 5 bedrooms)	\$(141.20) 146.00/unit
Charge for additional rollaway beds	\$(40.50) 10.85 per bed
Bliss vista (and Castle) building (s) —#235 and (#229) ((2)) 1 unit (s) , (each) with 1 bedroom	\$(59.45) 62.00/unit
<u>Castle building—#229</u> (1 unit, with 1 bedroom)	\$ 62.00/unit

A deposit equal to the cost of the first night's fee for each unit rented is required. A \$10.00 per unit cancellation fee is deducted from the deposit for any canceled reservations, to cover processing costs. If the cancellation is made less than three weeks prior to the arrival date, the entire deposit is forfeited, unless the unit is rerented.

Meal charges vary depending upon which meals and which level of service are selected by the visitor in the reservation agreement. All conference groups utilizing dormitory accommodations must contract for food services for a minimum of two meals per full day of occupancy. Food services are optional for nonconference groups using above-listed recreational housing.

(c) Dormitory housing (for group reservations only—meals not included)

1 - 2 days	\$(41.15) 11.50/person/day
3 - 13 days	\$(9.15) 9.22/person/day
((14 or more days \$ 7.45/person/day))	
Dormitory linen and towel charge	\$(9.20) 9.60
Additional towel charges	\$.90
Additional towel set	\$(1.95) 2.00
Emergency bedroll	\$(9.50) 9.75

(d) Barracks-style housing (for group reservations only—meals not included)

1 - 2 days	\$(9.15) 9.50/person/day
3 - 13 days	\$(7.35) 7.42/person/day
((14 or more days \$ 5.50/person/day))	

PERMANENT

All meals are served in the dining hall. Washington state sales tax is added to all charges.

The Centrum organization has a preferential right to reserve certain facilities and services at Fort Worden State Park in conjunction with special group programs administered by Centrum as set forth in the Fort Worden State Park Master Facility Use Plan and by separate agreement with Centrum. For further information contact Fort Worden State Park.

(2) Meeting rooms are available at varying charges, depending on size, character of facility, and length of stay. Prices range between ~~\$(10.00)~~ 7.95 and ~~\$(45.00)~~ 39.80 for those residing in Fort Worden recreational housing, with increased charges for nonusers of recreational housing facilities. Additional cleaning fee is charged if food or beverages are consumed in the room. Theatre is available for performances—~~\$(125.00)~~ 132.50 per day; for rehearsals—~~\$(40.00)~~ 42.50 per night. For larger performances or events, the balloon hangar pavilion is available at the following rental rates:

Commercial events	\$800 per day (plus \$100 or ((40)) <u>5%</u> of the ((net-profit)) <u>gross event receipts</u> , whichever is greater)
Nonprofit or charitable events (with admission fee)	\$500 per day
Nonprofit or charitable events (without admission fee)	\$250 per day
Rehearsals	\$(50) <u>75</u> per day

Pavilion rates apply to users except as otherwise provided under separate contracts pertaining to project funding. The kitchen shelter is available for the ~~((minimum))~~ fee of ~~\$(25.00)~~ 26.50 per day without propane service, or \$38.50 per day with propane service, plus a refundable \$50.00 cleaning deposit for nonresidents. Kitchen shelter rate is \$16.50 per day when used with catered meal by food service concessionaire.

(3) Groups or organizations of thirty-two or more wishing to reserve the Fort Worden State Park housing or meeting room facilities may make application for reservations in advance consistent with the provisions of the Fort Worden Master Facility Use Plan by contacting the park. Confirmation of reservations is subject to the user group complying with the procedures specified in the Master Facility Use Plan and the reservation agreement, copies of which are available at the park.

(4) Consistent with the Fort Worden State Park Master Facility Use Plan, conference groups may also reserve campsites in advance as their sole overnight accommodation: *Provided*, That there will be a twenty-site minimum for any individual reservation. During the months of May through September only the upper campground may be reserved by such conference groups. During the months of October through April, all of the upper campground and twenty sites in the beach level campground may be reserved by conference groups.

**WSR 94-04-076
PERMANENT RULES
PARKS AND RECREATION
COMMISSION**

[Filed January 31, 1994, 11:02 a.m.]

Date of Adoption: January 28, 1994.

Purpose: Establish procedure and threshold criteria for the approval of local governments boating safety programs.

Citation of Existing Rules Affected by this Order: Amending chapter 352-65 WAC.

Statutory Authority for Adoption: RCW 88.12.385, 88.02.040, and 43.51.400.

Pursuant to notice filed as WSR 94-01-149 on December 21, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 28, 1994

Robert C. Petersen
Chair

AMENDATORY SECTION (Amending WSR 90-13-008, filed 6/7/90, effective 7/7/90)

WAC 352-65-010 Declaration of purpose and authority. This chapter is adopted to implement RCW 88.02.040 wherein the Washington state parks and recreation commission has been directed to establish a process to review and approve local boating safety programs and to make funds available to local jurisdictions to offset out-of-county boater impacts. These rules ~~((are designed to))~~ pursue the legislature's intention to provide funding to counties and local governments for boater education about safe and responsible boating and to encourage boating safety education in the primary and secondary school system, to increase the level and visibility of the enforcement of boating laws, to purchase equipment including vessel noise measurement equipment, and to stimulate local efforts toward safe boating.

The chapter is promulgated and published pursuant to the authority granted to the parks and recreation commission in RCW ~~((88.36.140))~~ 88.12.385. These rules identify the necessary elements of a county boating safety program, specify the approval process, and establish a time frame for approval and distribution of available funds.

AMENDATORY SECTION (Amending WSR 90-13-008, filed 6/7/90, effective 7/7/90)

WAC 352-65-020 Program description and assurances. Each county or local jurisdiction requesting approval of its boating safety program must:

(1) Complete a description of its program on the forms provided by state parks identifying each required program element as specified in WAC 352-65-040;

(2) Provide assurance that the ~~((county))~~ boating safety program will be operated throughout its scheduled season in compliance with program requirements and that the funds allocated will be ~~((expended))~~ deposited into an account dedicated solely for supporting the jurisdiction's boating safety program activities as specified in WAC 352-65-040.

(3) Agree to submit to state parks a copy of any audit which discloses disallowed or questioned costs pertaining to funds provided through RCW 88.02.040 and this chapter and

PERMANENT

agree to resolve to the satisfaction of state parks findings pertaining to these funds.

(4) Enforce boating safety equipment, vessel operation, noise level, and registration laws as specified in Title 88 RCW, navigation and harbor improvements, or as specified in local rules or ordinances.

AMENDATORY SECTION (Amending WSR 90-13-008, filed 6/7/90, effective 7/7/90)

WAC 352-65-030 Equitable local distribution. The legislative authority of each county with an approved boating safety program will be responsible for equitably distributing the funds allocated by the state treasurer to local jurisdictions within the county which comply with the requirements of this chapter. The county shall make the equitable distribution to all eligible jurisdictions within seventy-five days of the allocation from the state treasurer and shall notify state parks of the amount distributed to each eligible jurisdiction. Local jurisdictions offering boating safety services and desiring to receive a distribution of funds must enter into a cooperative agreement with the county and receive and maintain state parks' approval for their boating safety program.

AMENDATORY SECTION (Amending WSR 90-13-008, filed 6/7/90, effective 7/7/90)

WAC 352-65-040 Minimum program requirements. A boating safety program must provide the necessary services and support to allow the recreational boater the opportunity to enjoy safe and clean waters. State parks, as the state's boating safety program coordinator, has established the following minimum requirements for approval of boating safety programs:

(1) Boating accident reporting and investigation.

(a) Each county or local jurisdiction must provide an assurance that all serious or fatal accidents will be thoroughly investigated to the maximum extent possible, and that copies of the investigative reports will be submitted to state parks in a timely manner as specified in RCW ~~((43.51.404))~~ 88.12.175.

(b) The approved county or local jurisdiction must support the state-wide boating accident reporting system by:

(i) Providing recreational boaters with copies of the state required boating accident report (BAR) form and informing recreational boaters of their responsibility to submit the completed BAR in a timely fashion as specified in RCW 88.12.155; and

(ii) Submitting to state parks a ~~((notice of))~~ completed boating accident~~((s))~~ report (BAR) form which includes ~~((basic information as available regarding the time, location, severity, and operator(s) involved in a nonfatal, noninjurious boating accident))~~ all available information about the accident or casualty as specified in chapter 352-70 WAC.

(2) Boater assistance. The county or local jurisdiction will have the ability to respond or coordinate response to boating emergencies which occur within its jurisdiction. Such emergencies may include swift water response, open water rescue, ice rescue, vessel fire, overdue boater search, or other boating related emergencies or distress calls.

(3) Training. The county or local jurisdiction will be responsible for acquiring the training for its assigned boating

safety program personnel. The training will include basic boating safety officer training as provided by the United States Coast Guard, Washington state parks, or any county or local jurisdiction whose training program is approved by Washington state parks.

Such training must be acquired ~~((by January 1, 1992, or))~~ within one year of initiating a new boating safety program, ~~((whichever occurs later))~~ and within one year for each newly assigned boating safety officer.

(4) Rules and regulations. When the county or local jurisdiction ~~((must))~~ adopts ordinances ~~((consistent with))~~ governing recreational boating, the ordinances must be as restrictive, but may be more restrictive than Washington state boating laws and regulations.

(5) Enforcement. The county or local jurisdiction must provide:

(a) Boating safety officers with law enforcement commissions which empower such officers to enforce all boating laws and regulations;

(b) A patrol schedule which insures the waterways are patrolled during peak recreational periods;

(c) Response to on-water complaints, accidents, or emergencies;

(d) The necessary boating safety patrol equipment, including vessel(s) capable of serving the minimum requirements of this section. The patrol vessel must be properly marked and properly equipped as provided in chapter 88.02 RCW and chapter 352-60 WAC.

(6) Boating education. The county or local jurisdiction must have a boating education and information program satisfactory to state parks.

(a) A satisfactory boating education program may include any of the following: Presentations in primary and secondary schools, to boating organizations, to youth groups or a course of instruction to the boating public using lessons and materials from state parks education curriculum, or other state or nationally recognized curriculum approved by state parks.

(b) The county or local jurisdiction boating education and information program must:

(i) Have an officer trained by state parks as a boating education instructor;

(ii) Have a designated officer to coordinate the activities of state parks trained volunteer boating education instructors and to act as liaison to boating education organizations; and

(iii) Distribute boating safety information and materials, including materials provided by state parks, to boating and outdoor recreation organizations, the boating public, public agencies and the local media.

(7) Waterway marking. The county or local jurisdiction will use only those waterway markers which conform to the Uniform State Waterway Marking System found in chapter 352-66 WAC.

(8) ~~((Vessel))~~ Boating safety inspections.

~~((and))~~ The county or local jurisdiction will ~~((conduct, during on-the-water enforcement contacts,))~~ complete written boating safety inspections ~~((for safety equipment as required by state and local laws and regulations))~~ during enforcement and informational contacts when considered safe and appropriate to document boater compliance with state boating laws. State parks will provide ~~((an))~~ boating safety inspection forms ~~((for use by the county or local jurisdie-~~

~~tion~~). A copy of the completed inspection will be submitted to state parks for statistical purposes.

~~((b) The county or local jurisdiction will conduct or coordinate courtesy inspections to monitor recreational boater compliance with watercraft registration requirements as prescribed in chapter 88.02 RCW and carriage requirements for safety equipment as required by state and local laws and regulations.))~~

(9) Reports. The county or local jurisdiction agrees to submit an annual report of activities performed through the boating safety program and to submit an annual report of all program expenditures. The county or local jurisdiction agrees to participate in state-wide boating surveys coordinated by state parks. Forms will be provided by state parks.

(10) Limitations on use of funds. These funds are intended to increase education and enforcement efforts and to stimulate greater local participation in boating safety and are not to supplant existing local funds used for boating safety ((funding)) programs. The county or local jurisdiction agrees to ~~((spend))~~ deposit boat registration fees allocated by the state treasurer ~~((only))~~ under RCW 88.02.040, into an account dedicated solely for boating safety purposes which include all activities or expenditures identified in this section.

AMENDATORY SECTION (Amending WSR 90-13-008, filed 6/7/90, effective 7/7/90)

WAC 352-65-060 Annual program ((approval) assessment and ((revocation)) report. An annual assessment and report of activities of each approved county or local jurisdiction boating safety program will be made by state parks in order to insure the integrity of the program approval.

(1) The annual assessment will be based on ~~((minimum))~~ program requirements as ((listed)) specified in ((WAC 352-65-040)) this chapter. Counties and local jurisdictions meeting the requirements will maintain approval; those counties or local jurisdictions unable to demonstrate compliance with minimum approval requirements will have forty-five days to submit a plan satisfactory to state parks to remedy the deficiencies. If, after forty-five days, a county or local jurisdiction is unable to demonstrate its ability to meet minimum requirements, state parks may revoke the program approval after the county or local jurisdiction has had an opportunity for a hearing under chapter 34.05 RCW, Administrative Procedure Act.

(2) When boating safety program approval requirements change or when deemed appropriate to document changes to an approved program, state parks may require a revised program description be submitted to state parks as specified in WAC 352-65-020.

(3) State parks will publish an annual report of the program activities and the expenditures of state vessel registration fees for all approved boating safety programs.

Purpose: To amend the regulatory board adjudicative proceedings rules.

Citation of Existing Rules Affected by this Order: Amending chapter 246-11 WAC, Model procedural rules for boards.

Statutory Authority for Adoption: RCW 18.130.050(1) and 18.130.060(3).

Pursuant to notice filed as WSR 93-24-105 on December 1, 1993.

Changes Other than Editing from Proposed to Adopted Version: Note: Where comments were received on either chapter 246-10 or 246-11 WAC, and it was agreed that changes were necessary, the other chapter was reviewed as well. These chapters pertain to the secretary controlled professions and programs and to the professions under control of regulatory boards. They are very similar documents and where it was appropriate, the same changes were made in both chapters. All changes made were nonsubstantive reflecting internal DOH organization, not a change in the way business is done.

WAC 246-08-450 (6)(b), the Office of Professional Standards received a phone call prior to hearing from the Department of Health rules coordinator requesting that a change be made in the last line of the rule to "Office of the Secretary, 1112 Quince Street S.E., Olympia, WA 98504." The change was made.

WAC 246-10-203(3) and 246-11-270(3), written comments were received from assistant attorneys general Bill Williams and Carolyn Russell. The same comment was received from assistant attorney general David Hankins. The proposed changes were made as a technical correction to comply with the words of the law. The law limits the opportunity to request an extension in filing time to respond to statements of charges in violation of RCW 18.130.180 only.

WAC 246-10-303(1) and 246-11-320(1), written comments were received from assistant attorney general Hal Dygert. The request to keep the original language, "policy reasons," was favorably considered and the language retained in keeping with RCW 34.05.479(3) of the Administrative Procedure Act which uses the same terminology.

WAC 246-10-205, written comments requesting a rewrite of this section, were received from Kathy Stout, Director of Facilities and Services Licensing. Two separate sections were written to allow the Office of Professional Standards legal assistants to make initial changes. Subsequent changes require a judge to make a ruling. The proposal to delete subsection (3) was not acted upon.

WAC 246-10-402 (3)(c) and 246-11-370 (3)(c)*, written comments requesting the clarification of "his/her" were received from Kathy Stout, Director of Facilities and Services Licensing. The changes were made for clarification.

WAC 246-10-504(3), written comments requesting the deletion of subsection (3) because of the inadvertent use of the word, "board" were received from Kathy Stout, Director of Facilities and Services Licensing. The word "board" was changed to "presiding officer," which is appropriate for the secretary controlled professions and programs.

WAC 246-10-707(1) and 246-11-610(1)*, written comments were received from Kathy Stout, Director of Facilities and Services Licensing proposing rewording of the

WSR 94-04-078

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 31, 1994, 11:20 a.m.]

Date of Adoption: January 19, 1994.

entire section. The changes were made in both chapters 246-10 and 246-11 WAC as proposed for readability.

WAC 246-11-270 (3)(c), oral comments regarding 10 day extension were received from assistant attorney general David Hankins. The intent of the original legislative change was to provide for due process for the respondents. The change was written to cover situations in which the request for an extension comes in on the 19th or 20th deadline day and the request for extension is denied for lack of good cause. The respondent must have some time in which to respond, but not the full 60-day extension permitted by law. Ten days represents a reasonable length of time. No change to the proposed amendment was made.

WAC 246-11-290(b), oral comments for clarification of "office of the board" were received from assistant attorney general David Hankins. The term "office of the board" is used in other sections of chapter 246-11 WAC. The term refers to board staff as well as the location of board staff. Current correspondence from boards utilizes this terminology. Since these are model rules, applicable to all boards, it is impractical to give specific names, addressees, or telephone numbers for the boards. Clarification is the responsibility of board staff. A change was not made to the proposed language.

WAC 246-11-421(b), oral comments were received from assistant attorney general David Hankins questioning whether the use of brief adjudicative proceedings in the compliance process was beyond the scope of the statute. Brief adjudicative proceedings are to be used in making threshold decisions regarding compliance. If respondents are not in compliance, a notice would be served and charges brought in order for the board to hear the matter. A change was not made to the proposed language.

WAC 246-11-430(6), oral comments were received from assistant attorney general David Hankins questioning the difference in time between the WAC which allows 15 days for issuance of an order and the RCW which allows 10 days between the oral order and the issuance of the order. In this case there is no oral decision permitted; the written order issued 15 days after the date for submission of materials or oral argument. The statute's 10 days refers to a different time period than the 15 days referred to in WAC 246-11-430(6). The language was not changed.

WAC 246-11-580(c), oral comments were received from assistant attorney general David Hankins questioning the grounds for reconsideration of a final order. The original language limited reconsideration to specific errors of fact or law; or implementation of the final order would require department activities inconsistent with current department practice. There was no provision creating an equal opportunity for respondents. The emphasis was on whether the department could comply with the order. The amendment provides a similar opportunity for respondents. This is an effort to create a process which is fair for all parties. The language was not changed.

WAC 246-11-270(3), see WAC 246-10-203(3).

Comments received from B. David Clark, Director, Division of Drinking Water, no questions were posed or changes requested in these comments.

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

January 28, 1994

Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-010 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

"Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the board prior to the entry of a final order under this chapter.

"Board" shall mean a disciplining authority under RCW 18.130.040 (2)(b) and (3).

"Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

"Department" shall mean the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

"Filing" shall mean receipt by the office of (~~professional standards~~) the board.

(~~"Hearings officer" shall mean a person appointed by the board to preside over some proceedings as permitted by this chapter.~~)

"Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license and which creates the right to an adjudicative proceeding. It may be (~~denominated~~) entitled a statement of charges, notice of intent to deny, or by any other designation indicating the action or proposed action to be taken.

"License" shall have the meaning set forth in RCW 34.05.010 and includes license to practice the profession for which the board is the disciplining authority and any approval of school or curriculum required by law or rule to be obtained from the board.

"Office of professional standards" shall mean the unit (~~responsible for prehearing adjudicative proceedings,~~) whose address is:

Department of Health
Office of Professional Standards
2413 Pacific Avenue
PO Box 47872
Olympia, WA 98504-7872

"Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding and who may either be a member of the board, an individual appointed pursuant to RCW 18.130.095(3), or an administrative law judge employed by the office of administrative hearings.

"Presiding officer for brief adjudicative proceedings" shall mean an employee of the department authorized by the board to conduct brief adjudicative proceedings.

"Program" shall mean the administrative unit within the department responsible for implementation of that chapter of

Title 18 RCW establishing the board or its powers and responsibilities.

"Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the license holder or applicant for license following summary action taken in accord with this chapter against that license holder or applicant.

"Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

"Respondent" shall mean a license holder or applicant for license under the jurisdiction of the board who is named in an initiating document.

"Secretary" shall mean the secretary of the department of health or his/her designee.

"Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or welfare and shall include, but not be limited to, a cease and desist order, an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-020 Signature authority. (1) A person designated by the board shall sign all initiating documents (~~and orders~~) issued under this chapter.

(2) All final orders shall be signed by a member of the panel of board members who heard the matter.

(3) All other orders shall be signed by the presiding officer conducting the proceeding.

(4) Authority to sign shall be indicated by designation of the title of the person signing and shall not require any other affirmation, affidavit, or allegation.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-030 Appearance of parties. If a respondent requests an adjudicative proceeding to contest the action, that party shall appear at all stages of the proceeding except as otherwise provided in this section.

(1) If the respondent is represented as provided in this chapter, the respondent shall appear personally at the hearing and at any scheduled settlement conference but need not appear at the prehearing conference or at presentation of motions.

(2) Parties may be represented by counsel at all proceedings.

(3) The respondent may appear by telephone at any portion of the proceedings conducted by telephone, in the discretion of the presiding officer (~~or hearings officer~~) following reasonable advance notice to the presiding officer (~~or hearings officer~~) and to the opposing party.

(4) The requirement of personal appearance may be waived for good cause in the discretion of the presiding officer (~~or hearings officer~~).

(5) Failure to appear as provided in this chapter shall be grounds for taking final action by default.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-050 Notarization, certification, and authentication. (1) A person's sworn written statement, declaration, verification, certificate, oath, or affidavit may be authenticated by an unsworn written statement which is executed in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

(date and place)

(Signature)

(2) Documents or records may be authenticated by a certification, as provided in subsection (1) of this section, from the custodian of the records or other qualified person that the documents or records are what they purport to be.

(3) Signature of any attorney shall be accompanied by and authenticated by that attorney's Washington State Bar Association number.

(4) Documents prepared and submitted by a party who is not represented by an attorney shall be signed and dated by that party and shall include that party's current address.

(5) Signature by a party or an attorney on a document shall constitute a certificate by the party or attorney that he/she has read the document, believes there are grounds to support it, and has not submitted the document for the purpose of delay, harassment, or needless increase in the cost of a proceeding.

(6) Compliance with certification requirements of subsections (1) and (2) of this section creates a rebuttable presumption that a document is authentic.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-060 Current address. Each license holder and applicant shall provide a current mailing address and all subsequent address changes to the program. Whenever service upon any such person is required by these rules, the most recent address provided may be used unless the program has actual knowledge that the person resides at a different address.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-080 Service and filing. (1) A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.

(2) Unless otherwise provided by law, filing and service shall be made by personal service; first class, registered, or certified mail (~~or commercial parcel delivery company~~).

(3) Filing shall be complete upon actual receipt during normal business hours at the board's office, unless filing is directed in writing to be made to another address.

(4) Service shall be complete when personal service is made; mail is properly stamped, addressed, and deposited in

the United States mail (~~or a parcel is delivered to a parcel delivery company with charges prepaid~~).

(5) Proof of service shall consist of filing as required by these rules, together with one of the following:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served, the parties upon whom served, the signature of the serving party, and a statement that service was completed by:

(i) Personal service; or

(ii) Mailing in the United States mail (~~or shipping by commercial parcel service~~) a copy properly addressed with postage and fees prepaid to each party and each designated representative.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-090 Jurisdiction. (1) The board has jurisdiction over all licenses issued by the board and over all holders of and applicants for licenses as provided in RCW 18.130.040 (2)(b) and (3). Such jurisdiction is retained even if an applicant requests to withdraw the application, or a licensee surrenders or fails to renew a license.

(2) The department has jurisdiction over unlicensed practice of any activity for which a license is required.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-100 Telephone proceedings. (1) The presiding officer (~~or hearings officer~~) may conduct all or part of the proceedings or permit a party or witness to appear by telephone or other electronic means if each participant in the proceedings has an opportunity to participate in, hear, and, if technically and economically feasible, see the entire proceeding while it is taking place. Cost of such appearance may be assessed to the party so appearing or on whose behalf the witness appears.

(2) If all or part of the proceedings is conducted as provided in subsection (1) of this section, the parties shall file and serve copies of all documentary evidence no less than three days prior to the proceeding. The presiding officer (~~or hearings officer~~) may, for good cause, allow exceptions to this requirement.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-110 Hearing location. The presiding officer (~~or hearings officer~~) shall designate sites for the conduct of proceedings taking into account accessibility, efficiency, and economy.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-130 Public records. (1) All papers, exhibits, transcripts, and other materials required by or submitted in accordance with this chapter shall be considered public records.

(2) Release of information on a request for public records shall be subject to the following limitations:

(a) Release of health care information shall comply with chapter 70.02 RCW and rules promulgated thereunder;

(b) Protective orders issued pursuant to WAC 246-11-400 shall prevail; and

(c) (~~Initiating documents may be released after service upon the license holder or applicant but no other records shall be released until a final order is entered and served; and~~

(~~d~~)) Chapter 42.17 RCW shall govern the release of records.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-140 Expenses and witness fees. (1) Fees and expenses shall be paid at the following rates to witnesses appearing under subpoena by the party requesting the appearance:

(a) Fees shall be paid at the daily rate established for jurors in (~~superior~~) district court of Thurston County; and

(b) Expenses shall be paid at the rate established for employees of the state of Washington, or as otherwise required by law.

(2) Fees for an expert witness shall be negotiated by and paid by the party requesting services of the expert.

(3) All expenses incurred in connection with proceedings under this chapter shall be paid by the party incurring the expense.

(4) The program shall pay expenses associated with:

(a) The facility in which proceedings are conducted; and

(b) Recording of the proceedings.

(5) Expenses related to preparation and distribution of the transcript of proceedings shall be paid by the party filing a motion or request for review of an initial order or petition for reconsideration, appealing a final order, or otherwise requesting the transcript.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-160 Official notice and agency expertise. (1) Official notice may be taken as provided in RCW 34.05.452(5).

(2) The board (~~through its designated presiding officer or hearings officer~~) may use its expertise and specialized knowledge to evaluate and draw inferences from the evidence presented to it.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-180 Intervention. (1) The presiding officer (~~or hearings officer~~) may grant a petition for intervention pursuant to RCW 34.05.443.

(2) A request to intervene shall be handled as a prehearing motion and shall be subject to the dates contained in the scheduling order. Within the sound exercise of discretion, the presiding officer may allow intervention if:

(a) The intervenor is not a party to the matter but has a substantial interest in outcome of the matter and the interest of the intervenor is not adequately represented by a party, or other good cause exists; and

(b) Any representative of the intervenor meets the requirements of WAC 246-11-070.

(3) A person shall not be allowed to intervene if that person had notice of the board's decision and, upon timely application, would have been able to appear as a party in the matter in which intervention is sought, but failed to make such timely application.

(4) If intervention is granted, the intervenor shall be subject to these rules on the same basis as the other parties to the proceeding, unless otherwise limited in the order granting intervention.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-220 Subpoenas. (1) The board, through the presiding officer(~~(or hearings officer)~~), or other designated person, and attorneys for parties may issue subpoenas to residents of the state of Washington, to license holders and applicants for license, and to other persons or entities subject to jurisdiction under RCW 4.28.185.

(2) The presiding officer (~~(or hearings officer)~~) shall issue subpoenas pursuant to RCW 34.05.446(1) for parties not represented by counsel upon request of the party and upon a showing of relevance and reasonable scope of the testimony or evidence sought. Requests for issuance of subpoenas must be made in writing to the presiding officer stating the relevance and the scope of testimony or evidence sought.

(3) The person on whose behalf the subpoena is issued shall pay any witness fees and expenses as provided in WAC 246-11-140 or costs for interpreters for such witnesses as provided in WAC 246-11-210.

(4) Attendance of persons subpoenaed and production of evidence may be required at any designated place in the state of Washington.

(5) Every subpoena shall:

- (a) Comply with WAC 246-11-190;
- (b) Identify the party causing issuance of the subpoena;
- (c) State the title of the proceeding; and
- (d) Command the person to whom the subpoena is directed to attend and give testimony and/or produce designated items under the person's control at a specified time and place.

(6) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Giving a copy to the person to whom the subpoena is addressed;

(b) Leaving a copy at the residence of the person to whom the subpoena is addressed with a person of suitable age and discretion;

(c) Sending a copy by mail to the current address on file with the program if the person is licensed by the board or has filed an application for a license with the board; or

(d) Sending a copy by certified mail with proof of receipt if the person is neither licensed by nor has applied for a license with the board.

(7) Proof of service may be made by:

(a) Affidavit of personal service;

(b) Certification by the person mailing the subpoena to a license holder or applicant; or

(c) Return or acknowledgment showing receipt by the person subpoenaed or his/her representative. Any person accepting certified or registered mail at the last known address of the person subpoenaed shall be considered an authorized representative.

(8) The presiding officer (~~(or hearings officer)~~), upon motion made promptly and before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or requires evidence not relevant to any matter at issue; or

(b) Condition denial of the motion upon just and reasonable conditions, including advancement of the reasonable cost by the person on whose behalf the subpoena is issued of producing the books, documents, or tangible things; or

(c) Issue a protective order under RCW 34.05.446.

(9) The board may seek enforcement of a subpoena under RCW 34.05.588(1) or proceed in default pursuant to WAC 246-11-280.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-230 ((Hearings)) Presiding officer and panel members. (1) The board may appoint one or more persons as (~~hearings officer to preside over some or all proceedings under this chapter not required by statute to be conducted by the presiding officer.~~

~~(2) Any person appointed as hearings officer shall be an employee of the department.~~

~~(3) Decisions and rulings of the hearings officer shall become final rulings unless appealed to the presiding officer as provided in WAC 246-11-550)) presiding officer for brief adjudicative proceedings as provided in WAC 246-11-430(1).~~

(2) The board shall authorize one of the following to serve as presiding officer for adjudicative proceedings:

(a) A board member; or

(b) An individual appointed pursuant to RCW 18.130.095(3); or

(c) An administrative law judge employed by the office of administrative hearings.

(3) The board may designate certain of its members to hear a matter as a hearing panel as provided by law.

(4) Any party may move to disqualify the presiding officer, or a member of the board hearing the matter, as provided in RCW 34.05.425(3).

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-250 Form and content of initiating documents. (1) Initiating documents shall include a clear and concise statement of the:

(a) Identity and authority of the person issuing the document;

(b) Factual basis for the action or proposed action set forth in the document;

(c) Statutes and rules alleged to be at issue;

(d) Identity of the party against whom the action is taken or proposed to be taken;

(e) Action or proposed action or penalties, including the statutory or rule authority for those actions or penalties; and

(f) Signature of the person issuing the document and the date signed; and

(g) Method by which an adjudicative proceeding may be requested.

(2) Initiating documents shall be accompanied by the following documents:

(a) Notice that the respondent may defend against the action or proposed action; and

(b) Form for requesting adjudicative proceeding.

(3) Initiating documents shall be served as described in WAC 246-11-080.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-260 Amendment of initiating documents. (1) Prior to the hearing date, initiating documents may be amended subject to the following conditions:

(a) Amended initiating documents shall meet the requirements of WAC 246-11-250(1);

(b) Amended initiating documents shall be accompanied by the documents described in WAC 246-11-250(2);

(c) Whenever amended initiating documents are issued, a new interval for response will begin, as described in WAC 246-11-270, unless the ~~((amendment benefits the))~~ respondent requests the time periods set by the original initiating document; and

(d) Issuance of amended initiating documents ends all obligations of the parties under the prior initiating documents.

(2) On the hearing date, the initiating documents may be amended subject to the following conditions:

(a) The documents may be amended upon motion of the state;

(b) The documents may not be amended without the approval of the presiding officer; and

(c) Upon motion of a party or upon his/her own initiative, the presiding officer may grant a continuance on all or part of the matter if necessary to afford the respondent an opportunity to prepare a defense to the amended documents.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-270 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents unless and extension has been granted as provided in subsection (3) of this section; and

(ii) For all other matters, within ~~((twenty-eight))~~ twenty days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding shall be made on the Request for Adjudicative Proceeding form

accompanying the initiating documents or by a written document including substantially the same information.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved by the presiding officer, by telephone, unless appearance is waived as authorized in WAC 246-11-130(4).

(d) The application for adjudicative proceeding shall contain a response to the initiating documents, indicating whether each charge is admitted, denied or not contested, and responses shall be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it shall be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding shall specify the representative, if any, designated pursuant to WAC 246-11-070 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding shall be filed at the board's office.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) At the address indicated in subsection (1)(g) of this section.

(3) For matters under RCW 18.130.180, if the twenty-day limit for filing an application for adjudicative proceeding results in a hardship to the respondent, the respondent may request an extension of not more than sixty days upon a showing of good cause.

(a) The request for extension shall be filed within the twenty-day limit and shall include:

(i) The reason for the request and the number of days for which the extension is requested; and

(ii) Documentation of the circumstances creating the hardship.

(b) The request shall be granted for a period not to exceed sixty days upon showing of:

(i) Illness of the respondent; or

(ii) Absence of the respondent from the county of residence or employment; or

(iii) Emergency in the respondent's family; or

(iv) Other good cause as determined by the presiding officer.

(c) If a request for extension is denied, the respondent shall have ten days from service of the order denying the extension or twenty days from service of the initiating documents, whichever is longer, to file an application for adjudicative proceeding.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-280 Default. (1) If a party fails to respond to initiating documents according to WAC 246-11-270, that party will be deemed to have waived the right to a hearing, and the board shall enter a final order without further contact with that party.

(2) If a party requests an adjudicative proceeding but fails to appear, without leave to do so, at a scheduled (~~settlement or~~) prehearing conference, the presiding officer (~~or hearings officer~~) may issue an order of default. The order shall include notice of opportunity to request that the default order be vacated pursuant to RCW 34.05.440(3). Unless vacated, a default order under this subsection shall be grounds for the board to proceed to decide the matter in the absence of the respondent and without additional notice to the respondent and to issue a final order.

(3) If a party requests an adjudicative proceeding but fails to appear at the hearing, the presiding officer may issue an order of default in the same manner as subsection (2) of this section, or may proceed to hear the matter in the absence of the party and issue a final order.

(4) Final orders entered under this section shall contain:

(a) Findings of fact and conclusions of law based upon prima facie proof of the allegations contained in the initiating documents;

(b) Proof of service of or a good faith attempt to serve initiating documents and appropriate notices;

(c) A finding that there is no reason to believe that the party in default is in active military service;

~~((e))~~ (d) The penalties or conditions imposed by the order; and

~~((d))~~ (e) Notice of the opportunity to request reconsideration pursuant to RCW 34.05.470.

(5) Final and default orders entered under this section shall be served upon the parties in accordance with WAC 246-11-080.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-290 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, the board or designee thereof, shall:

~~((a)) Examine the application;~~

~~(b) Notify the respondent of any obvious errors or omissions;~~

~~(c) Request any additional information the board or designee wishes or is permitted by law to require; and~~

~~(d) Notify the respondent of the name, mailing address, and telephone number of an office that may be contacted regarding the application.~~

~~(2) Within ninety days after receipt of any additional information required to be submitted under subsection (1)(e) of this section or receipt of an application without obvious errors or omissions, whichever comes later, the board or designee shall:))~~

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a ((notice of the date, time, and place of the hearing)) scheduling order or other scheduling mechanism establishing timelines for discovery, settlement, and scheduled hearings; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

~~((3) The presiding officer or hearings officer may issue a scheduling order governing the course of the proceeding and))~~ (2) If a scheduling order is issued:

(a) The scheduling order shall specify:

(i) The date, time, and place of a settlement conference, a prehearing conference, and the hearing;

(ii) The deadlines for completion of discovery and submission of prehearing motions; and

(iii) The name, address, and telephone number of the assistant attorney general or other department representative who will represent the state in the matter.

(b) The scheduling order may be modified by order of the presiding officer ((or hearings officer)) upon his/her own initiative or upon motion of a party. Any request for change of the scheduling mechanism or order shall be made by motion as provided in WAC 246-11-380.

(c) The presiding officer may waive establishing dates for the settlement conference, completion of discovery, submission of prehearing motions, and the prehearing conference, if, in the discretion of the presiding officer, those proceedings are not necessary or appropriate in a particular matter or type of case. However, either party may request by motion to the presiding officer that any or all of the dates be set.

(d) Dates contained in the scheduling order may be changed by the office of the board upon written request of either party made within fifteen days of issuance of the first scheduling order. All other changes must be made by motion pursuant to WAC 246-11-380.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-300 Conduct of emergency adjudicative proceedings. (1) Summary action may be taken only after a review by the board (~~or designee~~) of such evidence, including affidavits, if appropriate, to establish:

(a) The existence of an immediate danger to the public health, safety, or welfare;

(b) The board's ability to address the danger through a summary action, and

(c) The summary action necessary to address the danger.

(2) No notice to any person potentially affected by a summary action shall be required prior to issuance of a summary action.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-330 Adjudicative proceedings upon summary action. Following summary action taken by the board, the respondent may:

(1) Request a prompt adjudicative proceeding conducted in accordance with this chapter; or

(2) Waive the prompt adjudicative proceeding and request ~~((an))~~ a regularly scheduled adjudicative proceeding conducted in accordance with this chapter;

(3) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(4) Waive the opportunity to be heard.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-340 Opportunity for prompt adjudicative proceeding. (1) Any respondent affected by a summary action shall be provided the opportunity to request a prompt adjudicative proceeding. Notice of the opportunity shall be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.

(2) Any respondent affected by a summary action may request a prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding ~~((in lieu))~~ instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accord with WAC 246-11-270.

(3) Any request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.

(4) If requested by the respondent, a prompt adjudicative proceeding shall be conducted within twenty days of service of a summary action.

(5) Regardless whether a prompt adjudicative proceeding is requested, the matter shall be resolved as quickly as feasible in accordance with all other applicable rules.

SECTION IV SETTLEMENT AND PREHEARING ~~((PROCE- DURE))~~ PROCEEDINGS

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-360 Settlement conference. (1) Following a request for an adjudicative proceeding, ~~((the presiding officer or hearing officer may schedule a settlement conference. The parties shall be notified of the date, time, and place of the settlement conference))~~ a settlement conference shall be conducted if provided in the scheduling order. If another scheduling mechanism is issued, a settlement conference may be scheduled and held at the discretion of the board or other settlement processes may be utilized at the discretion of the board.

(2) The purpose of the settlement conference or other settlement process shall be to attempt to reach agreement on the issues and ~~((the))~~ on a proposed order to be entered. Any agreement of the parties is subject to final approval by the board.

(3) The respondent shall attend the settlement conference as scheduled and may also be represented as provided in WAC 246-11-070. Representatives of the board and/or department will also attend. Other persons may attend by agreement of the parties.

(4) Either party may bring documents or other materials to the settlement conference for the purpose of settlement negotiations. No testimony will be taken. No documents or information submitted at the settlement conference will be

admitted at the adjudicative proceeding unless stipulated by the parties or otherwise admitted into evidence by the presiding officer.

(5) If a settlement offer has been made in writing to the respondent and it is signed and returned by the respondent to the board prior to the settlement conference, all subsequent ~~((scheduled))~~ dates set in the scheduling order or other scheduling mechanism are continued pending final review of the settlement by the board.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-370 Discovery. The parties are encouraged to exchange information and documents related to the case prior to the adjudicative proceeding. Formal discovery ~~((may be had at the discretion of the presiding officer))~~ is obtained as follows:

(1) Methods, scope and limits:

(a) Parties may obtain discovery by production of records or things; deposition upon oral examination; requests for admission; or, if ordered by the presiding officer, written interrogatories.

(b) Unless otherwise limited by order of the presiding officer in accord with these rules, the scope of discovery shall be as follows:

(i) Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter in the pending action. It is not grounds for objection that the information sought will be inadmissible at the adjudicative proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(ii) The frequency or extent of use of the discovery methods set forth in these rules shall be limited by the presiding officer if the presiding officer determines that:

(A) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; or

(B) The party seeking discovery has had an ample opportunity by discovery to obtain the information sought; or

(C) The discovery is unduly burdensome or expensive, taking into account the needs of the case, limitations of the parties' resources, and the importance of the issues at stake.

(iii) The presiding officer may limit discovery upon his or her own initiative after reasonable notice or pursuant to a motion submitted by a party.

(2) Production of records, documents, or things:

(a) Upon written request of a party the opposing party shall identify experts and other witnesses to be called at the hearing and shall provide other information necessary to enable the party to conduct depositions of the witnesses.

(b) Any party may serve on any other party a request, which must be signed by the party or designated representative:

(i) To produce and permit the party making the request or designee to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or

(ii) To permit entry onto designated land or other property which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or designated object or operation thereon which is within the scope of discovery.

(c) Any party who produces documents for inspection shall produce them as they are kept in the usual course of business or may, if the parties agree, organize and label them to correspond with the categories in the request.

(d) The party upon whom a request is made may, by motion to the presiding officer, move for an order denying the request to produce or modify the conditions of the request. Denial of the request of change in the conditions of the request shall be within the discretion of the presiding officer and shall be made by written order.

(3) Depositions may be taken subject to the following conditions:

(a) Within the United States or a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the state of Washington or of the place where the examination is held. A presiding officer may, in his or her discretion or following motion of a party, preside at the deposition. Within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice-consul or consular agent of the United States, or a person designated by the presiding officer or agreed upon by the parties by stipulation in writing filed with the presiding officer, if any, and otherwise with the disciplining authority. Except by stipulation, no deposition shall be taken before any person who is a party or a privy of a party, or a privy of a representative of a party, or who is financially interested in the proceeding.

(b) A party desiring to take the deposition of a person upon oral examination shall give reasonable notice of not less than five days in writing to the person to be deposed and to the opposing party. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a description sufficient to identify the person to be examined or the particular class or group to which the person to be examined belongs. On motion of a party upon whom the notice is served, the presiding officer may for cause shown, lengthen or shorten the time.

(c) After notice is served for taking a deposition, or upon motion of the presiding officer, or upon motion reasonably made by any party or by the person to be examined, and upon notice and for good cause, the presiding officer may issue an order that the deposition shall not be taken or that it be taken subject to specified restrictions, conditions, or limitations.

(d) Depositions shall be recorded.

(i) The officer before whom the deposition is taken shall put the witness on oath or affirmation and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony.

(ii) The officer or person acting under the officer's direction shall transcribe the testimony at the request of any party, provided that any expenses shall be paid by the requesting party.

(iii) The transcribed testimony shall be submitted to the person deposed for review and signature, unless review and signature are waived by that person. The officer shall append to the transcript any changes in form or substance that may be submitted by the parties.

(iv) Copies of the transcribed and, unless review and signature has been waived, signed testimony shall be served upon the person deposed and upon the parties.

(e) If the parties so stipulate in writing or on the record, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken, may be used as any other deposition.

(4) Following motion of a party and opportunity for response by the opposing party, the presiding officer may order a party to respond to written interrogatories and may order that the interrogatories be subject to specified restriction, condition, or limitation.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-380 Motions. (1) The presiding officer shall rule on motions (~~or may appoint a hearings officer to rule on motions~~). The presiding officer (~~or hearings officer~~) may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, shall be made in writing (~~to the presiding officer or hearings officer~~) and filed prior to the dates set in the scheduling order. Filing shall be at the board's office, unless filing is directed in writing to be made at another address.

(3) Motions for continuance must be made in writing (~~within forty five days following service of~~) and filed prior to the dates set in the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than (~~forty-five~~) twenty days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing. (~~In no event shall a motion for continuance be made fewer than five days prior to the hearing~~) Continuances may be granted by the presiding officer for good cause.

(4) The presiding officer (~~or hearings officer~~) may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section (~~in a bona fide emergency~~) for good cause.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-390 Prehearing conference. (1) (~~The presiding officer or hearings officer may schedule a prehearing conference to be held prior to the hearing~~) If a scheduling order is issued, the parties shall be notified of the time and place of the first prehearing conference in the scheduling order. If another scheduling mechanism is issued, a prehearing conference will be held upon motion of either party, unless board policy provides otherwise.

(2) The presiding officer shall determine whether the prehearing conferences will be conducted in person or by telephone conference call.

(3) The presiding officer (~~(or hearings officer)~~) shall conduct the prehearing conference and shall issue rulings related to prehearing motions and evidentiary issues. The rulings shall govern the conduct of subsequent proceedings.

~~((3))~~ (4) The prehearing conference (~~(shall)~~) may be recorded (~~(unless recording is waived by the parties)~~) as ordered by the presiding officer. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

~~((4))~~ (5) Following the final prehearing conference, the presiding officer (~~(or hearings officer)~~) shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing and those which may (~~(by agreement)~~) be distributed prior to hearing;

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) Accept amendments to the pleadings;

(g) Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

(h) Rule on objections made in any preserved testimony.

~~((5))~~ (6) Following the prehearing conference, the presiding officer (~~(or hearings officer)~~) may issue an order directing that the matter be heard as a brief adjudicative proceeding, pursuant to WAC 246-11-420 through 246-11-450.

~~((6))~~ (7) Documentary evidence not offered in the prehearing conference shall not be received into evidence at the adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

~~((7))~~ (8) Witnesses not identified during the prehearing conference shall not be allowed to testify at the adjudicative proceeding in the absence of a clear showing that the party offering the testimony of such witness had good cause for failing to identify the witness at the prehearing conference.

~~((8))~~ (9) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents shall be deemed authentic. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

~~((9))~~ (10) Nothing in these rules shall prohibit the presiding officer (~~(or hearings officer)~~) from conducting a conference at any time, including during the hearing. The presiding officer (~~(or hearings officer)~~) shall state on the record the results of such conference.

~~((10))~~ (11) A party bound by a stipulation or admission of record may withdraw it in whole or in part only upon

a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

~~((11))~~ (12) In an appeal to superior court involving issues addressed in the prehearing order, the record of the prehearing conference, written motions and responses the prehearing order and any orders issued by the presiding officer pursuant to WAC 246-11-380, shall be the record.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-400 Protective orders. The presiding officer (~~(or hearings officer)~~) may issue a protective order at his or her discretion:

(1) To protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense;

(2) To preserve confidentiality related to health care records or provider-client information;

(3) To protect examination processes;

(4) To protect the identity of a person supplying information to the department or board where the person indicates a desire for nondisclosure unless that person testifies or has been called to testify at an adjudicative proceeding; or

(5) To comply with applicable state or federal law.

SECTION V BRIEF ADJUDICATIVE ~~((PROCEDURES))~~ PROCEEDINGS

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-420 Application of brief adjudicative proceedings. (1) If an adjudicative proceeding (~~(has been)~~) is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination (~~(of)~~) whether an applicant for a license meets the minimum criteria for an unrestricted license and the board proposes to deny such a license or to issue a restricted license;

(b) A determination (~~(as to)~~) whether a person is in compliance with the terms and conditions of a final order previously issued by the board; (~~(and)~~)

(c) Any approval of a school or curriculum when such approval by the board is required by statute or rule; and

(d) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal.

(2) If an adjudicative proceeding (~~(has been)~~) is requested in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted (~~(at)~~) in the discretion of the presiding officer when it appears that:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief proceeding; and

(c) The protection of the public interest does not require that the board provide notice and an opportunity to participate to persons other than the parties.

NEW SECTION

WAC 246-11-425 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a license or for approval of a school or curriculum shall consist of:

(a) The application for the license or approval and all associated documents;

(b) All documents relied upon by the program in proposing to deny the application; and

(c) All correspondence between the applicant for license or approval and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order shall consist of:

(a) The previously issued final order;

(b) All reports or other documents submitted by the license holder, or at the direction of the license holder, in full or partial fulfillment of the terms of the final order; and

(c) All correspondence between the license holder and the program regarding compliance with the final order.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-430 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer (~~(or hearings officer)~~) for brief adjudicative proceedings designated by the board. The presiding officer (~~(or hearings officer)~~) for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer (~~(or hearings officer)~~) for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer (~~(or hearings officer)~~) for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer (~~(or hearings officer may consider health care)~~) for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within fifteen days of the final date for submission of materials or oral argument, if any, the presiding officer (~~(or hearings officer)~~) for brief adjudicative proceedings shall enter an initial order in accordance with WAC 246-11-540.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-440 Effectiveness of orders on brief adjudicative proceedings. (1) Initial orders on brief adjudicative proceedings shall become final twenty-one days after service of the initial order unless:

(a) Administrative review has been requested pursuant to WAC 246-11-550; or

(b) On its own initiative, the board determines to review the matter and, within twenty-one days of service of the initial order, provides notice to the parties of the date by which a determination shall be made.

(2) If review is taken under subsection (1) of this section, each party shall be provided an opportunity to state its view of the matter, and a written order containing findings of fact, conclusions of law, and order shall be entered and served upon the parties within twenty days of service of the initial order or the request for review, whichever is later.

(3) A request for review is deemed to be denied if the board does not act on the request within twenty days after the request is submitted.

(4) If administrative review is taken under subsection (1) of this section, the presiding officer may convert the matter to a full adjudicative proceeding.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-450 Agency record in brief proceedings. The agency record of brief adjudicative proceedings shall consist of:

(1) The preliminary record as set forth in WAC 246-11-425;

(2) All initiating documents including the notice of opportunity to defend;

~~((2))~~ (3) The request for adjudicative proceeding;

~~((3))~~ (4) All documents submitted in the proceeding;

~~((4))~~ (5) Any transcript or recording of any testimony or arguments presented; and

~~((5))~~ (6) All orders issued in the case.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-480 Conduct of adjudicative proceeding. (1) The adjudicative proceeding shall be conducted as provided in RCW 34.05.449 through 34.05.455.

(2) The presiding officer may take the following actions to the extent not already determined in a prehearing order:

(a) Conduct the hearing de novo;

(b) Determine the order of presentation of evidence;

(c) Administer oaths and affirmations;

(d) Issue subpoenas;

(e) Rule on procedural matters, objections, motions, and offers of proof;

(f) Receive relevant evidence;

(g) Interrogate witnesses called by the parties in an impartial manner to develop any facts necessary to fairly and adequately decide the matter;

(h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(i) Take any appropriate action necessary to maintain order during the adjudicative proceeding;

(j) Determine whether to permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Permit photographic and recording equipment at hearing subject to conditions necessary to preserve confidentiality and prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapter 34.05 RCW or this chapter, except as precluded by law; and

(m) Take any other action necessary and authorized by applicable law or rule.

(3) The presiding officer shall:

(a) Apply as the first source of law governing an issue those statutes and rules deemed applicable to the issue;

(b) If there is no statute or rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington Constitutions, statutes, rules, and court decisions; and

(c) Not declare any statute or rule invalid.

(4) If the validity of any statute or rule is raised as an issue, the presiding officer may permit arguments to be made on the record concerning the issue for the purpose of subsequent review.

(5) Members of the board hearing the matter may ask questions of any witness and may call additional witnesses.

(6) A party may move to disqualify the presiding officer or any member of the board pursuant to RCW 34.05.425(3).

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-500 Proposed order. At the conclusion of the hearing or by a date specified by the presiding officer, the presiding officer may require each party ((shall)) to submit to the presiding officer proposed findings of fact and conclusions of law and a proposed order((, except as may be ordered by the presiding officer)).

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-510 Issuance of final order. If the adjudicative proceeding is ~~((conducted by a presiding officer authorized to make the final decision;))~~ heard by the board or a panel of the board the presiding officer and board or panel of the board shall:

(1) Issue a final order containing findings of fact and conclusions of law and an order; and

(2) Serve a copy of the order on each party and any designated representative of the party.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-530 Consolidated proceedings. (1) When two or more applications for adjudicative proceeding involve a similar issue, the applications may be consolidated by the presiding officer ~~((or hearings officer))~~ and the hearings conducted together. The presiding officer or hearings officer may consolidate on his/her own motion or upon the request of a party.

(2) A party scheduled for a consolidated proceeding may request to withdraw from the consolidated proceeding in favor of an individual proceeding. ~~((A request to withdraw from a consolidated proceeding shall be granted if the~~

~~motion is filed before the presiding officer or hearings officer has made any discretionary ruling in the matter and before the hearing date.))~~ The presiding officer ~~((or hearings officer))~~ may grant a motion to withdraw from a consolidated proceeding at any time when good cause is shown.

(3) Each respondent in a consolidated proceeding shall retain the right to representation.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-540 Initial order. (1) If the adjudicative proceeding is ~~((conducted by a presiding officer who is not authorized to make the final decision;))~~ not heard by the board or panel of the board the presiding officer shall:

~~((1))~~ (a) Issue an initial order containing proposed findings of fact, conclusions of law, and a proposed order;

~~((2))~~ (b) Serve a copy of the initial order on each party and any designated representative of a party; and

~~((3))~~ (c) Forward the initial order and record of the adjudicative proceeding to the office of the board.

(2) Initial orders on brief adjudicative proceedings shall become final orders as provided in WAC 246-11-540.

(3) Following receipt of initial orders in matters other than brief adjudicative proceedings, the board shall review the initial order and the record as provided in RCW 34.05.464, and issue a final order as provided in WAC 246-11-560.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-560 Final orders. (1) The form and content of final orders shall be as follows:

(a) Final orders shall contain findings of fact, conclusions of law, and an order ~~((, and shall be signed by the presiding officer)).~~ All final orders shall be signed by a member of the panel of board members who heard the matter.

(b) Final orders may adopt by reference the initial order in whole or in part.

(c) Final orders may modify or revise the initial order in whole or in part.

(2) Final orders shall be served upon the parties and their representatives as provided in WAC 246-11-080.

(3) Final orders shall be issued following:

(a) A review of the record;

(b) A review of the initial order, if any;

(c) A review of any request for review of the initial order and any response thereto; and

(d) Consideration of protection of the public health and welfare.

(4) Unless a later date is stated in the final order, final orders shall be effective when entered but a party shall not be required to comply with a final order until the order is served upon that party.

(5) Final orders may contain orders that specified portions of the agency record shall not be disclosed as public records if necessary to protect privacy interests, the public welfare, or vital governmental functions. Such orders shall include but are not limited to protective orders issued during the proceeding or pursuant to WAC 246-11-400.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)**WAC 246-11-580 Reconsideration of final orders.**

(1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration shall be limited to:

(a) Specific errors of fact or law; or

(b) Implementation of the final order would require department activities inconsistent with current department practice; or

(c) Specific circumstances render the person requesting the reconsideration unable to comply with the terms of the order.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the office of the board within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration shall contain specific reference to the record. If reconsideration is requested based on testimony of record, the request for reconsideration shall contain specific reference to the testimony. The presiding officer may require that the party requesting ((consideration shall)) reconsideration submit a copy of the transcript of the adjudicative proceeding ((or shall specify the date by which the transcript will be submitted, and shall submit specific reference to the transcript by a date determined by the presiding officer)) and provide specific reference to the transcript.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the presiding officer:

(a) Denies the petition;

(b) Does not act upon the petition; or

(c) Does not serve the parties with notice of the date by which he/she will act on the petition.

(6) If the presiding officer determines to act upon the petition, the opposing party shall be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-590 Agency record of adjudicative proceedings. (1) The department shall maintain an official record of each adjudicative proceeding.

(2) The record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, and requests filed, and rulings thereon;

(d) Evidence received or considered;

(e) A statement of matters officially noted;

(f) Offers of proof and objections and rulings thereon;

(g) Any proposed findings, requested orders, and exceptions;

(h) Any recording of the ~~((hearing))~~ adjudicative proceeding and any transcript of all or part of the ~~((hearing))~~ adjudicative proceeding considered before final disposition of the matter;

(i) Any final order, initial order, or order on reconsideration; and

(j) Matters placed on the record following an ex parte communication, if any.

(3) The record shall be subject to disclosure as provided by RCW 42.17.250 through 42.17.340, and by WAC 246-11-130, except as limited by protective orders and ~~((orders))~~ provisions contained in the final order.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-600 Judicial review. (1) Judicial review of actions taken under this chapter shall be as provided in RCW 34.05.510 et seq.

(2) Notice of the opportunity for judicial review shall be provided in all final orders.

(3) Following a request for judicial review, the record forwarded to the reviewing court shall be those portions of the agency record designated by the parties within the time period set by the board.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-610 Vacating an order for reason of default or withdrawal. ~~((1) A party against whom an order for reason of default is entered shall have the right to file a written petition requesting that the order be vacated.~~

~~((2) The petition to vacate shall state the grounds relied upon.~~

~~((3) The petition shall be filed at the office of the board.~~

~~((4) If, in the opinion of the presiding officer, good cause to grant the motion to vacate is shown, the presiding officer shall grant the motion and reinstate the application for adjudicative proceeding and may impose conditions on licensure pending final adjudication of the matter.))~~ (1) A party may petition to vacate a default order entered against that party for failing to attend an adjudicative proceeding requested by that party by:

(a) Specifying the grounds relied upon in the petition; and

(b) Filing the petition at the office of professional standards within seven days of service of the default order.

(2) The presiding officer shall consider the petition and shall:

(a) Grant the motion to vacate and reinstate the application for adjudicative proceeding, and may impose conditions on licensure pending final adjudication; or

(b) Deny the motion to vacate the default order.

WSR 94-04-079

PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed January 31, 1994, 11:27 a.m.]

Date of Adoption: January 19, 1994.

Purpose: To make administrative (address) changes for DOH index filing; and to amend the secretary programs and professions adjudicative proceedings rules.

Citation of Existing Rules Affected by this Order: Amending WAC 246-08-450 and chapter 246-10 WAC.

Statutory Authority for Adoption: RCW 43.70.040.

Pursuant to notice filed as WSR 93-24-106 on December 1, 1993.

Changes Other than Editing from Proposed to Adopted Version: Note: Where comments were received on either chapter 246-10 or 246-11 WAC, and it was agreed that changes were necessary, the other chapter was reviewed as well. These chapters pertain to the secretary controlled professions and programs and to the professions under control of regulatory boards. They are very similar documents and where it was appropriate, the same changes were made in both chapters. All changes made were nonsubstantive reflecting internal DOH organization, not a change in the way business is done.

WAC 246-08-450 (6)(b), the Office of Professional Standards received a phone call prior to hearing from the Department of Health rules coordinator requesting that a change be made in the last line of the rule to "Office of the Secretary, 1112 Quince Street S.E., Olympia, WA 98504." The change was made.

WAC 246-10-203(3) and 246-11-270(3), written comments were received from assistant attorneys general Bill Williams and Carolyn Russell. The same comment was received from assistant attorney general David Hankins. The proposed changes were made as a technical correction to comply with the words of the law. The law limits the opportunity to request an extension in filing time to respond to statements of charges in violation of RCW 18.130.180 only.

WAC 246-10-303(1) and 246-11-320(1), written comments were received from assistant attorney general Hal Dygert. The request to keep the original language, "policy reasons," was favorably considered and the language retained in keeping with RCW 34.05.479(3) of the Administrative Procedure Act which uses the same terminology.

WAC 246-10-205, written comments requesting a rewrite of this section, were received from Kathy Stout, Director of Facilities and Services Licensing. Two separate sections were written to allow the Office of Professional Standards legal assistants to make initial changes. Subsequent changes require a judge to make a ruling. The proposal to delete subsection (3) was not acted upon.

WAC 246-10-402 (3)(c) and 246-11-370 (3)(c)*, written comments requesting the clarification of "his/her" were received from Kathy Stout, Director of Facilities and Services Licensing. The changes were made for clarification.

WAC 246-10-504(3), written comments requesting the deletion of subsection (3) because of the inadvertent use of the word, "board" were received from Kathy Stout, Director of Facilities and Services Licensing. The word "board" was changed to "presiding officer," which is appropriate for the secretary controlled professions and programs.

WAC 246-10-707(1) and 246-11-610(1)*, written comments were received from Kathy Stout, Director of Facilities and Services Licensing proposing rewording of the entire section.

The changes were made in both chapters 246-10 and 246-11 WAC as proposed for readability.

WAC 246-11-270 (3)(c), oral comments regarding 10 day extension were received from assistant attorney general David Hankins. The intent of the original legislative change was to provide for due process for the respondents. The change was written to cover situations in which the request for an extension comes in on the 19th or 20th deadline day and the request for extension is denied for lack of good cause. The respondent must have some time in which to respond, but not the full 60-day extension permitted by law. Ten days represents a reasonable length of time. No change to the proposed amendment was made.

WAC 246-11-290(b), oral comments for clarification of "office of the board" were received from assistant attorney general David Hankins. The term "office of the board" is used in other sections of chapter 246-11 WAC. The term refers to board staff as well as the location of board staff. Current correspondence from boards utilizes this terminology. Since these are model rules, applicable to all boards, it is impractical to give specific names, addressees, or telephone numbers for the boards. Clarification is the responsibility of board staff. A change was not made to the proposed language.

WAC 246-11-421(b), oral comments were received from assistant attorney general David Hankins questioning whether the use of brief adjudicative proceedings in the compliance process was beyond the scope of the statute. Brief adjudicative proceedings are to be used in making threshold decisions regarding compliance. If respondents are not in compliance, a notice would be served and charges brought in order for the board to hear the matter. A change was not made to the proposed language.

WAC 246-11-430(6), oral comments were received from assistant attorney general David Hankins questioning the difference in time between the WAC which allows 15 days for issuance of an order and the RCW which allows 10 days between the oral order and the issuance of the order. In this case there is no oral decision permitted; the written order issued 15 days after the date for submission of materials or oral argument. The statute's 10 days refers to a different time period than the 15 days referred to in WAC 246-11-430(6). The language was not changed.

WAC 246-11-580(c), oral comments were received from assistant attorney general David Hankins questioning the grounds for reconsideration of a final order. The original language limited reconsideration to specific errors of fact or law; or implementation of the final order would require department activities inconsistent with current department practice. There was no provision creating an equal opportunity for respondents. The emphasis was on whether the department could comply with the order. The amendment provides a similar opportunity for respondents. This is an effort to create a process which is fair for all parties. The language was not changed.

WAC 246-11-270(3), see WAC 246-10-203(3).

Comments received from B. David Clark, Director, Division of Drinking Water, no questions were posed or changes requested in these comments.

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

January 28, 1994
Bruce Miyahara
Secretary

~~division~~) Office of the Secretary, 1112 Quince St. SE, Olympia, WA 98504.

AMENDATORY SECTION (Amending Order 346, filed 3/24/93, effective 4/24/93)

WAC 246-08-450 Final orders, declaratory orders, interpretive statements and policy statements—Indexes.

(1) In accordance with RCW 42.17.260, the department shall index:

(a) Final orders that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and contain an analysis or decision of substantial importance to the department in carrying out its duties;

(b) Declaratory orders that contain an analysis or decision of substantial importance to the department in carrying out its duties;

(c) Interpretive statements as defined in RCW 34.05.010(8); and

(d) Policy statements as defined in RCW 34.05.010(14).

(2) The department shall maintain indexes of:

(a) Final orders meeting the criteria in subsection (1)(a) of this section, issued by the department and the disciplining authorities identified in RCW 18.130.040;

(b) Declaratory orders meeting the criteria in subsection (1)(b) of this section issued by the department and the state board of health; and

(c) Interpretive and policy statements issued by the department and state board of health.

(3) The indexes shall, at a minimum, contain the case or document number; type of document; name of parties, if applicable, unless such names are exempt from public disclosure; brief description of subject, program; pertinent legal citation; and location of the document.

(4) Any person may nominate a final adjudicative order or declaratory order to be evaluated for indexing by ~~((writing to the administrative hearings unit, 1300 S.E. Quince Street, P.O. Box 47851, Olympia, WA 98504-7851, and attaching))~~ completing an Order Index Nomination Request Form which can be obtained from and returned to the Office of Professional Standards, PO Box 47872, Olympia, WA 98504-7872, along with a copy of the nominated order. The department shall make a final decision as to whether to index the nominated order, and that decision is not appealable.

(5) The department shall update the indexes on an ongoing basis and conduct an annual review to verify that the indexed documents continue to meet the criteria in subsection (1) of this section. The department may, at any time, delete a document from an index. Pursuant to RCW 42.17.260(6), a public record may not be cited in a proceeding if it has not been indexed.

(6) The indexes are public records and are available for public inspection and copying in accordance with WAC 246-08-420 and 246-08-440. Indexes are located ~~((at 1300 Quince Street, Olympia, WA,))~~ as follows:

(a) The index of final adjudicative orders is located in the ~~((administrative hearings unit))~~ Office of Professional Standards, 2413 Pacific Avenue, Olympia, WA; and

(b) The index of declaratory orders, interpretive and policy statements issued by the department and the state board of health is located in the ~~((management services~~

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-102 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

"Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the department prior to the entry of a final order under this chapter.

"Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

"Department" shall mean the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

"Filing" shall mean receipt by the office of professional standards.

"Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license or recipient of benefits and which creates the right to an adjudicative proceeding. It may be ~~((denominated))~~ entitled a statement of charges, notice of intent to deny, order, or by any other designation indicating the action or proposed action to be taken.

"License" shall have the meaning set forth in RCW 34.05.010, and includes any license, certification, registration, permit, approval, or any similar form of authorization required by law to be obtained from the department.

"Office of professional standards" shall mean the unit responsible for ~~((prehearing))~~ conducting adjudicative proceedings, whose address is:

Department of Health
Office of Professional Standards
2413 Pacific Avenue
~~((P.O.))~~ PO Box 47872
Olympia, WA 98504-7872

"Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding. The presiding officer may be an employee of the department who is authorized to issue a final decision as designee of the secretary, or an administrative law judge employed by the office of administrative hearings.

"Presiding officer for brief adjudicative proceedings" shall mean an employee of the department who is authorized to conduct brief adjudicative proceedings.

"Program" shall mean the administrative unit within the department responsible for implementation of a particular statute or rule.

"Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the license holder or applicant for license following summary action taken in accord with this chapter against that license holder or applicant.

"Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

"Recipient of benefits" shall mean an individual who has qualified for benefits administered by the department.

"Respondent" shall mean a person eligible to request an adjudicative proceeding in a program under the jurisdiction of the department who is named in an initiating document.

"Secretary" shall mean the secretary of the department of health or his/her designee.

"Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or welfare and shall include, but not be limited to, a cease and desist order, an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-103 Signature authority. (1) A person designated by the program shall sign all initiating documents (~~and orders~~) issued under this chapter.

(2) The presiding officer shall sign all orders issued under this chapter.

(3) Authority to sign shall be indicated by designation of the title of the person signing and shall not require any other affirmation, affidavit, or allegation.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-107 Persons who may request adjudicative proceedings. The persons indicated may request an adjudicative proceeding under this chapter.

(1)(a) With respect to the denial of applications made under WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, and 246-290-140, the (~~aggrieved~~) denied applicant may request an adjudicative proceeding.

(b) A person whose application for the approval of a new public water system is denied under WAC 246-293-190, a purveyor whose license is adversely affected by a departmental decision under WAC 246-293-190 or the county legislative authority having jurisdiction in the area affected by the decision may request an adjudicative proceeding under this chapter.

(c) A purveyor affected by the decision of the department under WAC 246-293-430 or the county legislative authority having jurisdiction in the area may request an adjudicative proceeding with respect to a decision made under WAC 246-293-430.

(2) With respect to all other matters involving the issuance, denial of, or adverse action against, a license, the applicant or licensee(~~(s)~~) may request an adjudicative proceeding.

(3) With respect to matters involving receipt of benefits or application therefor, the recipient of or applicant for the benefits may request an adjudicative proceeding.

(4) With respect to an application for approval of a school or curriculum, the person or authority that applied for approval may request an adjudicative proceeding.

(5) With respect to the department's final threshold determination that an environmental impact statement (EIS) is or is not necessary and with respect to the adequacy of a

final EIS, any person may request an adjudicative proceeding who:

(a) Is seeking to protect an interest within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question; and

(b) Will be specifically and perceptibly harmed by the proposed action.

(6) Any application for an adjudicative proceeding that on its face demonstrates that the person making the application does not have standing under this rule may be summarily dismissed by entry of a decision pursuant to RCW 34.05.416. A motion to dismiss a matter for lack of standing may be made at any time prior to entry of the final order.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-109 Service and filing. (1) A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.

(2) Unless otherwise provided by law, filing and service shall be made by personal service; by first class, registered, or certified mail; or ((commercial parcel delivery company)) by electronic telefacsimile transmission (FAX) where copies are mailed simultaneously.

(3) Filing shall be complete upon actual receipt during normal business hours at the office of professional standards (~~(when filing is with the office of professional standards)~~).

(4) Service shall be complete when personal service is made; or mail is properly stamped, addressed, and deposited in the United States mail; or ((a parcel is delivered to a parcel delivery company with charges prepaid)) FAX transmission is completed and copies are deposited in the United States mail properly stamped and addressed.

(5) Proof of service shall consist of filing as required by these rules, together with one of the following:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served, the parties upon whom served, the signature of the serving party, and a statement that service was completed by:

(i) Personal service; or

(ii) Mailing in the United States mail (~~(or shipping by commercial parcel service)~~) a copy properly addressed with postage and fees prepaid to each party and each designated representative.

(6) For the purpose of service on a licensee or a person requesting an adjudicative proceeding, service shall be made at the last known address provided to the department in accordance with WAC 246-01-100, unless the program has actual knowledge of a different correct address for the person being served.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-110 Jurisdiction. (1) The department has jurisdiction over all licenses issued by the department and over all holders of and applicants for licenses. Such jurisdiction is retained even if an applicant requests to withdraw the application, or a licensee surrenders or fails to renew a license.

(2) The department has jurisdiction over unlicensed practice of any activity for which a license is required unless otherwise prohibited by law.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-114 Public records. (1) All papers, exhibits, transcripts, and other materials required by or submitted in accordance with this chapter shall be considered public records.

(2) Release of information upon request for public records shall be subject to the following limitations:

(a) Release of health care information shall comply with chapter 70.02 RCW and rules promulgated thereunder;

(b) Protective orders issued pursuant to WAC 246-10-405 shall prevail; and

(c) ~~((Initiating documents may be released after service upon the person eligible to request an adjudicative proceeding but no other records shall be released until a final order is entered and served; and~~

~~(d))~~ Chapter 42.17 RCW shall govern the release of records.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-115 Expenses and witness fees. (1) Fees and expenses shall be paid at the following rates to witnesses appearing under subpoena by the party requesting the appearance:

(a) Fees shall be paid at the daily rate established for jurors in ~~((superior))~~ district court of Thurston County; and

(b) Expenses shall be paid at the rate established for employees of the state of Washington, or as otherwise required by law.

(2) Fees for an expert witness shall be negotiated by and paid by the party requesting services of the expert.

(3) All expenses incurred in connection with proceedings under this chapter shall be paid by the party incurring the expense.

(4) The ~~((program))~~ department shall pay expenses associated with:

(a) The facility in which proceedings are conducted; and

(b) Recording of the proceedings.

(5) Expenses related to preparation and distribution of the transcript of proceedings shall be paid by the party filing a motion or request for review of an initial order or petition for reconsideration, appealing a final order, or otherwise requesting the transcript.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-123 Subpoenas. (1) The presiding officer, the secretary or designee, and attorneys for parties may issue subpoenas to residents of the state of Washington, to license holders and applicants for license, and to other persons or entities subject to jurisdiction under RCW 4.28.185.

(2) The presiding officer shall issue subpoenas pursuant to RCW 34.05.446(1) for parties not represented by counsel upon request of the party and upon a showing of relevance and reasonable scope of the testimony or evidence sought. Requests for issuance of subpoenas must be made in writing to the presiding officer stating the relevance and the scope of testimony or evidence sought.

(3) The person on whose behalf the subpoena is issued shall pay any witness fees and expenses as provided in WAC 246-10-115 or costs for interpreters for such witnesses as provided in WAC 246-10-122.

(4) Attendance of persons subpoenaed and production of evidence may be required at any designated place in the state of Washington.

(5) Every subpoena shall:

(a) Comply with WAC 246-10-120;

(b) Identify the party causing issuance of the subpoena;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony and/or produce designated items under the person's control at a specified time and place.

(6) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Giving a copy to the person to whom the subpoena is addressed;

(b) Leaving a copy at the residence of the person to whom the subpoena is addressed with a person of suitable age and discretion;

(c) Sending a copy by mail to the current address on file with the department if the person is licensed by the department or has filed an application for a license with the department; or

(d) Sending a copy by certified mail with proof of receipt if the person is neither licensed by nor has applied for a license with the department.

(7) Proof of service may be made by:

(a) Affidavit of personal service;

(b) Certification by the person mailing the subpoena to a license holder or applicant; or

(c) Return or acknowledgment showing receipt by the person subpoenaed or his/her representative. Any person accepting certified or registered mail at the last known address of the person subpoenaed shall be considered an authorized representative.

(8) The presiding officer, upon motion made promptly and before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or requires evidence not relevant to any matter at issue; or

(b) Condition denial of the motion upon just and reasonable conditions, including advancement of the reason-

able cost by the person on whose behalf the subpoena is issued of producing the books, documents, or tangible things; or

(c) Issue a protective order under RCW 34.05.446.

(9) The department may seek enforcement of a subpoena under RCW 34.05.588(1) or proceed in default pursuant to WAC 246-10-204.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-124 Preliminary requirements. (1) An (~~aggrieved~~) applicant for an initial license or renewal of an existing license shall not be entitled to an adjudicative proceeding unless the applicant has submitted:

(a) A completed initial application or renewal application, as appropriate; and

(b) All applicable application, examination, or renewal fees payable in connection with such application or license.

(2) An aggrieved applicant shall not be entitled to an adjudicative proceeding with respect to the denial of an application submitted under WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, or 246-290-140 unless the applicant has submitted to the district engineer or other departmental employee responsible for reviewing the submittal, a certification that, to the best of the applicant's knowledge and belief, the submittal is complete and demonstrates compliance with the state's drinking water regulations. Certification with respect to water system plans, project reports, construction documents and other submittals requiring preparational review by a licensed professional engineer shall be provided on behalf of the applicant by the licensed professional engineer preparing or reviewing the submittal. Failure to comply with these preliminary requirements shall result in the denial of the application for adjudicative proceeding without further review.

(3) An affected party shall not be entitled to an adjudicative proceeding with respect to a decision made under WAC 246-293-190 unless:

(a) Except with respect to a county legislative authority, the applicant shall have complied with all preliminary requirements established under the coordinated water system plan approved by the county legislative authority and the department or, if the critical water supply service area's external boundaries have been approved but a coordinated water system plan has not been approved and adopted, then with any interim requirements imposed by the county legislative authority; and

(b) Within sixty days of the department's receipt of the request for an adjudicative proceeding, the applicant submits copies of the complete record of all proceedings conducted under the applicable coordinated water system plan or interim requirements. If such proceedings were taped or otherwise recorded, the record submitted to the department shall include a transcript of the hearing or hearings which shall be prepared and certified as correct by a registered professional court reporter.

(c) Failure to comply with the preliminary requirements outlined herein shall result in a denial of the hearing application without further review.

(4) WAC 246-293-430.

(a) An adjudicative proceeding shall not be conducted with respect to a departmental decision made under WAC 246-293-430 unless, within sixty days of the department's receipt of the request for an adjudicative proceeding, the applicant has, at his or her own expense, submitted a transcript of the hearing conducted under WAC 246-293-430 from tapes or other record of the hearing which the department shall make available for that purpose. The transcript shall be prepared and certified as correct by a registered professional court reporter. Failure to comply with preliminary requirements established under this section shall result in the dismissal of the hearing application without further review.

(b) If a request for an adjudicative proceeding has been timely filed under this section and a transcript of the record has been timely submitted, the department shall promptly provide the presiding officer with copies of all documents and exhibits admitted at the hearing conducted under WAC 246-293-430.

(c) The departmental employee responsible for the department's decision under WAC 246-293-430 shall provide a copy of his or her decision to the presiding officer and may submit documents or evidence not made part of the record at the hearing conducted under WAC 246-293-430. Copies of all such documents shall be provided to all other parties involved in the proceeding.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-201 Form and content of initiating documents. (1) Initiating documents shall include a clear and concise statement of the:

(a) Identity and authority of the person issuing the document;

(b) Factual basis for the action or proposed action set forth in the document;

(c) Statutes and rules alleged to be at issue;

(d) Identity of the party against whom the action is taken or proposed to be taken;

(e) Action or proposed action or penalties, including the statutory or rule authority for those actions or penalties; (~~and~~)

(f) Signature of the person issuing the document and the date signed; and

(g) Method by which an adjudicative proceeding may be requested.

(2) Initiating documents shall be accompanied by the following documents:

(a) Notice that the respondent may defend against the action or proposed action; and

(b) Form for requesting adjudicative proceeding.

(3) Initiating documents shall be served as described in WAC 246-10-109.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-202 Amendment of initiating documents. (1) Prior to the hearing date, initiating documents may be amended subject to the following conditions:

(a) Amended initiating documents shall meet the requirements of WAC 246-10-201(1);

(b) Amended initiating documents shall be accompanied by the documents described in WAC 246-10-201(2);

(c) Whenever amended initiating documents are issued, a new interval for response will begin, as described in WAC ~~((246-110-203))~~ 246-10-203, unless the ~~((amendment benefits the))~~ respondent requests the time periods set by the original initiating document; and

(d) Issuance of amended initiating documents ends all obligations of the parties under the prior initiating documents.

(2) On the hearing date, the initiating documents may be amended subject to the following conditions:

(a) The documents may be amended upon motion of the state;

(b) The documents may not be amended without the approval of the presiding officer; and

(c) Upon motion of a party or upon his/her own initiative, the presiding officer may grant a continuance on all or part of the matter if necessary to afford the respondent an opportunity to prepare a defense to the amended documents.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-203 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents unless an extension has been granted as provided in subsection (3) of this section; and

(ii) For all other matters in which the program proposes to deny, suspend, revoke or modify a license or proposes to impose a civil fine, within twenty-eight days of ~~((service))~~ receipt of the initiating documents, unless otherwise provided by statute; and

(iii) For all other matters, within twenty days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding shall be made either on the Request for Adjudicative Proceeding Form accompanying the initiating documents or by a written document ~~((including substantially the same information))~~ containing at least the following information:

(i) Name and address of the party requesting an adjudicative proceeding;

(ii) Name and address of the attorney representing the party, if any;

(iii) Identification of the portion or portions of the initiating documents contested;

(iv) Summary of the party's position on the portion or portions contested;

(v) Statement of the party's standing to request an adjudicative proceeding under WAC 246-10-107; and

(vi) For matters not under chapter 18.130 RCW and in which the department proposes to deny, suspend, revoke or

modify a license or proposes to impose a civil fine, the application shall include a copy of the initiating document containing the adverse notice.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved by the presiding officer, by telephone, unless appearance is waived as authorized in WAC 246-10-104(4).

(d) The application for adjudicative proceeding shall contain a response to the initiating documents, indicating whether each charge is admitted, denied, or not contested, and responses shall be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it shall be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding shall specify the representative, if any, designated pursuant to WAC 246-10-108 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding shall be filed at the office of professional standards at the address specified in WAC 246-10-102.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) At the address indicated in subsection (1)(g) of this section.

(3) For matters under RCW 18.130.180, if the twenty-day limit for filing an application for adjudicative proceeding results in a hardship to the respondent, the respondent may request an extension of not more than sixty days upon a showing of good cause.

(a) The request for extension shall be filed within the twenty day limit and shall include:

(i) The reason for the request and the number of days for which the extension is requested; and

(ii) Documentation of the circumstances creating the hardship.

(b) The request shall be granted for a period not to exceed sixty days upon showing of:

(i) Illness of the respondent; or

(ii) Absence of the respondent from the county of residence or employment; or

(iii) Emergency in the respondent's family; or

(iv) Other good cause as determined by the presiding officer.

(c) If a request for extension is denied, the respondent shall have ten days from service of the order denying the extension or twenty days from service of the initiating documents, whichever is longer, to file an application for adjudicative proceeding.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-204 Default. (1) If a party fails to respond to initiating documents according to WAC 246-10-203, that party will be deemed to have waived the right to a hearing, and the secretary shall enter a final order without further contact with that party.

(2) If a party requests an adjudicative proceeding but fails to appear, without leave to do so, at a scheduled ~~((settlement or))~~ prehearing conference, the presiding officer may issue an order of default. The order shall include notice of opportunity to request that the default order be vacated pursuant to RCW 34.05.440(3). Unless vacated, a default order under this subsection shall be grounds for the presiding officer to proceed to decide the matter in the absence of the respondent and without additional notice to the respondent and to issue a final order.

(3) If a party requests an adjudicative proceeding but fails to appear at the hearing, the presiding officer may issue an order of default in the same manner as subsection (2) of this section, or may proceed to hear the matter in the absence of the party and issue a final order.

(4) Final orders entered under this section shall meet the requirements of WAC 246-10-702 and shall contain:

(a) Findings of fact and conclusions of law based upon prima facie proof of the allegations contained in the initiating documents;

(b) Proof of service of or a good faith attempt to serve initiating documents and appropriate notices;

(c) A finding that there is no reason to believe that the party in default is in active military service;

~~((e))~~ (d) The penalties or conditions imposed by the order; and

~~((d))~~ (e) Notice of the opportunity to request reconsideration pursuant to RCW 34.05.470.

(5) Final and default orders entered under this section shall be served upon the parties in accordance with WAC 246-10-109.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-205 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, the ~~((department))~~ office of professional standards shall:

~~((a))~~ Examine the application;

~~((b))~~ Notify the respondent of any obvious errors or omissions;

~~((c))~~ Request any additional information the department wishes or is permitted by law to require; and

~~((d))~~ Notify the respondent of the name, mailing address, and telephone number of an office that may be contacted regarding the application.

(2) ~~Within ninety days after receipt of any additional information required to be submitted under subsection (1)(c) of this section or receipt of an application without obvious errors or omissions, whichever comes later, the office of professional standards shall:))~~

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a ~~((notice of the date,~~

~~time, and place of the hearing))~~ scheduling order specifying the course of the proceeding; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

~~((3) The presiding officer may issue a scheduling order governing the course of the proceeding and))~~ (2) For matters under chapter 18.130 RCW, the scheduling order shall contain:

(a) The date, time, and place of a settlement conference, a prehearing conference, and the hearing;

(b) The deadlines for completion of discovery and submission of prehearing motions; and

(c) The name, address, and telephone number of the assistant attorney general or other department representative who will represent the state in the matter.

(3) The scheduling order may be modified by order of the presiding officer upon his/her own initiative or upon motion of a party. Any request for a change in the scheduling order shall be made by motion as provided in WAC 246-10-403.

(4) The presiding officer may waive establishing dates for the settlement conference, completion of discovery, submission of prehearing motions, and the prehearing conference, if, in the discretion of the presiding officer, those proceedings are not necessary or appropriate in a particular matter or type of case. However, either party may request by motion to the presiding officer that any or all of the dates be set.

(5) Dates contained in the scheduling order may be changed by the office of professional standards upon written request of either party made within fifteen days of issuance of the first scheduling order. All other changes must be made by motion pursuant to WAC 246-10-403.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-304 Adjudicative proceedings upon summary action. Following summary action taken by the department, the respondent may:

(1) Request a prompt adjudicative proceeding conducted in accordance with this chapter; or

(2) Waive the prompt adjudicative proceeding and request ~~((an))~~ a regularly scheduled adjudicative proceeding conducted in accordance with this chapter;

(3) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(4) Waive the opportunity to be heard.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-305 Opportunity for prompt adjudicative proceeding. (1) Any respondent affected by a summary action shall be provided the opportunity to request a prompt adjudicative proceeding. Notice of the opportunity shall be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The

form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.

(2) Any respondent affected by a summary action may request a prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding ~~((in lieu))~~ instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accordance with WAC 246-10-203.

(3) Any request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.

(4) If requested by the respondent, a prompt adjudicative proceeding shall be conducted within twenty days of service of a summary action.

(5) Regardless of whether a prompt adjudicative proceeding is requested, the matter shall be resolved as quickly as feasible in accordance with all other applicable rules.

SECTION IV SETTLEMENT AND PREHEARING ~~((PROCEDURE))~~ PROCEEDINGS

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-401 Settlement conference. (1) Following a request for an adjudicative proceeding, the office of professional standards may schedule a settlement conference as provided in WAC 246-10-205. The parties shall be notified of the date, time, and place of the settlement conference.

(2) The purpose of the settlement conference shall be to attempt to reach agreement on the issues and ~~((the))~~ on a proposed order to be entered. Any agreement of the parties is subject to final approval by the ~~((secretary or designee))~~ presiding officer.

(3) The respondent shall attend the settlement conference as scheduled and may also be represented as provided in WAC 246-10-108. Representatives of the department will also attend. Other persons may attend by agreement of the parties.

(4) Either party may bring documents or other materials to the settlement conference for the purpose of settlement negotiations. No testimony will be taken. No documents or information submitted at the settlement conference will be admitted at the adjudicative proceeding unless stipulated by the parties or otherwise admitted into evidence by the presiding officer.

(5) If a settlement offer has been made in writing to the respondent and it is signed and returned by the respondent to the office of professional standards prior to the settlement conference, all subsequent ~~((scheduled))~~ dates set in the scheduling order are continued pending final review of the settlement by the ~~((secretary or designee))~~ presiding officer.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-402 Discovery. The parties are encouraged to exchange information and documents related to the case prior to the adjudicative proceeding. Formal discovery

~~((may be had at the discretion of the presiding officer))~~ is obtained as follows:

(1) Methods, scope and limits:

(a) Parties may obtain discovery by production of records or things; deposition upon oral examination; requests for admission; or, if ordered by the presiding officer, written interrogatories.

(b) Unless otherwise limited by order of the presiding officer in accord with these rules, the scope of discovery shall be as follows:

(i) Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter in the pending action. It is not grounds for objection that the information sought will be inadmissible at the adjudicative proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(ii) The frequency or extent of use of the discovery methods set forth in these rules shall be limited by the presiding officer if the presiding officer determines that:

(A) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; or

(B) The party seeking discovery has had an ample opportunity by discovery to obtain the information sought; or

(C) The discovery is unduly burdensome or expensive, taking into account the needs of the case, limitations of the parties' resources, and the importance of the issues at stake.

(iii) The presiding officer may limit discovery upon his or her own initiative after reasonable notice or pursuant to a motion submitted by a party.

(2) Production of records, documents or things:

(a) Upon written request of a party the opposing party shall identify experts and other witnesses to be called at a hearing and shall provide other information necessary to enable the party to conduct depositions of the witnesses.

(b) Any party may serve on any other party a request, which must be signed by the party or designated representative:

(i) To produce and permit the party making the request or designee to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or

(ii) To permit entry onto designated land or other property which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or designated object or operation thereon which is within the scope of discovery.

(c) Any party who produces documents for inspection shall produce them as they are kept in the usual course of business or may, if the parties agree, organize and label them to correspond with the categories in the request.

(d) The party upon whom a request is made may, by motion to the presiding officer, move for an order denying the request to produce or modifying the conditions of the request. Denial of the request or change in the conditions of the request shall be within the discretion of the presiding officer and shall be made by written order.

(3) Depositions may be taken subject to the following conditions:

(a) Within the United States or a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the state of Washington or of the place where the examination is held. A presiding officer may, in his or her discretion or following motion of a party, preside at the deposition. Within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice-consul or consular agent of the United States, or a person designated by the presiding officer or agreed upon by the parties by stipulation in writing filed with the office of professional standards. Except by stipulation, no deposition shall be taken before any person who is a party or a privy of a party, or a privy of any representative of a party, or who is financially interested in the proceeding.

(b) A party desiring to take the deposition of a person upon oral examination shall give reasonable notice of not less than five days in writing to the person to be deposed and to the opposing party. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a description sufficient to identify the person to be examined or the particular class or group to which the person to be examined belongs. On motion of a party upon whom the notice is served, the presiding officer may for cause shown, lengthen or shorten the time.

(c) After notice is served for taking a deposition, or upon motion of the presiding officer or upon motion reasonably made by any party or by the person to be examined, and upon notice and for good cause, the presiding officer may issue an order that the deposition shall not be taken or that it be taken subject to specified restrictions, conditions, or limitations.

(d) Depositions shall be recorded.

(i) The officer before whom the deposition is taken shall put the witness on oath or affirmation and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony.

(ii) The officer or person acting under the officer's direction shall transcribe the testimony at the request of any party, provided that any expenses shall be paid by the requesting party.

(iii) The transcribed testimony shall be submitted to the person deposed for review and signature, unless review and signature are waived by that person. The officer shall append to the transcript any changes in form or substance that may be submitted by the parties.

(iv) Copies of the transcribed and, unless review and signature has been waived, signed testimony shall be served upon the person deposed and upon the parties.

(e) If the parties so stipulate in writing or on the record, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken, may be used as any other deposition.

(4) Following motion of a party and opportunity for response by the opposing party, the presiding officer may order a party to respond to written interrogatories and may order that the interrogatories be subject to specified restriction, condition, or limitation.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-403 Motions. (1) The presiding officer shall rule on motions. The presiding officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, shall be made in writing ~~((to))~~ and filed with the presiding officer prior to the dates set in the scheduling order.

(3) Motions for continuance must be made in writing ~~((within forty five days following service of))~~ and filed prior to the dates set in the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than ~~((forty five))~~ twenty days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing. Continuances may be granted by the presiding officer for good cause.

(4) The presiding officer may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section ~~((in a bona fide emergency))~~ for good cause.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-404 Prehearing conference. (1) As provided in WAC 246-10-205, the presiding officer may schedule a prehearing conference to be held prior to the hearing. Parties shall be notified of the time and place of the first prehearing conference in the scheduling order.

(2) The presiding officer shall conduct ~~((the))~~ prehearing conferences and shall issue rulings related to prehearing motions and evidentiary issues. The rulings shall govern the conduct of subsequent proceedings.

(3) The prehearing conference ~~((shall))~~ may be recorded ~~((unless recording is waived by the parties))~~ as ordered by the presiding officer. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

(4) Following the final prehearing conference, the presiding officer shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing ~~((and those which may, by agreement, be distributed prior to hearing));~~

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) Accept amendments to the pleadings;

(g) Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

(h) Rule on objections made in any preserved testimony.

(5) Following the prehearing conference, the presiding officer may issue an order directing that the matter be heard as a brief adjudicative proceeding, pursuant to WAC 246-10-501, et seq.

(6) Documentary evidence not offered in the prehearing conference shall not be received into evidence at the adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

(7) Witnesses not identified during the prehearing conference shall not be allowed to testify at the adjudicative proceeding in the absence of a clear showing that the party offering the testimony of such witness had good cause for failing to identify the witness at the prehearing conference.

(8) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents shall be deemed authentic. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

(9) Nothing in these rules shall prohibit the presiding officer from conducting a conference at any time, including during the hearing. The presiding officer shall state on the record the results of such conference.

(10) A party bound by a stipulation or admission of record may withdraw it in whole or in part only upon a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

(11) In an appeal to superior court involving issues addressed in the prehearing order, the record of the prehearing conference, written motions and responses, the prehearing order, and any orders issued by the presiding officer pursuant to WAC 246-10-403, shall be the record.

SECTION V BRIEF ADJUDICATIVE ~~((PROCEDURES))~~ PROCEEDINGS

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-501 Application of brief adjudicative proceedings. (1) If an adjudicative proceeding (~~((has-been))~~) is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination (~~((of))~~) whether an applicant for a professional, business, or facility license meets the minimum criteria for an unrestricted license and the department proposes to deny such a license or to issue a restricted license;

(b) An application to approve a water system plan under WAC 246-290-100;

(c) An application to approve a project report under WAC 246-290-110;

(d) An application for source approval under WAC 246-290-130;

(e) An application to approve construction documents under WAC 246-290-120;

(f) An application to approve an existing water system under WAC 246-290-140;

(g) (~~((An application to approve a new public water system within a critical water supply service area))~~) A decision under WAC 246-293-190;

(h) A decision with respect to service area conflicts under WAC 246-293-430;

(i) A determination as to whether a person is in compliance with the terms and conditions of a final order previously issued by the department;

(j) Any approval of a school or curriculum when such approval by the department is required or authorized by statute or rule;

(k) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for license renewal; or

(1) A decision to deny, modify, or impose conditions upon an operating permit under WAC 246-294-050.

(2) If an adjudicative proceeding (~~((has-been))~~) is requested, in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted (~~((at))~~) in the discretion of the presiding officer when it appears that protection of the public interest does not require that the department provide notice and an opportunity to participate to persons other than the parties and:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief proceeding.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-502 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a professional, business, or facility license (~~((shall consist of the following))~~), or for approval of a school or curriculum shall consist of the following:

(a) The application for the license or approval and all associated documents;

(b) All documents relied on by the program in proposing to deny the application;

(c) All correspondence between the applicant for license or approval and the program regarding the application.

(2) Preliminary record.

(a) The preliminary record with respect to decisions made under WAC 246-290-100, 246-290-110, 246-290-120, 246-290-130, and 246-290-140 shall consist of the decision document, all documents constituting the applicant's submittal and such other documents as the applicant or the departmental employee reviewing the submittal may wish to include in the preliminary record.

(b) WAC 246-293-190.

(i) If proceedings are required and have been conducted by local agencies under the applicable (~~((CWSP))~~) coordinated water system plan, the preliminary record shall consist of the record submitted to the department under WAC 246-10-124(3).

(ii) If hearings are not required or have not been conducted by local agencies under the applicable (~~((CWSP))~~) coordinated water system plan or if the external boundaries of the coordination act area have been approved but a (~~((CWSP))~~) coordinated water system plan has not been

adopted, then the preliminary record shall consist of such documents as the presiding officer may solicit from the affected parties.

(c) The preliminary record with respect to a decision made under WAC 246-293-430 shall consist of the record submitted to the presiding officer under WAC 246-10-124(4).

(d) The preliminary record with respect to a decision under WAC 246-294-050 shall consist of:

(i) The permit, if any;

(ii) All documents relied upon by the program in proposing to deny, modify, or impose conditions upon the permit; and

(iii) The decision document.

(3) The preliminary record with respect to compliance with prior department orders shall consist of:

(a) The official department file of the proceeding in which the order was issued;

(b) All matters submitted by the person to whom the order is directed purporting to demonstrate compliance with the order;

(c) All documents relied on by the department in asserting noncompliance; and

(d) All correspondence between the department and the person to whom the order is directed respecting compliance.

(4) The preliminary record with respect to matters submitted to a brief adjudicative proceeding under WAC 246-10-501(2) shall be as agreed by the parties.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-503 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the assistant secretary having responsibility for the program that issued the initiating document that is the subject of the proceeding. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation in addition to the preliminary record. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives, at a time and place designated by the presiding officer for brief adjudicative proceedings.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may ~~((consider))~~ employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within fifteen days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order in accordance with WAC 246-10-608.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-504 Effectiveness of orders on brief adjudicative proceedings. (1) Initial orders on brief adjudicative proceedings shall become final twenty-one days after service of the initial order unless:

(a) Administrative review has been requested pursuant to WAC 246-10-701; or

(b) On his or her own initiative, a designee of the secretary authorized to issue final orders determines to review the matter and, within twenty-one days of service of the initial order, provides notice to the parties of the date by which a determination shall be made.

(2) If administrative review is taken under subsection (1) of this section, each party shall be provided an opportunity to state its view of the matter, and the presiding officer shall issue a written order containing findings of fact, conclusions of law, and order which shall be entered and served upon the parties within twenty days of service of the initial order or the request for review whichever is later.

(3) A request for review is deemed to be denied if the presiding officer does not act on the request within twenty days after the request is submitted.

(4) If administrative review is taken under subsection (1) of this section, the presiding officer may convert the matter to a full adjudicative proceeding.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-604 Proposed order. At the conclusion of the hearing or by a date specified by the presiding officer, the presiding officer may require each party ((shall)) to submit to the presiding officer proposed findings of fact and conclusions of law and a proposed order((, except as may be ordered by the presiding officer)).

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-607 Consolidated proceedings. (1) When two or more applications for adjudicative proceeding involve a similar issue, the applications may be consolidated by the presiding officer and the hearings conducted together. The presiding officer may consolidate on his/her own motion or upon the request of a party.

(2) A party scheduled for a consolidated proceeding may request to withdraw from the consolidated proceeding in favor of an individual proceeding. ~~((A request to withdraw from a consolidated proceeding shall be granted if the motion is filed before the presiding officer has made any discretionary ruling in the matter and before the hearing date.))~~ The presiding officer may grant a motion to withdraw from a consolidated proceeding at any time when good cause is shown.

(3) Each respondent in a consolidated proceeding shall retain the right to representation.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-701 Appeal from initial order. (1) Any party may file a written petition for administrative review of an initial order issued under WAC 246-10-503 or 246-10-608 stating the specific grounds upon which exception is taken and the relief requested.

(2) Petitions for administrative review must be served upon the opposing party and filed with the office of professional standards within twenty-one days of service of the initial order.

(3) The opposing party may file a response to a petition for administrative review filed as provided in this section. The response shall be filed at the ~~((place specified in subsection (2) of this section))~~ office of professional standards. The party filing the response shall serve a copy of the response upon the party requesting administrative review. If the initial order was entered pursuant to WAC 246-10-503, the response shall be filed within ten days of service of the petition. In all other matters, the response shall be filed within twenty days of service of the petition.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-702 Final orders. (1) The form and content of final orders shall be as follows:

(a) Final orders shall contain findings of fact, conclusions of law, and an order, and shall be signed by the ~~((secretary or by a designee of the secretary))~~ presiding officer.

(b) Final orders may adopt by reference the initial order in whole or in part.

(c) Final orders may modify or revise the initial order in whole or in part.

(2) Final orders shall be served upon the parties and their representatives as provided in WAC 246-10-109.

(3) Final orders shall be issued following:

(a) A review of the record;

(b) A review of the initial order, if any;

(c) A review of any request for administrative review of the initial order and any response thereto; and

(d) Consideration of protection of the public health and welfare.

(4) Unless a later date is stated in the final order, final orders shall be effective when entered but a party shall not be required to comply with a final order until the order is served upon that party.

(5) Final orders may contain orders that specified portions of the agency record shall not be disclosed as public records if necessary to protect privacy interests, the public welfare, or vital governmental functions. Such orders shall include but are not limited to protective orders issued during the proceeding or pursuant to WAC 246-10-405.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-704 Reconsideration of final orders.

(1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific

grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration shall be limited to:

(a) Specific errors of fact or law; or

(b) Implementation of the final order would require department activities inconsistent with current department practice; or

(c) Specific circumstances render the person requesting reconsideration unable to comply with the terms of the order.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the office of professional standards within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration shall contain specific reference to the record. If reconsideration is requested based on testimony of record, the request for reconsideration shall contain specific reference to the testimony. The presiding officer may require that the party requesting ((consideration shall)) reconsideration submit a copy of the transcript of the adjudicative proceeding ((or shall specify the date by which the transcript will be submitted, and shall submit specific reference to the transcript by a date determined by the presiding officer)) and provide specific reference to the transcript.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the ~~((secretary or designee))~~ presiding officer:

(a) Denies the petition;

(b) Does not act upon the petition; or

(c) Does not serve the parties with notice of the date by which he/she will act on the petition.

(6) If the ~~((secretary or designee))~~ presiding officer determines to act upon the petition, the opposing party shall be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration shall be in the form of a written order denying the petition, granting the petition, and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

WAC 246-10-705 Agency record of adjudicative proceedings. (1) The department shall maintain an official record of each adjudicative proceeding.

(2) The record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, and requests filed, and rulings thereon;

(d) Evidence received or considered;

(e) A statement of matters officially noted;

(f) Offers of proof and objections and rulings thereon;

(g) Any proposed findings, requested orders, and exceptions;

(h) Any recording of the ~~((hearing))~~ adjudicative proceeding and any transcript of all or part of the ~~((hearing))~~ adjudicative proceeding considered before final disposition of the matter;

- (i) Any final order, initial order, or order on reconsideration; and
 - (j) Matters placed on the record following an ex parte communication, if any.
- (3) The record shall be subject to disclosure as provided by chapter 42.17 RCW, the Public Records Act, and by WAC 246-10-114, except as limited by protective orders and ~~((orders))~~ provisions contained in the final order.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

- WAC 246-10-706 Judicial review.** (1) Judicial review of actions taken under this chapter shall be as provided in RCW 34.05.510, et seq.
- (2) Notice of the opportunity for judicial review shall be provided in all final orders.
- (3) Following a petition for judicial review, the record forwarded to the reviewing court shall be those portions of the agency record designated by the parties within the time period set by the secretary.

AMENDATORY SECTION (Amending Order 369, filed 6/3/93, effective 7/4/93)

- WAC 246-10-707 Vacating an order for reason of default or withdrawal.** ~~(((1) A party against whom an order for reason of default is entered shall have the right to file a written petition requesting that the order be vacated.~~
- (2) The petition to vacate shall state the grounds relied upon.
- ~~(3) The petition shall be filed at the office of professional standards.~~
- ~~(4) If, in the opinion of the presiding officer, good cause to grant the motion to vacate is shown, the presiding officer shall grant the motion and reinstate the application for adjudicative proceeding and may impose conditions on licensure pending final adjudication of the matter.))~~ (1) A party may petition to vacate a default order entered against that party for failing to attend an adjudicative proceeding requested by that party by:
- (a) Specifying the grounds relied upon in the petition; and
 - (b) Filing the petition at the office of professional standards within seven days of service of the default order.
- (2) The presiding officer shall consider the petition and shall:
- (a) Grant the motion to vacate and reinstate the application for adjudicative proceeding, and may impose conditions on licensure pending final adjudication; or
 - (b) Deny the motion to vacate the default order.

WSR 94-04-083
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Center for Health Statistics)
 [Filed January 31, 1994, 11:59 a.m.]

Date of Adoption: January 10, 1994.
 Purpose: To correct inadvertent repeal of reporting requirement of induced terminations of pregnancy and to move the requirement into the appropriate chapter.

Citation of Existing Rules Affected by this Order:
 Amending chapter 246-490 WAC.
 Statutory Authority for Adoption: RCW 43.70.040 and [43.70.]050.
 Pursuant to notice filed as WSR 93-18-090 on September 1, 1993.
 Effective Date of Rule: Thirty-one days after filing.
 January 28, 1993 [1994]
 Bruce Miyahara
 Secretary

NEW SECTION

WAC 246-490-100 Reporting of pregnancy terminations. Each hospital and facility where lawful induced abortions are performed during the first, second, or third trimester of pregnancy shall, on forms prescribed and supplied by the secretary, report to the department during the following month the number and dates of induced abortions performed during the previous month, giving for each abortion the age of the patient, geographic location of patient's residence, patient's previous pregnancy history, the duration of the pregnancy, the method of abortion, any complications, such as perforations, infections, and incomplete evacuations, the name of the physician or physicians performing or participating in the abortion and such other relevant information as may be required by the secretary. All physicians performing abortions in nonapproved facilities when the physician has determined that termination of pregnancy was immediately necessary to meet a medical emergency, shall also report in the same manner, and shall additionally provide a clear and detailed statement of the facts upon which he or she based his or her judgment of medical emergency.

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

[NEW SECTION]

WAC 246-490-110 Disclosure of information. To assure accuracy and completeness in reporting, as required to fulfill the purposes for which abortion statistics are collected, information received by the board or the department through filed reports or as otherwise authorized, shall not be disclosed publicly in such a manner as to identify any individual without their consent, except by subpoena, nor in such a manner as to identify any facility except in a proceeding involving issues of certificates of approval.

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

WSR 94-04-088
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed February 1, 1994, 8:10 a.m.]

Date of Adoption: February 1, 1994.
 Purpose: To implement statutes and clarify language relating to the administration of the real estate excise tax.

PERMANENT

Citation of Existing Rules Affected by this Order: Repealing the sections listed below; amending WAC 458-61-030 Definitions, 458-61-050 Payment of tax—County treasurer as agent for the state, 458-61-060 Disposition of proceeds, 458-61-070 Affidavit batch transmittal, 458-61-080 Affidavit requirements, 458-61-090 Interest and penalties—Date of sale (new title—formerly: Timing of payment—Late payment penalty), 458-61-100 Refunds of tax paid, 458-61-120 Evasion penalty (new title—formerly: Fraud), 458-61-130 Department audit responsibility, 458-61-150 Supplemental statements, 458-61-200 Apartments, 458-61-210 Assignments—Purchasers, 458-61-220 Assignments—Sellers, 458-61-230 Bankruptcy, 458-61-250 Cemetery lots or graves, 458-61-290 Contract, 458-61-300 Contractor, 458-61-330 Foreclosure—Deeds in lieu of foreclosure (new title—formerly: Court order—Transfer pursuant to), 458-61-335 Easements, development rights, water rights and air rights (new title—formerly: Development rights and air rights), 458-61-340 Community property—Dissolution of marriage/divorce, 458-61-370 Exchanges—Trades, 458-61-400 Creation, assignment and release of security interests (new title—formerly: Fulfillment deed), 458-61-410 Gifts and inheritances (new title—formerly: Gifts), 458-61-420 Government transfers (new title—formerly: Government, transfers to or from), 458-61-425 Growing crops, 458-61-430 Sale of improvements to land (new title—formerly: Improvements sold on leased land), 458-61-470 Irrigation equipment, 458-61-480 IRS "tax deferred" exchange, 458-61-510 Leases (new title—formerly: Lease with option to purchase), 458-61-520 Mineral rights and mining claims (new title—formerly: Mineral rights), 458-61-540 Mobile and floating home sales (new title—formerly: Mobile home sales), 458-61-545 Mortgage insurers, 458-61-550 Nominee, 458-61-555 Option to purchase, 458-61-590 Rescission of sale, 458-61-600 Relocation service, 458-61-610 Rerecord, 458-61-640 Sheriff's sale, 458-61-650 Tenants in common and joint tenants (new title—formerly: Tenants in common), 458-61-660 Timber, standing and 458-61-670 Trade-in credit; and new sections WAC 458-61-015 General information, 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state, 458-61-225 Assumption of debt, 458-61-235 Boundary line adjustments, 458-61-255 Clearing title, 458-61-374 Exemption—Transfers made "subject to", 458-61-375 Exemption—Mere change identity or form—Family corporations and partnerships, 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code, 458-61-411 Exemption—Irrevocable trusts, 458-61-412 Exemption—Inheritances, and 458-61-553 Nonprofit organizations.

Statutory Authority for Adoption: RCW 82.32.300.

Other Authority: Chapter 25, Laws of 1993 sp. sess.

Pursuant to notice filed as WSR 93-24-115 on December 1, 1993.

Changes Other than Editing from Proposed to Adopted Version: Previously proposed new section WAC 458-61-548 Native American, will not be adopted at this time; and current WAC 458-61-450 Indian (American), transfers to or from, will not be repealed at this time. Comments will continue to be accepted and further consideration will be given to the revision of this rule as new section WAC 458-61-548.

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

February 1, 1994

Gary K. O'Neil
Assistant Director

REPEALER

The following sections of chapter 458-61 Washington Administrative Code are hereby repealed:

WAC 458-61-010	Authority.
WAC 458-61-020	General provisions pursuant to chapter 82.32 RCW.
WAC 458-61-040	Tax imposed.
WAC 458-61-110	Tax appeals.
WAC 458-61-140	Compliance.
WAC 458-61-240	Care, comfort and support.
WAC 458-61-270	Community property—To establish or separate.
WAC 458-61-280	Condemnation.
WAC 458-61-310	Corporation—Family.
WAC 458-61-320	Corporation—Nonfamily.
WAC 458-61-360	Easement, sale of.
WAC 458-61-380	Federal housing agencies.
WAC 458-61-390	Foreclosure of mortgage, deed in lieu of.
WAC 458-61-440	Improvements sold to be removed from the land.
WAC 458-61-460	Inheritance.
WAC 458-61-490	Joint tenancy.
WAC 458-61-500	Leasehold interest.
WAC 458-61-530	Mining claims.
WAC 458-61-560	Partnership—Family.
WAC 458-61-570	Partnership—Nonfamily.
WAC 458-61-620	Sales made before imposition of tax.
WAC 458-61-630	Security documents.
WAC 458-61-680	Trust.
WAC 458-61-690	Trustee sale pursuant to deed of trust (nonjudicial).

NEW SECTION

WAC 458-61-015 General information. (1) **Background.** Chapter 82.45 RCW imposes an excise tax on every sale of real estate in this state at the rate of one and twenty-eight one-hundredths percent of the selling price. Unless otherwise specifically exempt from tax, all sales of real property are subject to the real estate excise tax. Chapter 82.46 RCW authorizes counties, cities and towns to impose additional taxes on sales of real property based on the same incidences, collection and reporting methods, as applicable under chapter 82.45 RCW. The taxes imposed are due at the time the sale occurs and are to be collected by the county treasurer upon presentation of the documents of sale for recording in the public records, or by the department in the case of a transfer of a controlling interest in an entity which owns real property located in this state. This chapter provides applicable definitions, describes tax payment, collection and reporting procedures, explains the imposition of penalties and interest on late payment, describes available exemptions from tax, and provides procedures for refunds of overpaid taxes and appeals from assessments of tax.

(2) **References.** The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except for the following: RCW 82.32.030, 82.32.040, 82.32.050, 82.32.140 and 82.32.270, and the penalties and limitations imposed by RCW 82.32.090.

NEW SECTION

WAC 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** Chapter 25, Laws of 1993 1st ex. sess., effective July 1, 1993, enacted a provision where the transfer of the controlling interest in an entity which has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax. This tax was enacted to equalize the excise tax burdens between other sales of real property and transfers of entity ownership essentially equivalent to sales of real property by extending the real estate excise tax to transfers of a controlling interest in an entity which has an interest in real property located in this state. This section explains the application of those provisions.

(2) **Definitions.**

(a) "Transfer of a controlling interest in an entity" means the transfer or acquisition for a valuable consideration within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state. For purposes of this subsection, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.

(b) "Controlling interest" means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(iii) Example 1. A and B each own 40% of the voting shares of a corporation. C, D, E and F each own 5% voting shares. C acquires B's 40% interest, and D's and E's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by C (40% from B plus 5% from D and 5% from E). However, if C, D and E were to transfer their shares (totaling 15%) to A, those transfers would not be taxable. Although A would own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by A is not taxable.

(iv) Example 2. Consider a limited partnership consisting of a general partner and three limited partners, each possessing a 25% interest. Even though the general partner controls the management and day to day operations, a 25% interest is not a controlling interest. Here, only if someone were to acquire at least a 50% interest from at least two of the partners would the taxable acquisition of a controlling interest occur. If one partner acquires an additional 25% interest from another partner for a total of a 50% interest, no

transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(v) Example 3. A, B, C and D each own 25% of the voting shares of a corporation. The corporation redeems the shares of B, C and D. A now owns all the outstanding shares of the corporation. A taxable transfer occurred when the corporation redeemed the shares of B, C and D. The measure of the tax is the value of the property owned by the corporation. B, C and D are liable for payment of the real estate excise tax.

(vi) Example 4. A owns 75% of the voting shares of a corporation. A transfers 25% portions of the shares in three separate and unrelated transactions to B, C and D, who are not acting in concert. A taxable transfer of a controlling interest occurs when A transfers 75% of the voting shares of the corporation, even though no one has subsequently acquired a controlling interest. The taxable event occurs upon the transfer of the controlling interest.

(vii) Example 5. Corporation XRAY has 2 stockholders, A and B. A owns 90 shares of stock (90%) and B owns 10 shares of stock (10%). XRAY owns 60% of the stock of Corporation YANKEE, which owns real property. A, by virtue of owning 90% of the XRAY's stock, has a 54% interest in YANKEE (90% interest in XRAY multiplied by the 60% interest XRAY has in YANKEE equals the 54% interest A has in YANKEE). A sells his 90 shares of stock in XRAY to B. A, by selling his 90 shares of XRAY stock, has transferred a controlling interest (54%) in an entity that owns real property (YANKEE). This transfer is subject to the real estate excise tax. The real estate excise tax due is computed on the true and fair value of the real property owned by YANKEE.

(viii) Example 6. Assume the same facts as in Example 3 in (b)(v) of this subsection, except that XRAY owns only 50% of YANKEE's stock. Since A has not transferred and B has not acquired a controlling interest in YANKEE (90% X 50% = 45%), the real estate excise tax does not apply. If, however, XRAY had transferred its 50% interest in YANKEE, that would have been the transfer of a controlling interest and would be subject to the real estate excise tax.

(c) The terms "person" or "company" mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state of Washington or any political subdivision thereof, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any agency or instrumentality thereof.

(d) "True and fair value" means market value, which is the amount of money which a willing, but unobliged, buyer would pay a willing, but unobligated, owner for real property, taking into consideration all reasonable, possible uses of the property.

(e) "Twelve-month period" is any period of twelve consecutive months and may span two calendar years.

(f) "Acting in concert" occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example, if a parent corporation and a wholly-owned subsidiary each purchase a 25% interest in an entity, the two corpora-

tions have acted in concert and acquired a controlling (i.e., at least 50%) interest in the entity.

(ii) Where individuals or entities are not commonly controlled or owned but the unity of purpose with which purchasers have negotiated and will consummate the acquisition of ownership interests indicates that they are acting together. For example, three separate individuals who decide together to acquire control of a company jointly through separate purchases of 20% interests in the company act in concert when they acquire the interests.

(3) **In general.** In order for the tax to apply when the controlling interest in an entity which has an interest in real property in this state has been transferred, the following must have occurred:

(a) The transfer or acquisition of the controlling interest occurred within a twelve-month period;

(b) The controlling interest was acquired in a single transaction or series of transactions by a single person or a group of persons acting in concert;

(c) The entity has an interest in real property located in this state;

(d) The transfer is not otherwise exempt under chapter 82.45 RCW and chapter 458-61 WAC; and

(e) The transfer was made for valuable consideration.

(4) **Measure of the tax.** The measure of the tax is the selling price of the real property in this state owned by the entity whose controlling interest has been acquired. See WAC 458-61-030(10) for a definition of selling price.

(a) If the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended.

(b) If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price.

(5) **Persons acting in concert.** This tax applies to acquisitions, but not transfers, made by persons acting in concert, as defined in subsection (2)(f) of this section.

(a) Where persons are not commonly controlled or influenced, factors that each indicate whether persons are acting in concert include:

(i) A close relation in time of the transfers or acquisitions;

(ii) Small number of purchasers;

(iii) Mutual terms contained in the contracts of sale; and

(iv) Additional agreements to the sales contract which bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions shall be considered separate acquisitions.

(c) Example 1. A owns 100% of Corporation, which owns real property. As a group, B, C, D, and E negotiate to acquire all of A's interest in Corporation. B, C, D, and E each acquire 25% of A's interest. The contracts of B, C, D,

and E are identical and the purchases occur simultaneously. B, C, D, and E also negotiated an agreement binding themselves to a course of action with respect to the acquisition of Corporation and the terms of the shareholders agreement which will govern their relationship as owners of Corporation. B, C, D, and E are acting in concert and their acquisitions from A are treated as a single acquisition of a controlling interest which is subject to the real estate excise tax.

(d) Example 2. A partnership owns real property and consists of two partners, A and B. Each has a 50% partnership interest. In August of 1993, A and B decide together to transfer a percentage of their partnership interests. On August 20, 1993, A and B each transfer 12 1/2 percent of their respective partnership interests to C (who thereby acquires a 25% partnership interest). On June 27, 1994, A and B each transfer a 15% partnership interest to D (who thereby acquires a 30% partnership interest). Although A and B have acted in concert, they are the transferors of the interest. Only the activities of those persons acquiring the interest are aggregated. Because C and D did not act in concert, their acquisitions cannot be aggregated, and because neither C nor D individually acquired a controlling interest as a result of the transfers, the transfers are not subject to the real estate excise tax.

(6) **Date of sale.** When the controlling interest is acquired in one transaction, the actual date control is transferred shall be considered the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or, when payment is received by the seller and partnership documents are signed, etc.

(a) When the acquisition of a controlling interest involves the aggregation of interests of persons acting in concert, the selling price of each transfer or acquisition shall be determined as of the actual date of that transfer or acquisition. The actual date control is transferred, not the date of the contract arranging the transfer, determines whether the transaction falls within the twelve-month period. However, if it can be shown that the sole reason for the delay in transferring control is the avoidance of the tax, then the date of the contract arranging the transfer may determine if the transaction falls within the twelve-month period.

(b) Example 1. A acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from X on January 30. On July 30, A acquires a 30% interest in the same entity from Y, but the building is now worth \$900,000. On September 30, A acquires a 10% interest in the same entity from Z, but the building is now worth \$1,000,000. The final transfer allows A to acquire, within twelve months, a controlling interest in an entity which owns real property. September 30 is the date of sale.

(i) To determine the sellers' proportional tax liability in the example above, view the series of transactions as a whole. Note both the individual and the total interests transferred. Here, X and Z each conveyed 10% interests, while Y conveyed a 30% interest, with a total of a 50% interest being conveyed. To determine the liability percentage for each seller, divide the interest each conveyed by the total interest conveyed (Here, X and Z: $10/50 = 20\%$; Y: $30/50 = 60\%$). This results in tax liability percentages here for X and Z of 20% each and for Y, 60%.

(ii) To determine the amount of tax owed, apply the percentage to the value of the property at the time of conveyance. In the example above, the value of the property to which the percentage applies is dependent on the time of each transfer (i.e., X's 20% on the \$500,000; Y's 60% on the \$900,000; Z's 20% on the \$1,000,000).

(7) **Tax liability.** When there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, on or after July 1, 1993, the seller of the interest is generally liable for the tax.

(a) When the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within thirty days of the sale, the buyer is also liable for the tax.

(b) When the buyer has notified the department of the sale within thirty days of the sale, the buyer is absolved from liability for any tax due.

(c) When a controlling interest is transferred by a series of sales, each seller is liable for its proportional share of tax based on the value of the property on the date of sale as provided in subsection (6)(b) of this section.

(8) **Filing of returns.** The transfer of a beneficial interest in real property shall be reported to the department when no instrument is recorded in the official real property records of the county in which the property is located. If the transfer is not taxable due to an exemption, that exemption should be stated on the affidavit.

(a) The sale shall be reported by the seller to the department within five days from the date of the sale on the department of revenue affidavit form, DOR Form 84-0001B. The affidavit form shall be signed by both the seller and the buyer and shall be accompanied by payment of the tax due.

(b) The affidavit form may also be used to disclose the sale, in which case:

(i) It shall be signed by the person making the disclosure; and

(ii) It shall be accompanied by payment of the tax due only when submitted by a seller reporting a taxable sale.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter shall be guilty of perjury.

(9) **Due date, interest and penalties.** The tax imposed is due and payable immediately on the date of sale. If not paid within thirty days of the date of sale, it shall bear interest at the rate of one percent per month from the date of sale until the date of payment.

(a) In addition to the interest, if the payment of any tax is not received by the department:

(i) Within thirty days of the date due, there shall be assessed a total penalty of five percent of the amount of the tax;

(ii) Within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and

(iii) Within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax.

(b) The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(10) **Transfers after tax has been paid.** When there is a transfer or acquisition of a controlling interest in an entity on or after July 1, 1993, and the real estate excise tax is paid on the transfer and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the person(s) who previously paid the tax may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** As the transfer and acquisition of a controlling interest in an entity which owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW also apply to the sale of a controlling interest.

(a) Example 1. The merger of a wholly owned subsidiary containing real property located in this state with another subsidiary wholly owned by the same parent is a transfer of a controlling interest. However, this transfer is exempt from taxation on two grounds. First, it is exempt because it is a mere change in form or identity (see WAC 458-61-375). Second, it is exempt because it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization (see WAC 458-61-376).

(b) Example 2. X owns 100% of a corporation. X wants child, C, and corporate manager, M, to be co-owners with X in the corporation. X gives 50% of the voting stock to C and sells 33 1/3% to M. While a controlling interest in the corporation has been transferred to and acquired by C, it is not taxed because generally a gift is an exempt transfer not to be counted for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% to M is not a sufficient interest to transfer control, and is not taxed.

(c) Example 3. D owns 75% of the voting stock of a corporation which owns real estate located in this state. D pledges all of its corporate stock to secure a loan with a bank. When D defaults on the loan and the bank forecloses on D's stock in the corporation, the transfer and acquisition of control of the entity is not a taxable transaction because foreclosures of mortgages and other security devices are exempt transfers.

(12) **Transition rules.** Transactions occurring prior to July 1, 1993, are exempt from inclusion in any determination of whether a transfer or acquisition of a controlling interest occurred within a twelve-month period. Only transactions occurring on July 1, 1993, or later, may be used to determine whether a transfer or acquisition of a controlling interest occurred within a twelve-month period.

AMENDATORY SECTION (Amending Order PT 87-4, filed 5/27/87)

WAC 458-61-030 Definitions. (1) This section defines terms for the purposes of chapter 458-61 WAC, unless otherwise required by the context(=).

((+)) (2) "Affidavit" ((~~shall~~)) means the real estate excise tax affidavit, DOR Form 84-0001A, which the

department shall prescribe and furnish to the county treasurers (~~Such affidavit shall require the following information:~~

(a) Identification of the seller and purchaser, including their current mailing addresses;

(b) Legal description of the property transferring, including the tax parcel or account numbers;

(c) Date of sale;

(d) Type of instrument of sale;

(e) Nature of transfer;

(f) Gross sales price;

(g) Value of personal property involved in the transfer;

(h) Taxable sales price;

(i) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW;

(j) Whether or not the land is classified as open space land, farm and agricultural land, or timber land under chapter 84.33 RCW;

(k) Whether or not the property is exempt from property tax under chapter 84.36 RCW, at the time of sale;

(l) Whether or not the property is:

(i) Land only;

(ii) Land with new building; or

(iii) Land with a previously used building;

(m) A notice of continuance, signed by all new owners, for classified forest land (RCW 84.33.120), designated forest land (RCW 84.33.180) (RCW 84.33.130) or classified open space land, farm and agricultural land or timber land (RCW 84.34.108) shall be signed for those affidavits conveying land subject to the provisions of chapters 84.33 and 84.34 RCW, if the new owner desires to continue said classification or designation. The county assessor shall determine from information provided by the grantor or grantee if the land qualifies for continued classification or designation and shall so note this determination on the affidavit prior to the acceptance of the affidavit by the county treasurer;

(n) The affidavit shall list the following questions, the responses to which are not required:

(i) Is this property at the time of sale subject to an elderly, disability, or physical improvement exemption?

(ii) Does any building have a heat pump or solar heating or cooling system?

(iii) Does this transaction divide a current parcel of land?

(iv) Does this transaction include current crops or merchantable timber?

(v) Does this transaction involve a trade, or partial interest, corporate affiliates, related parties, a trust, a receivership, or an estate?

(vi) Is the grantee acting as a nominee for a third party?

(vii) Is the principal use of the land agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, or growing timber?

(o) The affidavit form shall contain a statement of the potential compensating and additional tax liability under chapter 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262 and 84.36.810, and a statement of the applicable penalties for perjury under chapter 9A.72 RCW.

Each county shall use the affidavit form prescribed and furnished by the department of revenue.

The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to all

required information)) for use by taxpayers in reporting transfers of real property. Both the grantor and grantee or agents of each shall sign the affidavit under penalty of perjury. See WAC 458-61-080 for further information. See WAC 458-61-025(8) for filing requirements pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

((2)) (3) "Consideration" ((shall)) means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, or services performed or contracted to be performed in return for ((real property or estate or interest in real property. The term shall further include the market value of real property transferred to a corporation by its shareholders, officers, or corporate affiliates so as to increase the assets of the grantee corporation.

(3) "Court decree" and "court order" shall have the same meaning and may be used interchangeably for the purposes of these rules. This shall be the judgment of a court of competent jurisdiction.

(4) "Date of taxability" shall mean the date of transfer as defined in subsection (15) of this section)) the sale and includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale. (a) "Consideration" includes the issuance of an ownership interest in any entity in exchange for a transfer of real property to the entity. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, but notwithstanding the presence of consideration, such a transfer may not be taxable if it is specifically exempt under WAC 458-61-375 or 458-61-376.

(b) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements.

((5)) (4) "Department" ((shall)) means the Washington state department of revenue.

((6) "Mining property" shall mean property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(7) "Mobile home" shall mean a mobile home as defined by RCW 46.04.302, as now or hereafter amended. (RCW 82.45.032)

(8)) (5) "Mortgage" ((shall have)) has its ordinary meaning and shall include a "deed of trust" for the purposes of these rules, unless the context clearly indicates otherwise.

((9) "Nominal sales prices" shall mean sales prices stated on the real estate excise tax affidavit that are so low in comparison to the actual value of the real estate as to cause disbelief by a reasonable person.

(10) "Nonsale" as defined by RCW 82.45.010 includes those real property transfers which, by their nature, are exempt from the real estate excise tax (see WAC 458-61-080: Affidavit requirements):

(a) Gift, devise or inheritance (see WAC 458-61-410 and 458-61-460);

~~(b) Leasehold interest, other than option to purchase real property, including timber (see WAC 458-61-500);~~

~~(e) Cancellation or forfeiture of a vendee's interest in a real estate contract, whether or not such contract contains a forfeiture clause (Note: Tax exemption applies only to transfer back to original vendor or contract holder and is not the basis for refund of tax paid on original transfer— See WAC 458-61-210(1); see also WAC 458-61-330);~~

~~(d) Deed in lieu of foreclosure of a mortgage (where no consideration passes otherwise. See WAC 458-61-210(1));~~

~~(e) Assumption of mortgage, deed of trust, or real estate contract where no consideration passes otherwise (see WAC 458-61-210(1));~~

~~(f) Deed in lieu of forfeiture of a real estate contract, where no consideration passes otherwise (see WAC 458-61-210(1));~~

~~(g) Partition of property by tenants in common, whether by agreement or court decree (see WAC 458-61-650);~~

~~(h) Divorce decree or property settlement incident thereto (see WAC 458-61-340);~~

~~(i) Seller's assignment (see WAC 458-61-220);~~

~~(j) Condemnation by governmental body (see WAC 458-61-280);~~

~~(k) Security documents (mortgage, real estate contract, or other security interests apart from actual title) (see WAC 458-61-630);~~

~~(l) Court ordered sale or execution of judgment (see WAC 458-61-330);~~

~~(m) Transfer prior to imposition of this tax under chapter 82.45 RCW or previous chapter 28A.45 RCW;~~

~~(n) The transfer of any grave or lot in an established cemetery (see WAC 458-61-250); and~~

~~(o) A transfer to or from the United States, the state of Washington or any political subdivision thereof, or a municipal corporation of this state. (See WAC 458-61-420)~~

~~((11)) (6) "Real estate" ((shall)) or "real property" means ((real property, including improvements the title to which is held separately from the title to the land to which the improvements are affixed,)) any interest, estate or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity which itself owns land or anything affixed to land. The term also includes used mobile homes and used floating homes and improvements constructed upon leased land. (RCW 82.45.032)~~

~~((12)) (7) "Real estate contract" or "contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The terms "real estate contract" or "contract" do not include earnest money agreements or options to purchase real property.~~

~~(8) "Sale" ((shall have)) has its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, exchange, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration((, and)).~~

~~(a) "Sale" also includes any contract for such conveyance, grant, assignment, quitclaim, exchange, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person ((by his/her)) at the~~

purchaser's direction, ((which)) and title to the property is retained by the vendor as security for the payment of the purchase price. (RCW 82.45.010)

((13)) (b) "Sale" also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(c) "Sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for valuable consideration. For purposes of this chapter, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.

(d) "Sale" does not include those real property transfers which are excluded from the definition of "sale" and exempted from the real estate excise tax by RCW 82.45.010 and this chapter, including transfers where no valuable consideration is present. See also WAC 458-61-225, Assumption of debt, and WAC 458-61-374, Exemption—Transfers "subject to."

(9) "Seller" ((shall)) means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington or any political subdivision thereof, or a municipal corporation of this state. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning provided in this subsection for purposes of the real estate excise tax. (RCW 82.45.020)

((14)) (10) "Selling price" ((shall)) means ((consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale: Provided, That when the sale is that of a fractional interest in real property, the principal balance of any such debt remaining unpaid at the time of sale shall be multiplied by that same fraction and the result added as a component of the total sales price. The term shall not include the amount of any outstanding lien or encumbrance in favor of the United States, the state of Washington or a municipal corporation for the taxes, special benefits, or improvements. The value maintained on the county assessment rolls at the time of the transaction will be used for the sales price if such cannot otherwise be ascertained. In the event that the property is under current use assessment, the market value assessment maintained by the county assessor shall be used for the sales price. (RCW 82.45.030)) the true and fair value of the property conveyed. A rebuttable presumption exists that the true and fair value is equal to the total consideration paid or contracted to be paid to the transferor or to another for the transferor's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price. (RCW 82.45.030)

(c) When the sale is that of a fractional interest in real property, the principal balance of any such debt remaining unpaid at the time of sale shall be multiplied by that same fraction and the result added as a component of the total sales price.

~~((15))~~ (11) "Date of transfer," "date of sale," "conveyance date" and "transaction date" ~~((shall))~~ all have the same meaning and may be used interchangeably ~~((for the purposes of these rules))~~ in this chapter. ~~((This shall be))~~ These terms refer to the date ~~((shown on the instrument of conveyance or sale.~~

(16) "Used mobile home" shall mean a mobile home which has been previously sold at retail and a previous sale has already been subject to the retail sales tax under chapter 82.08 RCW, or which has been previously used and a previous use has already been subject to the use tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities. (RCW 82.45.032)

(17) "Wilful fraud" shall mean knowingly making false statements or taking actions so as to intentionally underpay or not pay the proper real estate excise tax due on the transfer of real estate.

(18) "Used floating home" shall mean a building on a float used in whole or in part for human habitation as a single family dwelling, which is not designed for self propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

(19) "Rescinded transfer" shall mean a real property transfer wherein both grantor and grantee have been restored to their original positions. In such case, title to the real property has been reconveyed to the grantor and all valuable consideration paid toward the sales price principal has been returned to the grantee.

(20) "Air rights" shall mean the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

(21) "Development rights" shall mean those rights that are subject to conveyancing and are the unused development which is the difference between the density allowed by zoning and that which exists on a parcel of land) (normally shown on the instrument of conveyance or sale) when ownership of or title to real property, or control of the controlling interest in an entity which has a beneficial

interest in real property, is delivered to the transferee in exchange for valuable consideration. This is the date on which the real estate excise tax is due.

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-050 Payment of tax—County treasurer as agent for the state. (1) This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property. See WAC 458-61-025 for procedures pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) The real estate excise tax ~~((imposed by RCW 82.45.060 and herein shall))~~ is to be paid to and collected by the treasurer of the county ~~((within which is located))~~ where the real property ~~((which was sold.~~

~~(2) The county treasurer shall act as agent for the department in carrying out the provisions of chapter 82.45 RCW and these rules.~~

~~(3))~~ is located. The law requires the county treasurer to act as the department's agent in carrying out the provisions of chapter 82.45 RCW and these rules.

(3) The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price.

(4) The county treasurer shall ~~((cause a))~~ stamp ~~((evidencing satisfaction of the tax lien to be affixed to))~~ the instrument of sale or conveyance ~~((prior to its recording)),~~ or ~~((to))~~ the real estate excise tax affidavit in the case of used mobile home sales, prior to its recording as evidence of the payment of the tax imposed or entitlement to exemption. However, a stamp indicating payment of tax or entitlement to exemption will not be conclusive as to the taxpayer's liability and will be subject to audit by the department. ~~((Such))~~ The stamp shall ~~((bear reference))~~ refer to the affidavit number, date and amount of the payment and shall be initialed by the person ~~((affixing said stamp))~~ stamping the instrument or affidavit. The county treasurer shall not ~~((affix such))~~ stamp ~~((to))~~ the instrument of sale or conveyance unless one of the following criteria is met:

(a) Continuance of use has been approved by the county assessor under chapter 84.33 or 84.34 RCW;

(b) Compensating or additional taxes have been collected as required by RCW 84.33.120 (5)(b) and (e), 84.33.140 (1)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080; or

(c) ~~((Property is not so classified, designated, exempted or specially valued.))~~ The transfer is not subject to the compensating or additional taxes referred to in (b) of this subsection.

(5) Delay in either securing the approval of continuance of use or payment of the compensating tax ~~((does not forestall the real estate excise tax))~~ will not prevent the imposition of interest or penalties for delinquent ~~((penalty imposed by WAC 458-61-090))~~ payment imposed by RCW 82.45.100. However, ~~((the taxpayer may pay the real estate excise tax and thus preclude any furtherance of the real estate excise tax delinquent penalty. (See WAC 458-61-030~~ ~~((+m-)))~~ payment of the real estate excise tax will stop the accrual of additional delinquent interest and penalties.

~~((4))~~ (6) A receipt issued by the county treasurer for the payment of the tax shall be evidence of the satisfaction of the lien imposed under RCW 82.45.070 ~~((and these rules))~~ and may be recorded in the manner prescribed for recording the satisfaction of mortgages.

~~((5))~~ (7) No ~~((lease, assignment of lease nor memorandum of either lease or assignment of lease, nor))~~ instrument ~~((of sale or conveyance))~~ evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax ~~((shall have))~~ has been paid and the stamp has been affixed ~~((thereto))~~ as provided in this section. ~~((In the case the))~~

(a) When no tax is ~~((not))~~ due on the transfer, the instrument shall not be ~~((so))~~ accepted until suitable notation of such fact has been made on the instrument by the county treasurer.

(b) In addition, unless the compensating or additional tax has been paid, or the new owner has signed a notice of continuance which is stated on or attached to the excise tax affidavit, no instrument of conveyance shall be filed or recorded by the county auditor or recorder if such property is:

(i) Classified or designated as forest land under chapter 84.33 RCW~~((;))~~;

(ii) Classified as open space land, farm and agricultural land, or timber land under chapter 84.34 RCW;

(iii) Receiving a special valuation as historic property under chapter 84.26 RCW ~~((unless the compensating or additional tax has been paid, or the new owner shall have signed a notice of continuance which shall either be on the excise tax affidavit or attached thereto)).~~

AMENDATORY SECTION (Amending Order PT 84-3, filed 8/2/84)

WAC 458-61-060 Disposition of proceeds. (1) The county treasurer shall place one percent of the proceeds of the tax imposed by chapter 82.45 RCW exclusive of any delinquent interest and/or penalties in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. (RCW 82.45.180)

(2) Any requests from county treasurers for adjustments to the funds which have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward all such requests which it approves to the state treasurer and return the requests it denies to the county treasurers along with an explanation for such denial.

(3) Tax payments made directly to the department shall be remitted to the state treasurer who shall deposit the proceeds of any state tax in the general fund for the support of the common schools. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-070 Affidavit batch transmittal. (1) By the fifth business day following the close of the month in which the tax was received, the county treasurers shall send to the department the department's copies of the real estate excise tax affidavits for the entire month. This affidavit batch shall include all affidavits received during the month, plus copies of any ~~((voided affidavits which represent))~~ documents related to refunds made by the county treasurers.

(2) County treasurers will complete the affidavit batch transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county treasurer will send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit. County treasurers shall use the adjustment area provided on the batch transmittal form to reflect any refunds made during the month and shall attach all refund documentation to the batch transmittal form that accompanies the affidavit batch.

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-080 Affidavit requirements. (1) This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property. See WAC 458-61-025(8) for filing requirements pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) The law requires the department to prescribe a form of real estate excise tax affidavit to be completed by taxpayers and filed with the county treasurer of the county where the transferred property is located. Affidavit forms will be furnished by the department to the county treasurers for this purpose.

(a) Each county shall use the affidavit form prescribed and furnished by the department.

(b) The affidavit shall be signed by both the grantor and the grantee, or the agent of either, under oath attesting to all required information.

(3) When affidavit is required. Except for the transfers listed under subsection ~~((2))~~ (4) of this section, the real estate excise tax affidavit ~~((shall be))~~ is required for all transfers of real property including, but not limited to, the following:

(a) Conveyance from one spouse to the other as a result of a decree of divorce or dissolution of a marriage, or in fulfillment of a ~~((property))~~ settlement agreement incident ~~((thereto))~~ to a divorce;

(b) Conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or for the execution of a judgment;

(c) Conveyance made pursuant to the provisions of a deed of trust;

(d) Conveyance of an easement ~~((in))~~ which ~~((consideration passes))~~ is taxable;

(e) A deed in lieu of foreclosure of mortgage;

(f) A deed in lieu of forfeiture of a real estate contract;

(g) Conveyance to the heirs in the settlement of an estate;

(h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;

(i) A declaration of forfeiture of a real estate contract;

(j) Conveyance of development rights, water rights, or air rights;

(k) A lease of real property that transfers lessee-owned improvements;

(l) A boundary line adjustment; and

(m) A rerecording of a document.

~~((2))~~ (4) When affidavit is not required. The real estate excise tax affidavit ~~((shall))~~ is not ((be)) required for the following and county treasurers shall not take affidavits for these specific types of transactions:

(a) Conveyance of cemetery lots or graves;

(b) Conveyance for security purposes only and the instrument states on the face of it:

(i) For security only;

(ii) To secure a debt;

(iii) Assignment of a debt;

(iv) For collateral purposes only;

(v) Release of collateral; or

(vi) To release security;

(c) A lease of real property that ~~((does not contain an option to purchase, or))~~ does not transfer lessee-owned improvements;

~~((thereof))~~ (d) A mortgage or deed of trust or a satisfaction of mortgage or reconveyance of a deed of trust;

~~((no consideration passes or an easement to the United States, the state of Washington, or any political subdivision or municipal corporation of this state))~~ (e) Conveyance of an easement ((in)) which ((no consideration passes or an easement to the United States, the state of Washington, or any political subdivision or municipal corporation of this state)) is not taxable (see WAC 458-61-335);

~~((A recording of a contract that changes only the contract terms and not the legal description, purchaser, or sales price, if the affidavit number of the previous transaction is reported;~~

~~((g))~~ (g) A seller's assignment of deed and contract;

~~((h))~~ (g) A fulfillment deed pursuant to a real estate contract;

(h) A community property agreement under RCW 26.16.120;

(i) Options to purchase; and

(j) An earnest money agreement.

~~((3))~~ County treasurers shall not accept incomplete affidavits. It is the taxpayers' responsibility to furnish complete documentation for claimed tax exemptions. It is the county treasurers' responsibility and authority to require that such documentation, as required by this chapter, shall be furnished by the taxpayers or their agents.

~~((a))~~ Among other requirements set forth in WAC 458-61-030(1,);)

(5) Claims of exemption from the real estate excise tax must be specific. All affidavits which state claims for tax exemption must show:

~~((i))~~ (a) Current assessed values of parcels involved as of ((transaction)) the date of sale; and

~~((ii))~~ (b) Complete reasons for exemptions, including reference to the specific tax exemption in this chapter, ((in all cases where the exemption is based upon a prior payment

of the tax, the prior payment date, amount and affidavit number must be provided on the current affidavit)) citing the specific WAC section and subsection providing the exemption as well as a brief description of the exemption.

(i) Example 1. A quitclaim deed is a conveyance instrument. It is not, in itself, a reason for tax exemption. A valid ((reason for the)) tax exemption must be shown on the affidavit. ((Likewise statements such as "to clear title only" and "no consideration" are not complete reasons for tax exemption.)) Consider a developer who deeds a street in the development to the homeowners association upon the completion of the development. The developer gives the development a quitclaim deed to the street in order to clear title. WAC 458-61-255 (3)(b) should be cited as the exemption, which could be briefly described as "clearing title." An explanatory narrative, as provided for in that section, should be attached to the affidavit.

(ii) Example 2. A corporation transfers its interest in real property to a wholly owned subsidiary. WAC 458-61-375 (2)(c) should be cited as the exemption, which could be briefly described as "no beneficial ownership change."

~~((b))~~ (6) When the transfer of property is to two or more grantees, the affidavit must clearly state the relationship between them such as joint tenants, tenants in common, partners, etc., and the form and proportion of interest that they are each acquiring.

~~((e))~~ (7) In the case of a used mobile home that is sold with the land upon which it is located, the county treasurer may require the completion of either two affidavits, both real and mobile home, or a single real property affidavit. At the county treasurer's option, a separate mobile home affidavit may not be required if the real property affidavit lists the make, model, year, size and serial number of the unit. Such information should be contained as a separate item within the legal description portion of the affidavit.

(8) County treasurers shall not accept incomplete affidavits. Taxpayers must furnish complete and accurate information on affidavits as well as complete documentation for claimed tax exemptions.

(a) The county treasurers have the responsibility to require that taxpayers or their agents furnish proper documentation.

(b) An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit which is so low in comparison with the fair market value assessment stated on the property tax rolls so as to cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value shall be used as the selling price.

(9) To accommodate the requirement that the affidavit be signed by both the grantor and grantee or agents of each, identical affidavits may be submitted for a transaction, one bearing the grantor's signature or that of their agent and one bearing the grantee's signature or that of their agent. Both affidavits must be complete and have identical information. The county treasurer will receipt the affidavit signed by the taxpayer (grantor or grantee) and the other affidavit will not be receipted but will become an attachment to the first.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-090 (~~Timing of payment—Late payment penalty.~~) Interest and penalties—Date of sale. (1) The tax imposed under (~~RCW 82.45.070~~) chapter 82.45 RCW is due and payable to the county treasurer as of the (~~transaction~~) date of sale, whether or not the contract of sale or instrument of conveyance is recorded at that time.

(2) If the tax is paid within thirty days (~~of the transaction~~) following the date of sale, (the late payment penalty is) interest will not be applied. If the tax is not paid (more than) within thirty days (after) following the (transaction) date of sale, (a one percent penalty is applied to the amount of unpaid tax for) the amount of unpaid tax shall bear interest in the amount of one percent per each thirty-day period, or part thereof, beginning with the (transaction) date of sale to the date of (final and complete) full payment.

(3) (~~The tax is due as of the transaction date whether or not the contract or conveyance documents are recorded at that time. If the tax is not paid within thirty days of the transaction date, the late payment penalty in subsection (2) of this section, is applicable for the period which the tax remains unpaid.~~) In addition to the interest described in subsection (2) of this section, if the payment of any tax is not received by the county treasurer:

(a) Within thirty days of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

(b) Within sixty days of the date of sale, a total penalty of ten percent shall be added to the tax due; and

(c) Within ninety days of the date of sale, a total penalty of twenty percent will be added to the tax due.

(4) Penalties shall be assessed only against the grantor and shall not be included in the lien arising under RCW 82.45.070. See RCW 82.45.100.

(5) When an instrument of sale or conveyance is signed and delivered by the grantor to an escrow agent licensed under chapter 18.44 RCW, a title company, a title insurance company, or an attorney at law acting as an escrow agent, with instructions to deliver the instrument to the grantee upon the fulfillment of one or more conditions, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(a) A statement, as provided by WAC 458-61-150, signed by the escrow agent, the title company agent, the title insurance company agent, or attorney, is attached to the affidavit indicating that the instrument was delivered to such person in the capacity of an escrow agent; and

(b) The date shown on the instrument is not more than ninety days prior to the date the affidavit is presented to the county treasurer for filing.

(6) In all other cases the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-100 Refunds of tax paid. (1) Taxpayers (seeking) who have paid the real estate excise tax or who have received a notice of assessment of tax and who wish to contest the application of the real estate excise tax (upon) to a particular transfer (of real property must pay the tax prior to) may file a petition for refund or correction of assessment as provided in this section. Only the taxpayer or the taxpayer's authorized agent may petition for a refund of tax.

(2) (~~Taxpayers shall obtain copies of the "Petition for real estate excise tax refund" form from~~) Any person who has overpaid any tax, interest, or penalty, may apply for a refund within four years from the date of sale by petitioning in writing for a refund of the amount overpaid. Claims for refund are to be made on forms prescribed by the department and made available at the county treasurers' offices (as provided by) and at the department. (After completing the form,)

(a) The taxpayer shall submit the completed form and all documentation supporting the claim for refund to the county treasurer's office in the county where the tax was originally paid.

(b) If the taxpayer originally paid the tax directly to the department, the form and supporting documentation shall be submitted to the department in accordance with the requirements of WAC 458-20-100, appeal procedures.

(3) If the taxpayer submits the petition for refund before the county treasurer has sent to the department the copy of the affidavit which receipted the tax payment now in question, the county treasurer is authorized to void the receipted affidavit copies, based upon the criteria listed in subsection (5) of this section, and issue the refund. If the county treasurer authorizes and issues such refund, the voided copy of the affidavit, with a copy of the refund petition attached, must be included in the monthly affidavit batch sent to the department. If the county treasurer does not authorize such refund, the treasurer shall send the petition for refund, along with a copy of the affidavit and all supporting records, to the department. The procedure for petitions sent to the department shall follow subsection (4) of this section.

(4) If the taxpayer submits the petition for refund after the county treasurer has sent to the department the copy of the affidavit which receipted the payment now in question, the county treasurer shall verify the information on the petition and forward it to the department with a copy of the affidavit and any other supporting records furnished by the taxpayer. The department shall approve or deny the refund. (If denied, the petition for refund shall be returned to the petitioner with the reason for denial.) The taxpayer may then appeal the imposition of the tax under the appeal procedures. See WAC ((458-61-110: Tax appeals)) 458-61-100, appeals procedures. If such petition is denied, the department will return to the petitioner all supporting documents which are submitted with the petition for refund.

(5) The authority (of the department) to issue tax refunds under this chapter is limited to (the following):

(a) Transactions that are completely rescinded as defined in WAC ((458-61-030(19))) 458-61-590;

(b) Sales rescinded by court order. In such case a copy of the court decision must be attached to the department's affidavit copy by the county treasurer (see also WAC 458-61-330 (~~—Court order—Transfer pursuant to~~); Foreclosure—Deeds in lieu of foreclosure);

(c) Double payment of the tax;

(d) Overpayment of the tax through error of computation; and

(e) Failure of a taxpayer to claim tax exemption for a transfer which was properly exempt(~~(;~~

~~(f) Nonpayment of valuable consideration by grantee.~~

~~(5) The authority of the county treasurers to issue tax refunds under subsection (2) of this section is limited to the following reasons:~~

~~(a) Double payment of the tax;~~

~~(b) Overpayment of tax through error of computation;~~

~~(c) Failure of a taxpayer to claim tax exemption for a transfer which was properly exempt;~~

~~(d) Rescission of sale prior to closing; or~~

~~(e) Nonpayment of valuable consideration by grantee.~~

~~(6) Only the taxpayer or authorized agent may petition for a refund of tax.~~

~~(7) Refunds approved by the county treasurer or by the department shall be paid to the petitioner:~~

~~(a) After the real estate excise tax receipt stamp has been voided on the conveyance instrument provided that this conveyance instrument has not been recorded; or~~

~~(b) In the case where the conveyance instrument was recorded, after a second conveyance instrument has been recorded to reverse the effect of the original conveyance instrument.~~

~~In either of the above procedures (a) or (b), the county treasurer or department shall advise the petitioner of the approval of the refund and the necessity to provide the unrecorded conveyance instrument or a reversing conveyance instrument. The county treasurer shall note the issuance of the refund on the affidavit copy maintained in county files and shall notify the county assessors office of the refund).~~

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-120 ((~~Fraud~~)) Evasion penalty. (1) The department shall apply a penalty of fifty percent of the proper tax due, or remaining due after insufficient payment, ((is to be applied by the department)) to taxable real estate transfers involving ((wilful fraud with intent to evade the tax)) an intent to evade the payment of tax. For this purpose, intent to evade means knowingly making false statements or taking actions so as to intentionally fail to pay the proper real estate excise tax due.

(2) ((~~Wilful fraud with~~)) Intent to evade the tax is illustrated by, but not limited to, the following examples:

(a) Knowingly stating a false ((sales)) selling price;

(b) Knowingly stating a sale as a gift; or

(c) Knowingly claiming a false reason for tax exemption.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-130 Department audit responsibility. ~~((RCW 82.45.150))~~ (1) The department shall conduct audits of transactions and ((real estate excise tax affidavits and shall)) determine any underpayment of tax ((payment deficiency where such exists)). If the department discovers an underpayment, it shall notify taxpayers ((and appropriate county treasurers of tax payment deficiencies. Such)) and assess the additional tax due as well as all applicable interest and penalties. Deficiency notices ((shall)) will inform taxpayers ((as to the tax payment required from them)) of the amount owing and set forth reasons ((why such deficient tax amount has been assessed against them by the department)) for the assessment.

(2) If the taxpayer receiving ((such)) a notice of ((tax payment)) deficiency has not answered ((the same)) it within thirty days after ((its being mailed by)) the department mailed it, the department shall enforce the collection of ((such)) the deficient tax through the administrative provisions ((set forth)) in chapter 82.32 RCW.

(3) ((In its audits of the taxability of real estate transactions, the department will generally rely upon, but not be limited to, information:

(a) The real estate excise tax affidavits, including the entire affidavit file at the county treasurer's office;

(b) Documents recorded by the county auditor;

(c) The assessment rolls and in the field books in the county assessor's office; and

(d) Records supplied by the taxpayer.)) Any person may request from the department a predetermination of real estate excise tax liability pertaining to any proposed transfer of real property or to any proposed transfer or acquisition of the controlling interest of an entity with an interest in real property. Requests for predetermination of liability should be accompanied by sufficient facts to enable the department to ascertain the proper tax liability. The department shall advise the taxpayer in writing of its opinion. The opinion shall be binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100(9), appeals, small claims and settlements. Address predetermination requests to:

Department of Revenue

Taxpayer Information & Education

P.O. Box 47478

Olympia, WA 98504-7478

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-150 Supplemental statements. (1) The department shall provide the county treasurer offices with a uniform multi-use supplemental statement ((as required by)) form for use in meeting the requirements of the following sections of this chapter:

~~((1) WAC 458-61-210, Assignments—Purchasers~~

~~(2) WAC 458-61-230, Bankruptcy~~

~~(3) WAC 458-61-320, Corporation—Nonfamily~~

~~(4)) (a) WAC 458-61-090(5), Interest and penalties—~~

Date of sale

(b) WAC 458-61-410 (3)(a), Gifts

~~((5))~~ (c) WAC 458-61-375 (2)(g)(iii), Exemption—
Merger change in identity or form—Family corporations and
partnerships (cited subsection only)

(d) WAC 458-61-480, IRS "tax deferred" exchange

(e) WAC 458-61-550, Nominee

(2) The supplemental statements shall be completed as required by the instructions ~~((therein))~~ contained on the form and by each of the sections listed in subsections (1)(a) through ~~((5))~~ (e) of this section.

(3) The county treasurer shall distribute the supplemental statement as follows:

(a) Original attached to original of affidavit;

(b) First copy attached to the department's copy of the affidavit;

(c) Second copy attached to the assessor's copy of the affidavit; and

(d) Third copy attached to the taxpayer's copy of the affidavit.

(4) Except for the notary requirements of WAC ~~((458-61-320(4)))~~ 458-61-375 (2)(g) and 458-61-550, ((such)) supplemental statements ((shall)) are to be unsworn written statements which meet the requirements set forth in RCW 9A.72.085.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-200 Apartments. The real estate excise tax applies to the sales of ((an)) individual apartments by the owner of an apartment building which entitles the ((purchaser)) grantee to a warranty deed upon completion of payments ((is a "sale" within the meaning of RCW 82.45.010; therefore, the sale is subject to the real estate excise tax)).

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-210 Assignments—Purchasers. (1) The real estate excise tax does not apply to ~~((the following types of purchaser's assignments, provided that no consideration passes to the grantor:~~

(a) ~~Cancellation or forfeiture of the vendee's interest in a contract of sale, deed in lieu of foreclosure of mortgage or deed in lieu of forfeiture of a real estate contract all of which are being conveyed to the lien holder as the result of default of the obligation;~~

(b) ~~Assumption by a grantee of the balance owing on an existing obligation which is secured by a mortgage, deed of trust or real estate contract where the grantee has become personally and principally liable for payment of that obligation.~~

~~The real estate excise tax affidavit is required for each of the above. If the transfer is an assumption under (b) of this subsection, the grantor must furnish the supplemental statement, as provided by WAC 458-61-150, signed by both the grantor and grantee that no additional consideration of any kind is being paid by the grantee to the grantor. (See WAC 458-61-150)~~

~~The tax exemption provided in (b) of this subsection does not apply to the following transfers:~~

~~(i) Between a corporation and its stockholders, officers, or affiliated corporations (except that tax exemption contained in WAC 458-61-320(3));~~

~~(ii) Between a partnership and its members or another partnership or corporation owned by the same members;~~

~~(iii) Between joint venturers;~~

~~(iv) Between joint tenants;~~

~~(v) Between tenants in common; or~~

~~(vi) During the conversion of a joint or common tenancy, a joint venture, partnership, or corporation from one form of ownership to another form of ownership))~~ assignments of a purchaser's interest in an earnest money agreement when neither the earnest money agreement nor its assignment effect a present transfer of the title to or ownership of real property.

(2) The real estate excise tax applies to transfers ~~((where))~~ when the purchaser of real property under a real estate contract assigns ((his/her)) the purchaser's interest in ((such property)) the contract and receives valuable consideration for that interest.

(3) ~~The ((measure of the real estate excise tax is the sum of the)) taxable value is all~~ consideration paid or contracted to be paid to the grantor of such assignment ((plus the)), including any unpaid principal balance due on the assigned ((mortgage or)) real estate contract. ((Note: The consideration passing to the assignor of such interest in real property nullifies the exemptions granted in subsection (1) of this section, because each of these exemptions is granted upon the condition that no consideration passes to the transferee of the interest of real property.))

AMENDATORY SECTION (Amending Order PT 84-3, filed 8/2/84)

WAC 458-61-220 Assignments—Sellers. (1) The real estate excise tax does not apply ~~((where the vendor))~~ when a seller of real property under a real estate contract assigns ((his/her)) any interest in the contract to a third party. The real estate excise tax affidavit is not required.

(2) The instrument of assignment must be stamped by the county treasurer as required by ~~((RCW 82.45.090))~~ WAC 458-61-050. ((Such)) The stamp shall ((show)) cross-reference the number of the affidavit ((number on)) relating to the ((prior sale for which the current assignment is made)) contract being assigned.

NEW SECTION

WAC 458-61-225 Assumption of debt. (1) In addition to other circumstances where valuable consideration passes between the parties, the real estate excise tax applies to transfers of real property when an underlying debt on the property is assumed by the grantee.

(2) The measure of the tax is the combined amount of the debt and any other additional consideration.

(3) See WAC 458-61-374 for the transfers made when the grantor has no personal liability for the underlying debt.

AMENDATORY SECTION (Amending WSR 90-01-003, filed 12/7/89, effective 1/7/90)

WAC 458-61-230 Bankruptcy. ~~((A))~~ (1) The real estate excise tax applies to conveyances of real property by a trustee in bankruptcy ((is subject to the real estate excise tax whether made by a trustee conducting the business of the bankrupt or by a trustee liquidating the bankrupt's estate.

~~However, such a conveyance is)) when made under either a chapter 7 plan or chapter 13 plan, but not ((taxable)) when made under a ((post-petition)) chapter 11 plan or chapter 12 plan ((per 11 USC 1146 or 11 USC 1231 respectively)).~~

(2) The court case and bankruptcy chapter number must be cited on the affidavit when claiming this exemption.

NEW SECTION

WAC 458-61-235 Boundary line adjustments. (1)

The real estate excise tax does not apply to a boundary line adjustment between contiguous parcels of real property if no substantial amount of property is exchanged and no other consideration, other than resolution of the actual or potential boundary dispute, is given for the transfer.

(2) The real estate excise tax applies if a substantial amount of property is exchanged. See WAC 458-61-370, Exchanges—Trades.

(3) An affidavit is required for any transfer evidenced by a conveyance instrument whether or not consideration is present.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-250 Cemetery lots or graves. The real estate excise tax does not apply to the sale of lots or graves in an established cemetery ((is not subject to the real estate excise tax)). An established cemetery is one which meets the requirements for ad valorem property tax exemption under RCW 84.36.020. ~~((RCW 82.32.010))~~

NEW SECTION

WAC 458-61-255 Clearing title. (1) **In general.** The real estate excise tax does not apply to quitclaim deeds given for the purpose of clearing title only when no consideration passes otherwise. When any consideration is given for the clearance of title, the real estate excise tax applies to the transaction. A deed given to add a person to title for any purpose does not qualify for treatment under this section.

(2) **Documentation.** A narrative which explains the nature of the clearance of title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county treasurer's office and a copy of the narrative will be attached to the department's affidavit copy.

(3) **Examples.** Real estate excise tax would not apply in the following situations:

(a) An exiting minority partner gives the partnership a quitclaim deed for the purpose of removing any presumptive interest; or

(b) A developer deeds greenbelts, streets or common areas in a development to the homeowners association upon completion of the development and under the terms and covenants of the development.

(c) Parents, who have been on title as co-signors for their child's loan, are now issuing a quitclaim deed to exit title. The narrative accompanying the affidavit for this transfer must state that the co-signor was not a co-purchaser of the property and did not make payments toward the repayment of the loan.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-290 Contract. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same piece of real property(;;). Each such contract ((constituting)) constitutes a "sale" of real property subject to the tax. (See also WAC 458-61-100: Refunds of tax paid.)

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-300 Contractor. (1) If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance(~~—In this case~~) when:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) When the requirements of subsection (1) of this section have been met, the deed to the contractor, although absolute on its face, ((has simply created a security interest because of the requirement to reconvey the property after construction of the improvement.)) will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW (see Excise Tax Bulletin 275.08.170). Real estate excise tax affidavits are ~~((nevertheless))~~ required for both the original conveyance and the reconveyance ~~((but))~~. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

~~((2) Where))~~ (3) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61-550, Nominee, are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(4) When the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or when a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement.

~~((3) Where))~~ (5) When a ((contractor)) speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. When a speculative builder sells a parcel of property with a partially constructed improvement on the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

~~((4) The real estate excise tax applies to both conveyances where an owner desiring a new home conveys his existing home to a contractor who first uses that home as collateral to secure a loan under FHA to finance the construction of the new home and then conveys the old home to a third person.))~~

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-330 ~~((Court order—Transfer pursuant to.))~~ Foreclosure—Deeds in lieu of foreclosure. (1) The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by ~~((the))~~ a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. This exemption includes ~~((the))~~ a court ordered sale of real property by a trustee under the terms of a deed of trust ~~((by the trustee acting on behalf of the beneficiary to the deed of trust)).~~ ~~((Note:))~~ Real estate excise tax affidavits which state claims for this tax exemption must cite the ~~((court decision))~~ cause number of the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer. ~~((See also: WAC 458-61-280, Condemnation and WAC 458-61-650, Tenants in common, partition by.))~~

(2) The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer of real estate by deed from a mortgagor to the mortgagee in lieu of foreclosure; or

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(3) The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(4) A copy of the recorded original mortgage, deed of trust or contract of sale must be attached to the real estate excise tax affidavit provided to the department.

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-335 ~~((Development rights and air rights.))~~ Easements, development rights, water rights and air rights. (1) The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. A taxable sale has not occurred if valuable consideration does not pass, if the easement is transferred to a governmental entity under the threat of exercise of eminent domain, or if any other exemption applicable under this chapter applies. An affidavit is required only if the transfer is taxable. No affidavit is required when the transfer is exempted from the tax.

(2) The real estate excise tax applies to the sale of ~~((both))~~ development rights, water rights and air rights. The real estate excise tax affidavit must be completed for the

transfer of development rights, water rights and air rights whether or not a taxable sale has occurred.

(3) "Development rights" means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(4) "Water rights" means transferable rights to the diversion, extraction or use of water arising by virtue of the ownership of land located contiguous to surface water or the issuance of a water permit by the department of ecology.

(5) "Air rights" means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-340 Community property—Dissolution of marriage/divorce. (1) Transfers from one spouse to the other which either establish or separate community property are not subject to the real estate excise tax.

(2) The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other ~~((in accordance with the terms of a decree of divorce or))~~ in fulfillment of a ~~((property))~~ settlement agreement incident ~~((thereto))~~ to a divorce. (RCW 82.45.010)

(3) The real estate excise tax applies to a sale of real property by either one or both spouses to a third party regardless of whether the sale is in accordance with the terms of a decree of divorce or settlement agreement.

(4) The real estate excise tax applies to transfers between ex-spouses which are independent of any settlement agreement incident to a divorce.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-370 Exchanges—Trades. (1) The real estate excise tax applies when real property is exchanged for other real property or any other valuable property, either tangible or intangible. ~~((In the case where))~~ When real property is exchanged for other real property, the transfer of each property is individually subject to the tax.

(2) The gross taxable value of each property is the fair market value of each property at the time of transfer - not the equity that each owner has vested in the properties. ~~((RCW 82.45.010 and 82.45.030))~~ When the true and fair value of a parcel of property is not reasonably ascertainable, the assessed value of the property on the assessment rolls of the county assessor may be used.

NEW SECTION

WAC 458-61-374 Exemption—Transfers made "subject to." (1) A transfer of real property subject to an underlying debt when the grantor is not personally liable for the debt and when no other consideration is given for the transfer is exempt from the real estate excise tax.

(a) Example 1. Y purchases Oakacre with funds obtained from YES Corporation and secured only by Oakacre. Y has no personal liability for this debt. If Y fails to make payments on the debt, YES may foreclose on

Oakacre, but it may not obtain any judgment against Y because Y has no personal liability for the debt. Y transfers Oakacre to Z subject to the underlying debt owed by Y to YES. Z gives no other consideration for Oakacre. Z takes Oakacre subject to the underlying debt but has no personal liability for the debt. If Z fails to make payments, YES may foreclose on Oakacre, but it may not obtain a judgment against Z (who, like Y before, has no personal liability for the debt). Because Y is not personally liable for the debt, Z's payments on the underlying debt to YES do not relieve Y of any liability for the debt. The real estate excise tax does not apply to this transfer.

(b) Example 2. Y transfers Oakacre to Z subject to an underlying mortgage owed to Bank. Y is personally liable for the mortgage to Bank. If the mortgage payments are not made, Bank may foreclose on Oakacre and obtain a judgment against Y if the value of the property is insufficient to pay the mortgage. Z gives no other consideration for Oakacre, but Z agrees with Y to make all future payments on the underlying mortgage. The real estate excise tax applies to this transfer for two reasons: First, Y remains personally liable for the mortgage. Second, Z's payments on the underlying mortgage relieve Y's debt obligation each time a payment is made. Note that even if Z were to assume the loan, the real estate excise tax would apply because an assumption of debt is included in the definition of consideration (see subsection (3) of this section) and a transfer for consideration is subject to the real estate excise tax (see WAC 458-61-225).

(2) A copy of the debt instrument verifying the debt's character and the absence of any personal liability of the grantor shall be provided by the taxpayer as an attachment to the department's copy of the real estate affidavit.

(3) See WAC 458-61-225 for transfers when the grantor does have personal liability for the underlying debt on the property transferred.

NEW SECTION

WAC 458-61-375 Exemption—Mere change in identity or form—Family corporations and partnerships.

(1) **Introduction.** Any transfer of real property is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity. This exemption is not limited to transfers involving corporations and partnerships and includes transfers of trusts, estates, associations and other entities. Except as provided in subsection (3) of this section, this exemption is limited to those transfers where no change in beneficial ownership interest is made.

(2) **Exempt transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by tenants-in-common of their interest in real property to a partnership or a corporation with the partnership or corporation interests received being in the same pro rata shares as the tenants-in-common held prior to the transfer. (See also: WAC 458-61-376, Exemption—Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation of its interest in real property to its shareholders who will hold the real property

either as individuals or as tenants-in-common in the same pro rata share as they owned the corporation.

(c) The transfer by a corporation of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another.

(d) The transfer by a corporation of its interest in real property to its sole owner or the transfer by a sole incorporator of the incorporator's interest in real property to the incorporator's corporation.

(e) A transfer of real property to a corporation or a partnership in exchange for stock in the corporation or a partnership interest would qualify under this section and WAC 458-61-376, Exemption—Transfers where gain is not recognized under the Internal Revenue Code, if the transferor received all of the stock in the corporation or a pro rata partnership interest. However, if a nonfamily member receives 5% or more of the stock in the corporation, or, if the transferor does not receive a pro rata partnership interest, the transfer may continue to qualify under WAC 458-61-376, but would not qualify under this section because a change in beneficial ownership has been made.

(f) Corporate mergers and consolidations which are accomplished by transfers of stock or membership, and, mergers between corporations and limited partnerships as provided in chapters 25.10 and 24.03 RCW.

(g) A transfer of real property to a newly-formed, beneficiary corporation from an incorporator to the newly-formed corporation, subject to the following:

(i) The proper real estate excise tax was paid on the original transfer to the incorporator;

(ii) It was documented on or before the original transfer that the incorporator was receiving title to the property on behalf of that corporation during its formation process; and

(iii) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction. This tax exemption does not apply where a real property owner had acquired title in his or her own name and later transferred title to the corporation upon formation.

(h) The distribution of partnership real property to the partners so long as the property distributed vests in each of the partners in proportion to the partner's interest in the partnership. The tax will apply to the extent a distribution of any real property is disproportionate to the interest in the partnership of a grantee partner.

(i) A transfer into any revocable trust. The tax does not apply to a conveyance from a trustee of a revocable trust to the original grantor because there is no change in the beneficial ownership. The tax does not apply to a conveyance from a trustee of a revocable trust to a beneficiary where no valuable consideration passes or the gift or inheritance exemption applies. The real estate excise tax applies to the sale of real property by the trustee to a third party or a beneficiary for valuable consideration. For transfers to irrevocable trusts, see WAC 458-61-411, Irrevocable trusts.

(3) **Family corporations and partnerships.** Notwithstanding a change in beneficial ownership, the exemption includes transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or children: *Provided*, That if thereafter such

transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse, or children voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than:

(a) The transferor and/or the transferor's spouse or children;

(b) A trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust; or

(c) A corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

NEW SECTION

WAC 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code. (1) **Introduction.** An exemption from the real estate excise tax is allowed for a transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of section 332, 337, 351, 368 (a)(1), 721, or 731 of the Internal Revenue Code of 1986, as amended.

(2) **Internal Revenue Code sections.**

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and Partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and Partnerships - Extent of recognition of gain or loss on distribution.

(3) **Extent of exemption.** The exemption applies only to transfers which qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) The exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property held for productive use or investment. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization. (See: WAC 458-61-480, IRS "tax deferred" exchanges.)

(b) The exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) **Treatment when gain is partially recognized in an otherwise exempt transaction.** In the event a transaction

qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(a) **Example 1.** In an otherwise nontaxable Internal Revenue Code section 351 transaction, A transfers to ZULU Corporation real property which has a true and fair value of \$100,000 (in which A has a basis of \$50,000 for federal income tax purposes). A receives, in exchange, ZULU stock worth \$80,000, cash of \$10,000 and a promissory note from ZULU to pay A \$10,000, payable monthly, starting at closing, for 36 months at 6% interest. The \$10,000 cash received and the \$10,000 promissory note constitute "boot" under the provisions of Sec. 351 and gain is recognized to the extent of the "boot." For real estate excise tax purposes, the nonexempt portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real property transferred, \$20,000, with 80% or \$80,000 of the true and fair value of the property being exempt.

(b) **Example 2.** In an otherwise nontaxable Internal Revenue Code section 351 transaction, B transfers real property with a true and fair value of \$50,000, machinery worth \$250,000, to ECHO Corporation. In exchange, B receives ECHO stock worth \$275,000 and cash of \$25,000. The cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the nonexempt portion of the transaction is 8.3% (\$25,000/\$300,000). The nonexempt percentage (8.3%) is applied to the true and fair value of the real property (\$50,000) to arrive at the amount (\$4,167) to which the real estate excise tax is applied.

(c) **Example 3.** A and B are partners in LIMA Partnership. In a nontaxable Internal Revenue Code section 721 transaction, C transfers real property to LIMA Partnership in exchange for a partnership interest in LIMA partnership. No consideration, other than the partnership interest in LIMA partnership, is given to C in exchange for C's transfer of real property. Because the transfer is exempt under Code section 721, the real estate excise tax does not apply to C's transfer of real property to LIMA partnership.

(d) **Example 4.** A and B are partners in GOLF Partnership. In a nontaxable Internal Revenue Code Section 721 transaction, C contributes cash to GOLF Partnership in exchange for a 60% partnership interest in GOLF Partnership. The cash is used by the Partnership to develop real property owned by the GOLF Partnership. Because the transfer is exempt under Internal Revenue Code Section 721, the real estate excise tax does not apply to C's acquisition of a partnership interest in GOLF Partnership.

(5) **Rules of construction.** In determining whether a transfer qualifies as an exemption under this section, the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the courts, shall be considered by the department. If a transfer has been determined under this chapter and the same transfer is examined and determined for federal tax purposes with the determination becoming fixed under federal law either by agreement with the taxpayer or through final determination in the federal court,

then the determination as fixed under this chapter shall be the same as the final federal tax determination.

AMENDATORY SECTION (Amending Order PT 84-3, filed 8/2/84)

WAC 458-61-400 (~~(Fulfillment deed.)~~) **Creation, assignment and release of security interests.** (1) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment of the security interest, is not a taxable transaction and completion of the affidavit is not necessary.

(2) A deed given ~~((the vendee in))~~ to a purchaser under a real estate contract upon fulfillment of the terms of ~~((mortgage or))~~ the contract is not subject to the real estate excise tax, provided that the proper tax was paid on the original transaction. Similarly, the real estate excise tax is not due upon the delivery of a release of security interest, satisfaction of mortgage, or reconveyance under the terms of a mortgage or deed of trust. The real estate excise tax affidavit is not required for any of the preceding transfers. The fulfillment deed must be stamped by the county treasurer as required by ~~((RCW 82.45.090. Such))~~ WAC 458-61-050. In the case of a fulfillment deed, the stamp shall show the affidavit number ~~((on))~~ of the sale which ~~((this))~~ the deed is fulfilling.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-410 Gifts. (1) In general. Transfers of real property as gifts are not subject to the real estate excise tax provided that the transfer is without consideration or that love and affection is the only consideration. ~~((Completion of the real estate excise tax affidavit is required and the supplemental statement as provided by WAC 458-61-150 shall be furnished with both grantor and grantee signatures unless the parties are family related or the grantee is a tax exempt organization under chapter 84.36 RCW. In such case no separate statement is required to be attached to the affidavit but the nature of the family relationship or the fact that the grantee is a tax exempt organization under chapter 84.36 RCW must be stated on the affidavit and the grantor or grantee must sign the affidavit.))~~

(2) Consideration. When any consideration other than love and affection is present in the transfer, the transaction is taxable to the extent of the consideration present. Consideration includes the indebtedness balance of any real property transferred which is encumbered by a lien securing an indebtedness. See WAC 458-61-030(3) for the full definition of "consideration."

(a) Examples. Mother, A, conveys lakefront cabin valued at \$200,000 to daughter, B. The tax consequences will vary dependent on whether B tenders consideration and the amount and the extent of A's equity. Consider:

(i) Example 1. No consideration given by B and A owns property outright. This is a gift by A to B of \$200,000 and exempt from the real estate excise tax.

(ii) Example 2. No payment given to A by B. A has \$175,000 equity and an underlying mortgage of \$25,000. The \$175,000 in equity is a gift, but the real estate excise tax applies to the \$25,000 owing on the mortgage.

(iii) Example 3. No consideration is given by B. A has \$175,000 equity and an underlying mortgage of \$25,000, on which A continues to make the payments. This is a gift by A to B of the \$175,000 and the payments on the underlying debt. It is exempt from the real estate excise tax.

(iv) Example 4. B gives A \$10,000 and A owns property outright. A has made a gift of \$190,000 in equity and real estate excise tax applies only to the \$10,000 paid by B for the property.

(v) Example 5. B gives A \$10,000 and A has \$175,000 in equity and an underlying mortgage of \$25,000. A has made a gift of \$165,000 in equity, but the real estate excise tax applies only to \$35,000: The \$10,000 paid by B to A for the property and the \$25,000 remaining on the mortgage.

(3) **Documentation.** Completion of the real estate excise tax affidavit is required for transfers by gift.

(a) A supplemental statement (see WAC 458-61-150) shall be signed by both grantor and grantee and attached to the real estate excise tax affidavit. The statement shall attest to the existence or absence of underlying debt on the property transfers made by gift.

NEW SECTION

WAC 458-61-411 Exemption—Irrevocable trusts.

(1) **Introduction.** The real estate excise tax applies to the transfer of real property to an irrevocable trust when the transfer results in a change in beneficial interest and not a mere change in identity or form and valuable consideration is present in the transfer.

(a) Example 1. Husband and wife as grantors transfer real property having a true and fair value of \$500,000 with a deed of trust indebtedness of \$300,000 to an irrevocable trust. The trustee is required to pay all the income annually to the grantors or the surviving grantor should one die. Upon the death of both grantors, the property is to be divided equally between the grantors' children. The real estate excise tax does not apply to the transfer to the irrevocable trust, even if the trust pays the indebtedness, because the transfer has no present change in beneficial interest, and the grantors have not received consideration in the form of a relief of the liability.

(b) Example 2. Upon the death of a spouse, the deceased spouse's 1/2 interest in real property is transferred to a testamentary trust. The trustee has the sole discretion to either accumulate income or pay the income to the surviving spouse and/or children and/or grandchildren. Real estate excise tax does not apply to this transfer. Assume the surviving spouse makes a gift of the remaining 1/2 interest in the real property, valued at \$150,000 with a \$30,000 indebtedness for which the surviving spouse is personally liable, to the testamentary trust of the deceased spouse, and the trust pays or is obligated to pay the indebtedness. The real estate excise tax applies to this transfer because a present change in beneficial interest in the property has occurred and the surviving spouse has received consideration in the form of the relief of liability from the payment of the indebtedness. \$30,000 is the taxable value for real estate excise tax purposes. Note that when the property transferred by the surviving spouse has no underlying debt for which the surviving spouse has a personal liability, the real estate excise tax would not apply because no consideration for the

transfer would be received. Instead, the transfer would be a gift and exempt from the real estate excise tax as explained in WAC 458-61-410, Gifts.

(2) The real estate excise tax does not apply to the distribution of real property to the beneficiaries of an irrevocable trust when no valuable consideration is given and the distribution is made according to the trust instrument.

(3) **Documentation.** A copy of the trust instrument must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

(4) **Revocable trusts.** For the taxability of transfers into a revocable trust, see WAC 458-61-375 (2)(i), Exemption—Mere change in identity or form—Family corporations and partnerships.

NEW SECTION

WAC 458-61-412 Exemption—Inheritances. (1) **Introduction.** Transfers of real property by inheritance are not subject to the real estate excise tax.

(2) **Nonpro rata distributions.** A nonpro rata distribution by a personal representative of a probate estate or by the trustee of a trust is not taxable so long as the transfer is authorized under the nonintervention powers of a personal representative pursuant to RCW 11.68.090 or under the nonpro rata distribution powers of a trustee pursuant to RCW 11.98.070(15), and no consideration passes between the grantee beneficiary and the personal representative or trustee.

(3) **Consideration.** If consideration is given by the grantee beneficiary, the transfer will be taxable to the extent of the consideration. For purposes of this subsection, consideration shall not include the indebtedness balance of any real property transferred which is encumbered by a lien securing an indebtedness.

(4) **Documentation.** Completion of the real estate excise tax affidavit is required for transfers by inheritance.

A copy of the trust instrument, will, or court order must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-420 Government((s)) transfers ((to or from)). (1) The real estate excise tax does not apply to transfers ((to or)) of real property from the United States, any agency or instrumentality thereof, the state of Washington, any political subdivision thereof, or municipal corporation of this state. Furthermore, the tax does not apply to ((transfer to or from any federally chartered credit union));

(a) Transfers to the federal housing administration or veteran's administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veteran's administration.

(b) Transfers for a public use in connection with the development of real property by a developer when such transfer is required for plat approval and when made to: The United States, the state of Washington or any political subdivision thereof, or a municipal corporation.

(c) Transfers to the United States, the state of Washington or any political subdivision thereof, or a municipal

corporation, either under threat of the exercise of eminent domain or as a result of the actual exercise of eminent domain.

(i) The threat of exercise of eminent domain by a government or political subdivision must be imminent in order to exempt a transfer from the real estate excise tax. To be imminent, the power must not only be available for immediate use, but the appropriate situation to allow for its use must also be in place. If the government or political subdivision does not yet have the authority to exercise eminent domain at the time of the transfer, the transfer cannot be exempt under the threat of eminent domain.

(ii) Example 1. A school district wishes to purchase land for a new school. The election has been held to authorize the use of public funds for the purchase and the general area has been chosen. The district has been granted authority to use eminent domain to obtain the land if required. So long as the land transferred to the district is in the authorized area and will be used for building the school, the transfer will be exempt from the real estate excise tax because it was made "under threat of eminent domain."

(iii) Example 2. A state agency is authorized by statute to use powers of eminent domain as required to obtain oceanfront property to build parks. It may not simply condemn all oceanfront property under its powers. The state must act in accordance with a plan or other documentation outlining the reasons for acquiring specific areas in order to exempt a transfer made to the agency from real estate excise tax as having been made under the threat of exercise of eminent domain. The plan shall be made available to the department upon request.

(2) The tax applies to sales of real property to governmental entities from nongovernmental entities except as provided in subsections (1)(a) through (c) of this section. (RCW 82.45.010)

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-425 Growing crops. The real estate excise tax applies to the value of growing crops when sold with the land upon which they are growing. ((Thus,)) The value of the growing crops is not a deduction from the sales price of the real property.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-430 ((Improvements sold on leased)) Sale of improvements to land. (1) ~~((The real estate excise tax applies to the sale of improvements on leased land held in private ownership if the terms of the sales contract do not require that the improvements be removed from the land.~~

~~((2)) The sale of an improvement constructed on real property is subject to the real estate excise tax if the contract of sale does not require that the improvements be removed at the time of sale.~~

~~((2) The transfer of a lessee's interest in a leasehold for a valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land.~~

~~((3) If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on~~

the assessment rolls of the county assessor will be used. See WAC 458-61-030(2).

(4) The real estate excise tax does not apply to the sale of improvements ((on leased land held in private ownership)) if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their ((sale)) use by the purchaser is subject to the use tax under chapter 82.12 RCW.

~~((3) The real estate excise tax applies to the sale of improvements on leased land held in public ownership. However, if the sale price includes a valuable leasehold estate, the value of the leasehold estate must be deducted from the sales price before application of the tax.~~

~~(Note:)) (5) Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (4) of this section in which case the purchaser must file a use tax return with the department. ((Affidavits for sales under subsection (2) of this section should show the improvement's sales price as "gross sales price" and deduct this same amount under "deduct personal property." The result will be net taxable sales price of zero.))~~

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-470 Irrigation equipment. (1) Any part of a center pivot irrigation system, or any part of an irrigation system that is underground, is considered real property and its sale is subject to the real estate excise tax.

(2) Any irrigation equipment that is above ground, other than a center pivot irrigation system, is considered personal property and its sale is not subject to the real estate excise tax, but is subject to the use tax.

(3) The transfer of irrigation equipment constituting personal property which accompanies a sale of real property should be listed separately as personal property on the real estate excise tax affidavit.

AMENDATORY SECTION (Amending Order PT 82-10, filed 12/28/82)

WAC 458-61-480 IRS "tax deferred" exchange. (1) The real estate excise tax applies to the transfer or exchange of real property whether or not federal income tax or capital gains tax is "deferred" or "exempted" under ((the)) Internal Revenue ((Service codes-)) Code section 1031. The real estate excise tax applies to each property transferred in a section 1031 exchange, see WAC 458-61-370, Exchanges—Trades).

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax. The later transfer of the property by the facilitator in completion of the exchange will also be subject to the real estate excise tax unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61-150, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee. If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator;

(3) A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61-150 and subsection (2)(b) of this section.

AMENDATORY SECTION (Amending Order PT 84-3, filed 8/2/84)

WAC 458-61-510 ((Lease with option to purchase.)) Leases. (1) The real estate excise tax ((shall apply)) applies to a lease with option to purchase ((when)) at the time the purchase option is exercised((-

(1) If the option to purchase must be exercised within a period no longer than two years after the original commencement of the lease and the amount of lease payments will not exceed half of the purchase price; or

(2) If none of the lease payments apply toward the ultimate sales price.

Transactions lacking the above criteria are taxable at the time that the lease with option to purchase agreement originates. The sales price shall be considered to be the purchase price stated in the lease option agreement. If the selling price is not stated in the instrument, the grantor, grantee or the agent of either shall, by affidavit, state the option price intended and the tax levied hereunder shall be on such stated option price. *Provided*, That upon execution and delivery of the instrument of conveyance or transfer pursuant to such option a second affidavit stating the actual consideration shall be filed with the county treasurer. If the actual consideration passing is greater than the option price stated in the affidavit filed at the time the lease option was executed, there shall be collected the tax on such additional amounts prior to the time the deed is accepted for recording. If the actual consideration is the same as the option price originally stated, no additional tax will be collected. If the actual consideration is less than the option price stated, refund of excess tax shall be made)) and the property is transferred.

The measure of the tax is the true and fair value of the property conveyed at the time the option is exercised.

(2) The real estate excise tax does not apply to the assignment of the lessee's interest in the leasehold except to the extent that the assignment includes the grant, assignment, quitclaim, sale or transfer of improvements constructed upon leased land. See WAC 458-61-430.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-520 Mineral rights and mining claims. (1) The real estate excise tax applies to the sale of mineral rights in private property. ((A quitclaim deed, in itself, is not a valid reason for tax exemption.)) "Mining property" is

property containing or believed to contain metallic or nonmetallic minerals and sold or leased under terms which require the grantee or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(2) A conditional sale of mining property in which the ~~((buyer))~~ grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-~~((buyer))~~ grantee has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the ~~((seller))~~ grantor or lessor for execution of such contract. The tax due on any additional consideration paid by the ~~((buyer))~~ grantee and received by the ~~((seller))~~ grantor shall be paid to the county treasurer at the first time any event below occurs:

(a) ~~((at))~~ The time of termination~~((, or))~~;

(b) ~~((at))~~ The time that all of the consideration due to the ~~((seller))~~ grantee has been paid and the transaction is completed except for the delivery of the deed to the ~~((buyer))~~ grantee; or

(c) ~~((at))~~ The time when the ~~((buyer))~~ grantee unequivocally exercises an option to purchase the property~~((, which ever of the three events occurs first))~~.

(3) A mining lease which grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax when the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(4) Patented mining claims are real property and their sale is subject to the real estate excise tax.

(5) Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-540 Mobile and floating home sales.

(1) The application of the real estate excise tax versus retail sale or use tax upon the transfer of a mobile home is dependent on the characteristics of the transfer, not the classification of a mobile home as real or personal property on the assessment rolls. "Mobile home" means a mobile home as defined by RCW 46.04.302.

(2) The real estate excise tax applies to transfers of used mobile homes. Used mobile homes are mobile homes that:

(a) Have become affixed to land by being placed upon a foundation (post or blocks) with fixed pipe connections with sewer, water, and other utilities;

(b) The mobile home's removal from the land is not a condition of sale; and

(c) The retail sales or use tax has been paid on a previous sale or use of the home.

~~((2))~~ (3) The retail sales or use tax applies to any of the following mobile home sales:

(a) Initial retail sale;

(b) Sale from a dealer's lot of either a new or used unit;

(c) Sale conditional on removal of the unit from its fixture to land; or

(d) Sale of a unit that is not affixed to land by virtue of its placement upon a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

~~((3))~~ (4) The sale of a new or used mobile home is subject either to the real estate excise tax as set forth in subsection ~~((1))~~ (2) of this section, or to the retail sales or use tax as set forth in subsection ~~((2))~~ (3) of this section. A single sale of a mobile home is not subject to both taxes.

~~((4))~~ The decision whether to apply the real estate sales tax versus the retail sales or use tax should be made without considering the mobile home's status as real or personal property on the assessment rolls. Both taxes are upon transfers of property and it is the characteristics of the transfer, not the classification, that determines which tax to apply.

(5) A separate mobile home affidavit is not necessary when the primary affidavit lists the make, model, year and serial number of the mobile home. This information should be listed as a separate item in the legal description portion of the affidavit.

(5) Floating homes. The real estate excise tax applies to sales of used floating homes. A used floating home is a building which is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-545 Mortgage insurers. (1) The real estate excise tax does not apply to the conveyance of real property from the mortgage lender to ~~((a governmental or quasi-governmental))~~ the veterans administration or the federal housing authority as a mortgage insurer or guarantor.

(2) The tax does apply to the conveyance of real property from the mortgage lender to ~~((a private))~~ any other mortgage insurer or guarantor in settlement of the insurance claim.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-550 Nominee. (1) This section describes the operation of the real estate excise tax in transfers involving a nominee. A "nominee" is a person who acts as an agent on behalf of another person in the purchase of real property.

(2) When a nominee has received title to or interest in real property on behalf of a third-party principal, the real estate excise tax does not apply to the subsequent transfer of the property from the nominee to the third party, provided that:

~~((1))~~ (a) The proper tax was paid on the initial transaction;

~~((2))~~ (b) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction (such notarized statement must be dated on or prior to the first transaction);

~~((3))~~ (c) The third-party principal was in legal existence at the time of the initial transaction;

~~((4))~~ (d) The funds used by the nominee to initially acquire the property were provided by the third-party principal; and

~~((5))~~ (e) The subsequent transfer from the nominee to the third-party principal is not for a greater consideration than that of the initial acquisition, or, in the case where the nominee is a licensed contractor and the subsequent transfer to the principal (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61-300.

(3) If property is transferred from the nominee to the third-party principal and one or more of the requirements in subsection (2) of this section are not met, the transaction is not exempt and is taxable to the extent of the entire selling price.

NEW SECTION

WAC 458-61-553 Nonprofit organizations. Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, by virtue of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

AMENDATORY SECTION (Amending Order PT 87-4, filed 5/27/87)

WAC 458-61-555 Option to purchase. (1) The real estate excise tax ~~((does not apply))~~ applies to a conveyance of real property upon the exercise of an option to purchase.

(2) The tax does not apply to ~~((an))~~ the grant of the option ~~((to purchase real property when such option does not accompany a lease. See WAC 458-61-510.))~~ and the real estate excise tax affidavit is not required.

(3) Example 1. J takes out options at a cost of \$1000 to purchase ten parcels of land for \$10,000. As individual parcels, these plots of land are uneconomical to develop. J "packages" the land, making it economically feasible to develop by either obtaining sufficient acreage or required studies. Buildup, a real estate development and construction company, purchases J's options on the property for \$10,000 and subsequently exercises the options, paying \$10,000 for the land. The real estate excise tax does not apply to the transfer of the options. However, the real estate excise tax does apply to the exercise of the options. The measure of the tax is the \$10,000 purchase price.

(4) Example 2. Consider the same initial facts as in the example in subsection (3) of this section, but instead, J exercises the options, then sells the land to Buildup. The real estate excise tax applies to both the transfer to J and the subsequent transfer from J to Buildup.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-590 Rescission of sale. (1) The real estate excise tax does not apply to ~~((the reconveyance of property from vendee to vendor where no consideration~~

~~passes otherwise))~~ a reconveyance of property pursuant to a rescission.

(2) In order to qualify for exemption under this section, all consideration paid toward the selling price must be returned by the grantor to the grantee.

(a) A grantor may retain interest paid by the grantee without disqualifying the rescission.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the rescission.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-600 Relocation service. (1) The real estate excise tax applies to a deed naming no grantee which is given to a purchaser for a consideration and which vests equitable title in the purchaser.

(2) Subsequent delivery of the deed by such purchaser to a third person named as grantee in the deed for consideration is also a taxable sale.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-610 Rerecord. (1) The real estate excise tax does not apply to the rerecording of documents to correct legal description, change of contract terms, or spelling of name of party to the transaction.

(2) An affidavit is required for the rerecording and must refer to the prior affidavit number and the recorded document number for the prior transaction and ~~((it also must furnish))~~ a complete explanation of why such rerecording is necessary must be attached to the affidavit.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-640 Sheriff's sale. (1) The real estate excise tax does not apply to any sale of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county treasurer. ~~((RCW 82.45.010))~~

(2) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale.

In the case of a subsequent sale or assignment of right of redemption, the taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-650 Tenants in common and joint tenants. (1) The real estate excise tax does not apply to the transfer of real property which results in the creation of a tenancy in common when no consideration passes otherwise. Gifts are generally exempt from the real estate excise tax. Cite WAC 458-61-410, Gifts, on the real estate affidavit to claim an exemption from the real estate excise tax for such a transfer.

(a) Example 1. A owns a parcel of property outright. A creates a tenancy in common with B. B gives no consid-

eration for the creation. A has given a gift of equity in the property to B and the real estate excise tax does not apply.

(b) Example 2. A owns a home with an underlying mortgage. A creates a tenancy in common with B. B gives no consideration for the creation, but agrees to and makes partial payments on the mortgage. A has given a gift of the equity owned, but has received a relief of debt from B to the extent B makes payments on the mortgage. Real estate excise tax applies to the relief of debt received by A. See also, WAC 458-61-410, Gifts.

(2) The partition of real property by tenants in common or joint tenants by agreement or as the result of a court decree is not a taxable transaction. A partition of property occurs upon the division of the property in proportion to the owners' interests. In order to qualify for this exemption, the partition must be in proportion to the tenants' interests in the property.

Example 1. A, B, and C own five riverfront parcels as tenants in common. One parcel is worth twice as much as any of the others, which are all equivalent in value. The property is partitioned. A receives the especially valuable parcel; B and C receive two parcels each. Because the parcels have been partitioned in accordance with their interests in the property (here, one-third), the real estate excise tax does not apply to the transfer.

(3) The real estate excise tax does not apply to the transfer of real property which results in the creation of a joint tenancy with right of survivorship when no consideration passes otherwise. Gifts are generally exempt from the real estate excise tax. Cite WAC 458-61-410, Gifts, on the real estate affidavit to claim an exemption from the real estate excise tax for such a transfer.

Example 1. Consider friends, G and H. G creates a joint tenancy with right of survivorship with H for estate planning purposes. H gives no consideration to G for the creation of the joint tenancy. The real estate excise tax does not apply to this transfer.

(4) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax. Transfers of real property by inheritance are not subject to the real estate excise tax. Cite WAC 458-61-412, Inheritances, on the real estate excise tax affidavit to claim an exemption from the real estate excise tax for such a transfer.

Example 1. Reconsider Example 1 in (3)(a) above. On G's death, H is the surviving joint tenant and now owns the property outright. The real estate excise tax does not apply to this transfer. See also WAC 458-61-412, Inheritances.

~~((2))~~ (5) The sale of the interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

- (a) Any consideration given;
- (b) Any consideration promised to be given ~~((+ plus~~
- ~~(e)))~~ including the amount of any debt remaining unpaid on the property at the time of sale multiplied by that fraction of interest in the real property being sold.

AMENDATORY SECTION (Amending Order PT 82-5, filed 7/21/82)

WAC 458-61-660 Timber, standing. (1) The ~~((application of the))~~ real estate excise tax applies to the sale of timber ~~((is based upon whether or not))~~ if the ownership of the timber is transferred while the timber ~~((was))~~ is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See WAC 458-61-548, Native American, when the timber is standing within the borders of a Native American Reservation. See also chapter 84.33 RCW and chapter 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

~~((1))~~ The sale of standing timber is a taxable transaction.)

(2) The ~~((seller's))~~ grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester ~~((where))~~ when the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax ~~((- In this instance))~~ if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-670 Trade-in credit. (1) ~~((Where))~~ When a single family residential dwelling is being transferred as the entire or part consideration for the purchase of another single family residential dwelling and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the same property by the broker or party.

(2) The subsequent transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party, the difference shall be paid, but if the tax initially paid is greater, no refund shall be allowed.

~~((2))~~ (3) The affidavit upon which the trade-in credit is claimed must show all of the following:

- (a) The prior affidavit number where the tax was paid on the original (trade-in) transaction;
- (b) The county auditor's recorded document number for the original transaction, if such was recorded;
- (c) The transaction date of the original transaction; and
- (d) The disclosure that both properties involved in the original trade-in transaction are single family dwellings. ~~((RCW 82.45.105))~~

~~((Note:))~~ (4) The ~~((above))~~ trade-in credit is allowed toward the subsequent sale of the residence "brought in" on trade - not toward the tax liability of the sale of the residence for which it was traded. ~~((3))~~

WSR 94-04-092
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 3702—Filed February 1, 1994, 9:22 a.m.]

Date of Adoption: February 1, 1994.

Purpose: New WAC 275-27-221 Family financial participation, requires families receiving family support services to provide the department information regarding family income and family size. To include the incremental formula for determining the families' ability to participate in the purchase of needed services. Defines gross family income, dependents, family, and disability-related expenses.

Citation of Existing Rules Affected by this Order: Amending WAC 275-27-220 Family support services and 275-27-223 Service need levels.

Statutory Authority for Adoption: RCW 71A.12.040.

Other Authority: RCW 43.43.745.

Pursuant to notice filed as WSR 94-01-062 on December 8, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 275-27-220(5) deleted last sentence, and added subsection (8) to explain sunset date. WAC 275-27-221(4) adds a reference as a citation at end of sentence, and subsection (10) explains sunset date.

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

February 1, 1994

Dewey Brock, Chief

Office of Vendor Services

AMENDATORY SECTION (Amending Order 3372, filed 4/21/92, effective 5/22/92)

WAC 275-27-220 Family support services. (1) The department's intent of family support services shall be to:

(a) Reduce or eliminate the need for out-of-home residential placement of a client (~~(wherein)~~) where the in-home placement is in the client's best interest;

(b) Allow a client to live in the most independent setting possible; and

(c) Have access to services best suited to a client's needs.

(2) The department's family support services shall include, but not be limited to, the following services:

(a) Emergency or planned respite care;

(b) Attendant care;

(c) Therapeutic services, including:

(i) Physical therapy;

(ii) Occupational therapy;

(iii) Behavior management therapy; and

(iv) Communication therapy.

(d) The purchase, rental, loan, or refurbishment of specialized equipment, environmental modifications, and other adaptations; and

(e) Other service (~~(pursuant to)~~) approved by the director or designee as described under subsection (1) of this section (~~(approved by the director or designee)~~).

(3) The department shall authorize services to the family for a specified time-limited period.

(a) A departmental service authorization shall state the type, amount, and period (duration) of service. Each

department authorization shall constitute a new service for a new period.

(b) If requested family support services are not authorized, such actions shall be deemed a denial of services.

(c) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

(4) The department shall authorize family support services in accordance with department-established policies (~~(established by the department)~~). The department shall base periodic service authorizations on:

(a) Requests for family support services described in subsection (2) of this section;

(b) Service need levels as described in section 223 of this chapter;

(c) Availability of family support funding; (~~and~~)

(d) The family's ability to purchase services required by a minor client as described under WAC 275-27-221 based on family-provided financial information; and

(e) Authorization by a review committee, in each regional office, which reviews each request for service.

(5) The department shall authorize family support services contingent upon the applicant providing accurate and complete information concerning family income and disability-related expenses as requested by the department.

(6) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

(7) The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seven-teen years of age or younger.

(8) The department shall ensure subsections (4)(d) and (5) of this section are only in effect until July 31, 1995.

NEW SECTION

WAC 275-27-221 Family financial participation. (1) "Dependent" means a relative who depends on the family income for at least half of the relative's support.

(2) "Disability-related expenses" means the:

(a) Most recent annual expenses provided by the family to eligible clients including bills from physician, dentists, and other medical professionals;

(b) Clients' health insurance premiums and/or medical spenddown;

(c) Amounts paid to rent or purchase medical equipment;

(d) Amounts paid for modification of homes or vehicles to accommodate the eligible children;

(e) Specialized clothing;

(f) Exceptional child care and other disability-related expenses.

(3) "Family" means a person or a person and the person's spouse, if not legally separated, and the person's dependents.

(4) "Gross family income" means the total income of all members of a family, or adjusted gross income as specified

on line thirty-one of the Internal Revenue Service form 1040 and line sixteen of the Internal Revenue Service form 1040A. Income includes:

- (a) Earned income, such as wages and tips;
 - (b) Unearned income, such as interest, dividends, and pensions;
 - (c) Family's share of income from S corporations (domestic corporation with one class of stock having thirty-five or less shareholders, who are U.S. citizens), partnerships, estates, and trusts;
 - (d) Gains from the sale or exchange (including barter) of real estate, securities, coins, gold, silver, gems, or other property;
 - (e) Gain from the sale or exchange of the family's main home;
 - (f) Accumulation distributions from trusts;
 - (g) Scholarships and fellowship grants;
 - (h) Original issue discount, distribution from simplified employee pensions (SEPs) and deductible employee contributions (DECs);
 - (i) Amounts received in place of wages from accident and health plans if employer paid for the policy;
 - (j) Bartering income, Tier 2 and supplemental annuities under the Railroad Retirement Act;
 - (k) Life insurance proceeds from a policy the family cashed in if the proceeds are more than the premiums paid;
 - (l) Endowments;
 - (m) Lump-sum distributions;
 - (n) Prizes and awards;
 - (o) Gambling winnings;
 - (p) Social Security;
 - (q) Capital gains; and
 - (r) Child support.
- (s) Income does not include earned income by dependent family members, nor income of a family member who resides in another household when such income is not available to the family member seeking family support services.

(5) Based on the level of family support services authorized under WAC 275-27-220(4) for a client who is seventeen years of age or younger, in order to be authorized for family support services, each family shall provide the department with accurate and complete information sufficient to assess the family's ability to participate in the purchase of family support services. This information includes:

- (a) Family's annual gross income;
 - (b) Family size; and
 - (c) Client's disability-related expenses.
- (6) The department shall make an assessment of the family's ability to purchase services required by the client as follows:
- (a) Determine the annual gross income of the eligible client's family;
 - (b) Not require families, whose annual gross income is less than three hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, to participate in the purchase of family support services;
 - (c) Require families, whose annual gross income is three hundred percent or more of the statewide need standard, rounded up to the next even one thousand dollars, based on

family size, to participate in the purchase of the services according to the following incremental formula:

(i) For that portion of a family's income between three hundred percent and four hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be six percent times that portion of the family's reported income;

(ii) In addition, for that portion of a family's income between four hundred percent and five hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be six and one-half percent times that portion of the family's reported income;

(iii) In addition, for that portion of a family's income between five hundred percent and six hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be seven percent times that portion of the family's reported income;

(iv) In addition, for that portion of a family's income between six hundred percent and seven hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be seven and one-half percent times that portion of the family's reported income;

(v) In addition, for that portion of a family's income between seven hundred percent and eight hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be eight percent times that portion of the family's reported income;

(vi) In addition, for that portion of a family's income between eight hundred percent and nine hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be eight and one-half percent times that portion of the family's reported income;

(vii) In addition, for that portion of a family's income between nine hundred percent and one thousand percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be nine percent times that portion of the family's reported income;

(viii) In addition, for that portion of a family's income between one thousand percent and eleven hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be nine and one-half percent times that portion of the family's reported income;

(ix) In addition, for that portion of a family's income between eleven hundred percent and fourteen hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size, family financial participation shall be ten percent times that portion of the family's reported income; and

(x) The department shall not authorize family support services for families whose annual gross income is over fourteen hundred percent of the statewide need standard, rounded up to the next even one thousand dollars, based on family size.

(d) The department shall adjust the annual gross income downward for annual disability-related expenses incurred by the family for eligible clients.

(7) The department may re-evaluate at any time the ability of a family to purchase required family support services under this subsection, but not less than once per year or when the department believes there is a change of factors that determine ability to purchase services including family income and family size.

(8) The department shall recompute the required level of participation as described under subsection (7) of this section if the department's re-evaluation reveals a difference of one hundred twenty dollars per year or more between the:

(a) Family's current ability to participate in the purchase of family support services; and

(b) Level of financial participation most recently determined by the department.

(9) The department may recompute the level of participation when the difference is less than one hundred twenty dollars per year.

(10) The department shall ensure this section is only in effect until July 31, 1995.

AMENDATORY SECTION (Amending Order 3372, filed 4/21/92, effective 5/22/92)

WAC 275-27-223 Service need levels. (1) The department shall use service need levels to determine periodic family support service authorizations.

(2) The department shall determine service need levels in order of priority for funding as follows:

(a) Service need level 1: Client is at immediate risk of out-of-home placement without the provision of family support services. The client needs intensive residential support to assist the client's family to care for the family's child or adult requiring nursing services, attendant care, or support due to difficult behaviors. ~~((The client must receive the majority of family support services in such client's home. An existing or new eligible client must have received, over the most recent three months, at least ten days or eighty hours per month of such service))~~ A client shall:

(i) Have received, over the past three months, at least ten days or eighty hours of service; or

(ii) Requires at least ten days or eighty hours per month of service to prevent immediate out-of-home placement, based upon an assessment conducted by the department;

(b) Service need level 2: Client is at high risk of out-of-home placement without the provision of family support services and has one or more of the following documented in writing:

(i) The client:

(A) Currently receives adult protective services or division of children and family services as an active:

(I) Child protective service client;

(II) Child welfare service client; or

(III) Family reconciliation service client.

(B) Has returned home from foster care or group care placement within the last six months;

(C) Has a serious medical problem requiring close and ongoing monitoring and/or specialized treatment, such as:

(I) Apnea monitor;

(II) Tracheotomy;

(III) Heart monitor;

(IV) Ventilator;

(V) Constant monitoring due to continuous seizures;

(VI) Immediate life-saving intervention due to life threatening seizures;

(VII) Short bowel syndrome; or

(VIII) Brittle bone syndrome.

(D) Has a dual diagnosis based on current mental health DSM Axis I diagnosis;

(E) Has an extreme behavioral challenge resulting in health and safety issues for self and/or others which:

(I) Resulted in serious physical injury to self or others within the last year;

(II) For a client who is two years of age or older, requires constant monitoring when awake for personal safety reasons; or

(III) Is of imminent danger to self or others as determined by a psychiatrist, psychologist, or other qualified professional.

(F) Is ten years of age or older or weighs forty pounds or more, requires lifting, and needs direct physical assistance in three or more of the following areas:

(I) Bathing;

(II) Toileting;

(III) Feeding;

(IV) Mobility; or

(V) Dressing.

(ii) The caregiver:

(A) Is a division of developmental disabilities client;

(B) Has a physical or medical problem that interferes with providing care; or

(C) Has serious mental health or substance abuse problems and:

(I) Is receiving counseling for these problems; or

(II) Has received or applied for counseling within the past six months.

(c) Service need level 3: The family is at risk of significant deterioration which could result in an out-of-home placement of the client without provision of family support services due to the following:

(i) The client requires direct physical assistance, above what is typical for such client's age, in three or more of the following areas:

(A) Bathing;

(B) Toileting;

(C) Feeding;

(D) Mobility; or

(E) Dressing.

(ii) The client has current behavioral episodes resulting in:

(A) Physical injury to the client or others;

(B) Substantial damage to property; and/or

(C) Chronic sleep pattern disturbances or chronic continuous screaming behavior.

(iii) The client has medical problems requiring substantial extra care; and/or

(iv) The family is:

(A) Experiencing acute and/or chronic stress;

(B) Has acute or chronic physical limitations; or

(C) Has acute or chronic mental or emotional limitations.

January 27, 1994
Judith A. Billings
Superintendent of
Public Instruction

(d) Service need level 4: Family needs temporary or ongoing services in order to:

(i) Receive support to relieve and/or prevent stress of caregiver/family; or

(ii) Enhance the current functioning of the family.

(3) The department shall determine service need level of the client's service request by reviewing information received from the client, family, and other sources about:

(a) Whether client is an active recipient of services from the division of children and family services or adult protective services;

(b) Whether indicators of risk of out-of-home placement exist, and the imminence of such an event. The department's assessment of such risk may include:

(i) Review of family's requests for placement;

(ii) History of family's involvement with children's protective services or adult protective services;

(iii) Client's current adjustment;

(iv) Parental history of psychiatric hospitalization;

(v) Clinical assessment of family's condition; and

(vi) Statements from other professionals.

(c) Caregiver conditions, such as acute and/or chronic:

(i) ~~((Acute and/or chronic))~~ Stress;

(ii) ~~((Acute and/or chronic))~~ Physical limitations; and

(iii) ~~((Acute and/or chronic))~~ Mental and/or emotional impairments.

(d) Client's need for intense medical, physical, or behavioral support;

(e) Family's ability to use typical community resources;

(f) Availability of private, local, state, or federal resources to help meet the need for family support;

(g) Severity and chronicity of family or client problems; and

(h) Degree to which family support services will:

(i) Ameliorate or alleviate such problems; and

(ii) Reduce the risk of out-of-home placement.

~~((4) Beginning May 1, 1992, the department's revised service need level definitions shall be in effect. The department's service need levels currently defined under section 223 of this chapter shall remain in effect through April 1992.))~~

WSR 94-04-095

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 94-01—Filed February 1, 1994, 10:43 a.m.]

Date of Adoption: January 27, 1994.

Purpose: Establish policies and procedures governing the running start program whereby high school students attend community college and earn both high school and college credit.

Statutory Authority for Adoption: RCW 28A.600.390, 28A.150.260, and [28A.150.]290.

Pursuant to notice filed as WSR 94-01-114 on December 17, 1993.

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

Chapter 392-169 WAC SPECIAL SERVICE PROGRAMS RUNNING START PROGRAM

NEW SECTION

WAC 392-169-005 Authority. The authority for this chapter is RCW 28A.600.390, which authorizes the superintendent of public instruction, the state board for community and technical colleges, and the higher education coordinating board to jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, 28A.150.260 and 28A.150.290 which authorize the superintendent of public instruction to adopt rules governing basic education allocation moneys. The rules set forth in this chapter have been jointly developed and agreed upon by the three agencies, and adopted and codified in separate chapters of the Washington Administrative Code by each of the three agencies. The rules may be modified only by agreement of all three agencies.

NEW SECTION

WAC 392-169-010 Purpose. The purpose of this chapter is to set forth policies and procedures governing the running start program.

DEFINITIONS OF TERMS

NEW SECTION

WAC 392-169-015 Running start program—Definition. As used in this chapter, the terms "running start" and "running start program" mean the part-time to full-time equivalent enrollment of eligible eleventh and twelfth grade high school students in a community college or technical college for the purpose of earning at least high school credit to be awarded by a school district, and such additional college level academic and college level vocational credit as may be awarded by the community college or technical college.

NEW SECTION

WAC 392-169-020 Eligible student—Definition. As used in this chapter, the term "eligible student" means any person, including a person who is otherwise attending a private school or receiving home-based instruction, who meets each of the following conditions:

(1) The person is under the age of twenty-one years of age as of September 1 of the school year.

(2) The person is eligible by reason of his or her residence or other criterion established by law to enroll in the school district through which the person seeks to obtain the award of running start program high school credit. See RCW 28A.175.090 ("at risk" students), RCW 28A.225.160 (residents of a school district), RCW 28A.225.170 (residents of the United States and Indian Reservations), RCW 28A.225.210 (residents of "nonhigh" school districts), and

RCW 28A.225.220 ("choice" students). Note: A running start student who changes his or her school district of residence, following enrollment in running start, solely for the purpose of attending college under this chapter shall be deemed to have retained his or her residence in the school district of initial running start enrollment for high school graduation, funding and other purposes under this chapter.

(3) The person is eligible under the grade placement policies of the school district through which the person seeks to obtain running start program high school credit to be in the eleventh or the twelfth grade.

(4) The person has not as of the beginning of the school year earned the credits required for the award of a high school diploma by the school district through which the person seeks to obtain the award of running start program high school credit.

(5) The person has not as of the beginning of the school year received a high school diploma or its equivalent. Note: A general education development certificate is not considered to be the equivalent of a high school diploma for purposes of this subsection.

(6) The person's running start program enrollment to date is below the applicable eleventh or twelfth grade running start enrollment limitations established under WAC 392-169-055.

NEW SECTION

WAC 392-169-022 Running start student—Definition. For the purposes of this chapter and chapter 392-121 WAC, the term "running start student" means an eligible student:

(1) Who is enrolled in the running start program in accordance with this chapter;

(2) Whose enrollment has not been suspended or terminated by withdrawal, transfer, suspension or expulsion; and

(3) Who has participated in one or more instructional activities conducted by college staff (e.g., classroom or laboratory instruction, course work testing, post enrollment/registration academic counseling, and similar other instructional activities) on at least one college day during the current college quarter since the last enrollment count date.

NEW SECTION

WAC 392-169-023 College day—Definition. For the purposes of this chapter, the term "college day" means a day on which running start students are afforded the opportunity to be engaged in instructional activity which is planned and conducted by or under the supervision of college instructional staff, and on which day all or any portion of the enrolled running start students actually participate in such instructional activity.

NEW SECTION

WAC 392-169-025 Full-time equivalent (FTE) running start enrollment—Definition. For the purposes of this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to

the limitations of WAC 392-169-022, 392-169-055 and 392-169-115 as follows:

(1) For college courses denominated in college quarter credits, the quotient of an eligible student's quarter credits of running start enrollment divided by fifteen up to a maximum of 1.00 FTE.

(2) For college courses not denominated in college quarter credits, the quotient of an eligible student's average hours of running start enrollment per week divided by twenty-five up to a maximum of 1.00 FTE. Hours of enrollment shall be determined pursuant to WAC 392-121-106 through 392-121-183.

NEW SECTION

WAC 392-169-030 Annual average full-time equivalent (AAFTE) running start enrollment—Definition. For purposes of this chapter and chapter 392-121 WAC, "annual average full-time equivalent (AAFTE) running start enrollment" means the sum of the AAFTE of all running start students for a school year when each running start student's AAFTE equals the sum of the student's running start FTE enrollment on the nine running start count dates divided by nine.

NEW SECTION

WAC 392-169-035 Community and technical colleges—Definition. As used in this chapter, the terms "community college" and "technical college" means a Washington public two-year institution of higher education established under chapter 28B.50 RCW.

NEW SECTION

WAC 392-169-040 School district—Definition. As used in this chapter, the term "school district" means a Washington public school district established under Title 28A RCW.

ENROLLMENT RIGHTS, REQUIREMENTS AND LIMITATIONS

NEW SECTION

WAC 392-169-045 Enrollment—General requirements and conditions. The enrollment of an eligible student in the running start program shall be governed as follows:

(1) An eligible student is responsible for applying for and pursuing admission to a community college or technical college on or before the deadline for enrollment established by the college.

(2) It shall not be necessary for an eligible student to obtain a release of attendance from his or her resident school district in order for the student to enroll in any community college or technical college.

(3) An eligible student is entitled to enroll in any community college and any technical college in the state for running start program purposes subject to each of the following conditions and limitations:

(a) Enrollment is limited to college level academic and college level vocational courses.

(b) Prior confirmation pursuant to WAC 392-169-050 by the school district through which the student seeks to obtain the award of running start program high school credit of the amount of high school credit to be awarded on or before the deadline for enrollment established by the college.

(c) Acceptance of the student by the community college or technical college subject to generally applicable admission and enrollment requirements and limitations established by the community college or technical college, including a determination that the student is competent to profit from the college level academic or vocational course(s) the student seeks to enroll in: *Provided*, That a technical college shall not deny admission or continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

(d) The limitations upon the duration and extent of community college and technical college course enrollment set forth in WAC 392-169-055 and 392-169-057.

NEW SECTION

WAC 392-169-050 Enrollment—High school credit—Prior confirmation. As a condition to an eligible student's enrollment in community college or technical college courses under this chapter, the eligibility of the courses which the student intends to take for the award of high school credit and the amount of such credit shall first be established, as follows:

(1) The student shall notify the school district through which the student seeks to obtain the award of running start program high school credit of the specific community college and technical college courses he or she intends to take and shall request confirmation of the amount of high school credit that will be awarded upon successful completion of the courses.

(2) The school district shall establish on a course by course basis the amount of high school required or elective credit, or combination thereof, that shall be awarded for each college course successfully completed by the student based upon the conversion rate set forth in WAC 180-51-050.

(3) If a college course is not comparable to a school district course required for high school graduation, the school district superintendent shall determine the amount of required high school credit which shall be awarded following consultation with a community college or technical college representative designated for that purpose. The difference between the amount of required credit and the amount of credit earned at the conversion rate set forth in WAC 180-51-050 shall be awarded as elective credit.

(4) Within twenty school district business days of a student's request for confirmation of credit the school district superintendent or other designated school district representative shall confirm in writing the amount of high school required or elective credit, or combination thereof, which shall be awarded upon successful completion of the courses.

NEW SECTION

WAC 392-169-055 Enrollment—Extent and duration of running start enrollment. Running start program enrollment under this chapter is limited as follows (and as

may be further limited for academic reasons under WAC 392-169-057):

(1) An eligible student who enrolls in grade eleven may enroll in a community or technical college while in the eleventh grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college quarters as a full-time equivalent community college student or nine months as a full-time equivalent technical college student).

(2) An eligible student who enrolls in grade twelve may enroll in a community or technical college while in the twelfth grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college quarters as a full-time equivalent community college student or nine months as a full-time technical college student).

(3) Enrollment in a community college or technical college is limited to the fall, winter and spring quarters.

(4) As a general rule a student's eligibility for running start program enrollment terminates at the end of the student's twelfth grade regular academic year, notwithstanding the student's failure to have enrolled in a community college or technical college to the full extent permitted by subsections (1) and (2) of this section: *Provided*, That a student who has failed to meet high school graduation requirements as of the end of the student's twelfth grade regular academic year (September-June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2) of this section.

NEW SECTION

WAC 392-169-057 Enrollment—Extent and duration of combined high school and running start enrollment. Concurrent or combined regular high school program and running start program enrollment is governed as follows:

(1) An eligible student's concurrent enrollment in the regular high school program, and running start or college under this chapter, may exceed the equivalent of full-time enrollment: *Provided*, That a designated school district representative and a designated college representative may jointly limit a student's concurrent high school and college enrollment to not less than the equivalent of full-time enrollment for bona fide academic reasons based upon a joint evaluation of the student's capabilities and the total course work the student seeks to enroll in.

(2) For purposes of this section thirty hours per week shall constitute full-time high school or technical college enrollment, and fifteen quarter credit hours shall constitute full-time community college enrollment. Thus, for example, a student enrolled in the regular high school program for ten hours per week (one-third FTE) and in a community college for ten quarter credit hours (two-thirds FTE) is enrolled the equivalent of full-time.

NEW SECTION

WAC 392-169-060 Enrollment—Exception from tuition and fees. A running start student shall not be required by a community college or technical college to pay any tuition or other fee as a condition to the student's full participation in running start community college and technical college course work and related activities, or as a condition to the award of credit therefore: *Provided*, That requiring a running start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this subsection: *Provided further*, That this limitation on the assessment of tuition and fees does not apply to a student's college enrollment above and beyond running start program enrollment under this chapter (i.e., college enrollment in excess of one FTE and college summer quarter enrollment may be conditioned upon the payment of regular tuition and fees).

NEW SECTION

WAC 392-169-065 Enrollment—Continuing eligibility. Once an eligible student has been enrolled in a community college or technical college course or program, the student shall not be displaced by another student: *Provided*, That a student's continued enrollment in a course or program and enrollment in other courses or programs shall be subject to generally applicable enrollment requirements and limitations established by the community college or technical college: *Provided further*, That a technical college shall not deny continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

MISCELLANEOUS REQUIREMENTSNEW SECTION

WAC 392-169-070 Annual notice to students and parents. Each school district shall annually provide general information respecting the running start program to all tenth and eleventh grade students of the school district and their parents or guardians.

NEW SECTION

WAC 392-169-075 Academic standards and discipline—Jurisdiction of educational agencies. Each school district, community college district, and technical college district shall have and exercise exclusive jurisdiction over academic and discipline matters involving a student's enrollment and participation in courses of, and the receipt of services and benefits from, the school district, the community college district, or the technical college district.

NEW SECTION

WAC 392-169-080 Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements. As a general rule, a school district, a community college district, and a technical college district are independently responsible

for assuring compliance with federal and state requirements of law which are applicable to the provision of services and benefits by the school district, community college district, or technical college district under this chapter. If, however, the individualized education program of a student established under chapter 392-171 WAC provides for such enrollment in a community college or a technical college, the school district which established the individualized education program shall also be responsible for assuring compliance with chapter 392-171 WAC in connection with the student's enrollment in the community college or technical college. School districts, community college districts, and technical college districts shall enter into cooperative agreements as necessary to assure compliance with their respective duties under federal and state law, including agreements which substantiate a school district's claim to necessary federal and state special education funding.

NEW SECTION

WAC 392-169-085 High school credit—Award by school districts. Upon confirmation by a community college or technical college of a student's successful completion of running start program courses under this chapter, the school district shall record on the student's secondary school records and transcript the high school credit previously confirmed under WAC 392-169-050, together with a notation that the courses were taken at a community college or technical college.

FINANCIAL REPORTS, CLAIMS AND PAYMENTSNEW SECTION

WAC 392-169-090 Finance—Generation and apportionment of state basic education moneys. (1) Each running start student shall generate state running start basic education moneys based upon the student's enrollment under this chapter in community college or technical college courses or programs, or any combination thereof, in accordance with the definitions of FTE and AAFTE students set forth in WAC 392-169-025 and 392-169-030, the enrollment and enrollment count limitations set forth in WAC 392-169-055 and 392-169-115, rules of the superintendent of public instruction set forth in Title 392 WAC which supplement and do not conflict with this chapter, and the Biennial Operating Appropriations Act.

(2) The superintendent of public instruction shall apportion running start basic education moneys to school districts reporting running start enrollments based upon AAFTE nonvocational and vocational running start enrollments and uniform state-wide rates for nonvocational and vocational students as determined pursuant to WAC 392-169-095.

(3) School districts may retain and expend for running start program counseling or other school district purposes up to seven percent of the running start basic education moneys apportioned by the superintendent of public instruction.

(4) School districts shall apportion each community and technical college district's share of running start basic education moneys received under this chapter to each college district on at least a modified quarterly basis on or before

December 31, March 31, June 30, and August 31 each school year.

NEW SECTION

WAC 392-169-095 Determination of uniform state-wide rates for nonvocational and vocational students. Prior to September 1 of each school year, the superintendent of public instruction shall calculate estimated uniform state-wide rates for allocating state basic education moneys for nonvocational and vocational running start student enrollment in consultation with state board for community and technical college staff. Calculations shall be based on assumptions used in the state Operating Appropriations Act for the school year. Rates shall equal the estimated average basic education formula generated amount per nonvocational and vocational AAFTE ninth through twelfth grade student for the school year excluding enhancements provided for small schools.

NEW SECTION

WAC 392-169-100 Running start enrollment count dates. Enrollment count dates for the running start program shall be the first college day of each of the months of October through June.

NEW SECTION

WAC 392-169-105 Finance—Community college and technical college reporting requirements. Each community college and technical college that enrolls an eligible student under this chapter shall periodically report enrollment information as follows:

(1) Within ten calendar days of enrollment of the student, provide written notice to the student, and the school district through which the student seeks to obtain running start program high school credit of the courses and the credit hours or instructional/clock hours of enrollment.

(2) After each monthly count date the college shall report running start student enrollments by the eighth day of the month to the school district through which the student seeks to obtain the award of running start program high school credit as is necessary for the school district to claim state running start basic education program moneys under this chapter and chapter 392-121 WAC.

(3) The monthly report shall be prepared in accordance with instructions provided by the superintendent of public instruction, and shall include, but not necessarily be limited to, the following:

(a) The total number of enrolled running start students on the count date (see the definition of a "running start student" in WAC 392-169-023);

(b) Total nonvocational running start FTE enrollment;

(c) Total vocational running start FTE enrollment; and

(d) The name of each running start student and the nonvocational and vocational running start FTE reported for the student.

NEW SECTION

WAC 392-169-110 Finance—School district reporting requirements. Each student district through which a running start student seeks to obtain running start program high school credit shall make all reports to the superintendent of public instruction in accordance with this chapter and chapter 392-121 WAC as are necessary to substantiate the district's entitlement to the receipt of moneys based upon the student's community college and technical college enrollment under this chapter. Running start students shall be so reported as full-time equivalent vocational and nonvocational students, or fractions thereof, in accordance with the definition of full-time equivalent students set forth in WAC 392-169-025.

NEW SECTION

WAC 392-169-115 Finance—Limitations on enrollment counts. No running start student enrolled in a community college or technical college, or any combination thereof, reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time equivalent running start student on any enrollment count date or more than one annual average full-time equivalent student in any school year.

NEW SECTION

WAC 392-169-120 Finance—Documentation requirements. School districts and colleges shall maintain documentation supporting running start student enrollment and state funding claims, including the following:

(1) Colleges documentation shall show each student's college enrollment status on each enrollment count date and evidence of the student's participation in college instructional activities conducted by college staff on at least one college day since the last enrollment count date. See WAC 392-169-022(3) for a description of required "instructional activities."

(2) School district documentation shall show each student's school district enrollment status on each enrollment count date and evidence that the student is earning high school graduation credit for running start enrollment reported for state funding.

ALTERNATIVE CONTRACTUAL ARRANGEMENTS

NEW SECTION

WAC 392-169-125 Current and future community college and technical college enrollment alternatives not affected. This chapter shall not affect the alternative enrollment, and arrangements, therefor, of a secondary student in a community college or technical college pursuant to a contractual agreement entered into pursuant to RCW 28B.50.530 (interschool district/college district cooperative programs) and chapter 39.34 RCW (the Interlocal Cooperation Act). See WAC 392-121-183 (Contracting with an educational institution other than a school district).

**WSR 94-04-096
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 94-01—Filed February 1, 1994, 10:45 a.m.]

Date of Adoption: January 27, 1994.

Purpose: Repeal WAC 392-127-700 through 392-127-830. New substitute rules WAC 392-169-005 through 392-169-125 have been simultaneously adopted.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-127-700 through 392-127-830.

Statutory Authority for Adoption: RCW 28A.600.390, 28A.150.260, and [28A.150.]290.

Pursuant to notice filed as WSR 94-01-136 on December 20, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 27, 1994
Judith A. Billings
Superintendent of
Public Instruction

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-127-700 Authority.
- WAC 392-127-703 Purpose.
- WAC 392-127-705 Running start program—Definition.
- WAC 392-127-710 Eligible student—Definition.
- WAC 392-127-715 Full-time equivalent high school and vocation-technical institute students—Definition.
- WAC 392-127-720 Full-time equivalent community college student—Definition.
- WAC 392-127-725 Annual average full-time equivalent student—Definition.
- WAC 392-127-730 Community college district—Definition.
- WAC 392-127-735 Community college—Definition.
- WAC 392-127-740 School district—Definition.
- WAC 392-127-745 Vocational-technical institute—Definition.
- WAC 392-127-750 Annual notice to students and parents.
- WAC 392-127-755 Enrollment—General requirements and conditions.
- WAC 392-127-760 Enrollment—1990-91 and 1991-92 school years—Limitations on community college and student participation.
- WAC 392-127-765 Enrollment—1990-91 school year—Limitation on vocational-technical institute participation.
- WAC 392-127-770 Enrollment—High school credit—Prior confirmation.
- WAC 392-127-775 Enrollment—Extent and duration.

- WAC 392-127-780 Academic standards and discipline—Jurisdiction of educational agencies.
- WAC 392-127-785 Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements.
- WAC 392-127-790 High school credit—Award by school districts.
- WAC 392-127-795 Finance—Generation of state and federal moneys.
- WAC 392-127-800 Finance—Community college and vocational-technical institute reporting requirements.
- WAC 392-127-805 Finance—School district reporting requirements.
- WAC 392-127-815 Finance—Apportionment and payment of basic education allocation moneys to community college districts and other school districts.
- WAC 392-127-820 Finance—Prior legislative approval of finance rules required.
- WAC 392-127-825 Current and future community college enrollment alternatives not affected.
- WAC 392-127-830 Current and future vocational-technical institute enrollment alternatives not affected.

**WSR 94-04-097
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 94-02—Filed February 1, 1994, 10:48 a.m.]

Date of Adoption: January 27, 1994.

Purpose: To provide policies and procedures for the administration of state appropriated grants to school districts to start up and/or expand or improve the quality of school breakfast and/or lunch programs or to districts and other eligible organizations to start up or expand the Summer Food Service Program. To familiarize current procedures for the apportionment of state match money for the National School Lunch Program (NSLP) and the state reimbursement for free and reduced price breakfasts.

Statutory Authority for Adoption: RCW 28A.235.100. Pursuant to notice filed as WSR 94-01-137 on December 20, 1993.

Effective Date of Rule: Thirty-one days after filing.
January 27, 1994
Judith A. Billings
Superintendent of
Public Instruction

PERMANENT

**Chapter 392-157 WAC
CHILD NUTRITION—PRACTICES
AND PROCEDURES**

NEW SECTION

WAC 392-157-005 Authority. The authority for this chapter is RCW 28A.235.100.

NEW SECTION

WAC 392-157-010 Purposes. The purposes of this chapter are to:

- (1) Encourage school districts to participate in the National School Lunch and School Breakfast Programs.
- (2) Provide policies and procedures for the budgeting and accounting for state appropriations for school breakfast and lunch programs in school districts.
- (3) Provide policies and procedures regarding the administration of state appropriated grants to school districts to increase participation in school breakfast and lunch programs, to improve program quality, and to improve the equipment and facilities used in the programs.
- (4) Provide policies and procedures regarding the administration of state appropriated grants to school districts and other eligible organizations to start summer food service programs and to help expand summer food services for children.
- (5) Formalize procedures currently in place for the apportionment of state match money for the National School Lunch Program and the state reimbursement for free and reduced price breakfasts.

NEW SECTION

WAC 392-157-015 Definition—Child nutrition program. As used in this chapter, the term "child nutrition program" means activities designed to provide nutritious meals and nutrition education to children.

NEW SECTION

WAC 392-157-020 Definition—National School Lunch Program. As used in this chapter, the term "National School Lunch Program" has the meaning defined in Title 7 of the Code of Federal Regulations (7 CFR) Part 210.2.

NEW SECTION

WAC 392-157-025 Definition—School Breakfast Program. As used in this chapter, the term "School Breakfast Program" has the meaning defined in 7 CFR Part 220.2.

NEW SECTION

WAC 392-157-030 Definition—Summer Food Service Program. As used in this chapter, the term "Summer Food Service Program" means a program meeting the federal requirements defined in 7 CFR Part 225.

NEW SECTION

WAC 392-157-035 Definition—School food authority. As used in this chapter, the term "school food authority" has the meaning defined in 7 CFR Part 210.2 for the National School Lunch Program, 7 CFR Part 220.2 for the School Breakfast Program and 7 CFR Part 225.2 for the Summer Food Service Program.

NEW SECTION

WAC 392-157-040 Definition—Summer Food Service Program sponsor. As used in this chapter, the term "Summer Food Service Program sponsor" has the meaning defined in 7 CFR Part 225.2.

NEW SECTION

WAC 392-157-045 Definition—Lunch. As used in this chapter, the term "lunch" has the meaning defined in 7 CFR Part 210.2.

NEW SECTION

WAC 392-157-050 Definition—Free lunch. As used in this chapter, the term "free lunch" has the meaning defined in 7 CFR Part 210.2.

NEW SECTION

WAC 392-157-055 Definition—Reduced price lunch. As used in this chapter, the term "reduced price lunch" has the meaning defined in 7 CFR Part 210.2.

NEW SECTION

WAC 392-157-060 Definition—Breakfast. As used in this chapter, the term "breakfast" has the meaning defined in 7 CFR Part 220.2.

NEW SECTION

WAC 392-157-065 Definition—Free breakfast. As used in this chapter, the term "free breakfast" has the meaning defined in 7 CFR Part 220.2.

NEW SECTION

WAC 392-157-070 Definition—Reduced price breakfast. As used in this chapter, the term "reduced price breakfast" has the meaning defined in 7 CFR Part 220.2.

NEW SECTION

WAC 392-157-075 Definition—Severe need school. As used in this chapter, the term "severe need school" has the meaning defined in 7 CFR Part 220.2 and 7 CFR Part 220.9(e).

NEW SECTION

WAC 392-157-080 Definition—Severe need breakfast reimbursement. As used in the chapter, the term "severe need breakfast reimbursement" means an additional amount paid by the USDA for each breakfast served in qualifying school buildings identified as "severe need

PERMANENT

schools" in school districts, private schools and residential child care institutions participating in the school breakfast program.

NEW SECTION

WAC 392-157-085 Definition—Accounting manual.

As used in this chapter, the term "accounting manual" means the most recently published accounting manual for public school districts in the state of Washington issued by the superintendent of public instruction and the state auditor.

NEW SECTION

WAC 392-157-090 Definition—Object of expenditure. As used in this chapter, the term "object of expenditure" shall be as defined in the accounting manual glossary of terms (i.e., "the article purchased or the services obtained").

NEW SECTION

WAC 392-157-095 Definition—Activity. As used in this chapter, the term "activity" shall be as defined in the accounting manual glossary of terms (i.e., "a specific and distinguishable service performed by a school district in order to accomplish a function for which the school district is responsible").

NEW SECTION

WAC 392-157-100 Definition—Operating expenditure. As used in this chapter, the term "operating expenditure" means the school district general fund direct expenditures and indirect expenditures allocated to Program 98 - Food Services as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

NEW SECTION

WAC 392-157-105 Meal requirements. The following procedures shall be used by the superintendent of public instruction to apportion moneys appropriated by the legislature for school district meal reimbursements:

(1) National School Lunch Program state match reimbursements and adjustments to these reimbursements shall be apportioned by the superintendent of public instruction (SPI) in the same manner as provided in WAC 392-121-400.

(2) All other meal reimbursements shall be apportioned as follows:

(a) Allocations for each school year shall be based on a uniform state-wide rate per meal.

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

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

(4) During the month of January following the end of the school year, the reimbursements made to each school district during the preceding school year will be adjusted to the actual number of meals reported to the SPI child nutrition section during the preceding school year on Form F-398.

NEW SECTION

WAC 392-157-110 Timely reporting. Reimbursement claims for meals must be submitted in a timely manner in accordance with chapter 392-117 WAC and 7 CFR Parts 210.8 and 220.11.

NEW SECTION

WAC 392-157-115 Use of meal reimbursements. Appropriations by the state legislature for school district meal reimbursements required as a state match in 7 CFR Part 210.17 shall be used for any nonprofit school food service program purpose. Appropriations made under chapter 28A.235 RCW shall be used by school districts to support the operating expenditures of school lunch and school breakfast programs, including food, labor, supplies, and capital expenditures unless specific appropriations for nonoperating expenditures are provided.

NEW SECTION

WAC 392-157-120 Program operation. All school districts that do not offer a school lunch program are encouraged to implement such a program. All school districts are encouraged to provide a breakfast program in all severe need schools as they become eligible.

NEW SECTION

WAC 392-157-125 Time for meals. The school breakfast and school lunch periods shall allow a reasonable amount of time for each child to take care of personal hygiene and enjoy a complete meal.

STATE GRANTS FOR SCHOOL LUNCH AND BREAKFAST PROGRAMS

NEW SECTION

WAC 392-157-130 General description. Amounts appropriated by the state legislature for school districts to start-up, improve and expand breakfast and lunch programs shall be awarded on a competitive basis. School districts, if eligible, shall first apply for any available USDA grants to start-up, improve and expand breakfast and lunch programs prior to making application for state grants for these purposes. School districts, if eligible, shall also apply for the USDA severe need breakfast reimbursement prior to making applications for state grants to start-up, improve, and expand breakfast and lunch programs. A state grant to start-up, improve, and expand a school district breakfast or lunch program may be used for the following purposes which are listed in order of importance:

- (1) Purchase food service equipment.
- (2) Provide staff training.
- (3) Disseminate program information to students, families and school staff to encourage program participation.
- (4) Improve efficiency in the food service area.
- (5) Improve sanitation in the food service area.
- (6) Improve safety in the food service area.

State start-up, improvement, and expansion grants shall not be used for the acquisition of land or existing buildings, improvement of grounds, construction of buildings, additions

to buildings, or the remodeling of buildings to be consistent with 7 CFR Part 210.14(a).

NEW SECTION

WAC 392-157-135 Application procedure. In order to apply for a state grant, a school food authority must submit a written description of its proposed purchase or project. The description must include:

- (1) Proposed purchase(s) or a description of the project.
- (2) The cost of each item or each part of the project.
- (3) How the item(s) purchased or how the results of the project will benefit the program.
- (4) How the purchase(s) or the project will affect the breakfast and lunch programs, for example, increased participation, improved menus, and/or expenditure reductions.
- (5) The number of students eligible for free or reduced price meals that would be affected.
- (6) A timetable for the purchase and installation of equipment or a timetable for the project.
- (7) An assurance that a USDA grant is not available or application has been made for a USDA grant for the proposed purchase(s) or project.
- (8) An assurance that, if eligible, an application has been made for the severe need breakfast reimbursement from the USDA.
- (9) An assurance that the program will be continued for at least three years after the grant is received.

NEW SECTION

WAC 392-157-140 Evaluation of grant proposals. A committee shall be established to apply the criteria for the evaluation of state grant proposals to start-up, improve, and expand breakfast and lunch programs. A separate committee shall be established to apply the criteria for the evaluation of state grant proposals to improve and expand summer food service programs. Each committee's evaluations shall be forwarded to the superintendent of public instruction who will use the evaluations as grant award recommendations. Each committee shall consist of three or more representatives from selected organizations concerned with child nutrition such as the Washington School Food Service Association, the Washington School Directors' Association, the Washington Association of School Administrators, the Washington Association of School Principals, the Washington Association of School Business Officials and School Nurses of Washington. In addition, each committee shall include a representative from one or more child nutrition advocacy organizations, a representative from the office of the governor, and any other organization as the office of the superintendent of public instruction deems necessary. Members of the committee shall be selected by the superintendent of public instruction.

NEW SECTION

WAC 392-157-145 Grant proposal evaluation criteria. Proposals from all school districts will be evaluated and ranked by a committee established pursuant to WAC 392-157-140 based on the following criteria which are listed in descending order of importance:

(1) A program will be made available where there was no program before.

(2) The projected total number of students that will be affected by the purchase or project while allocating the funds to the greatest number of districts practical.

(3) The effect of the purchase or the project on the participation of students eligible for free and reduced price meals.

(4) Time frame in which a new program will be started and/or how quickly the improvements can be made as the result of the purchase or project.

(5) The availability of other sources of money for the proposed purchases or project.

(6) Necessary assurances provided by the school district for the continuation of the program after the purchases are made or the project is completed.

(7) The projected effect of the purchase or project on program quality.

(8) The amount of grant money available.

(9) The geographic dispersion of the grantees.

NEW SECTION

WAC 392-157-150 Grant budgets. School districts as part of the grant application process shall budget expenditures by object of expenditure and activity as described in the accounting manual for public schools in the state of Washington on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-157-155 Budget adjustments. Budgeted expenditure adjustments may be made by increasing an approved activity-object expenditure amount by up to ten percent and decreasing others without filing a request for a budget revision with the superintendent of public instruction. These adjustments may be made only once for each grant and only if the increases, in total do not exceed ten percent of the total budgeted expenditures and do not increase total budgeted expenditures.

STATE GRANTS FOR SUMMER FOOD SERVICE PROGRAMS

NEW SECTION

WAC 392-157-160 General description. Amounts appropriated by the state legislature for summer food service programs shall be awarded on a competitive basis. Summer food service program sponsors shall apply for any federal grants to start-up and expand summer food service programs prior to making application for state grants for these purposes. A state start-up and expansion grant may be used to:

(1) Provide staff time for summer food service program development including the planning, designing and implementation of a new program or the expansion of an existing program.

(2) Purchase food service equipment.

(3) Provide staff training.

(4) Disseminate program information to students, families, school staff, and the community to encourage program participation.

State start-up and expansion grants shall not be used for the acquisition of land or existing buildings, improvement of grounds, construction of buildings, additions to buildings, or the remodeling of buildings to be consistent with 7 CFR Part 210.14(a).

NEW SECTION

WAC 392-157-165 Application procedure. In order to apply for a state grant, a summer food service sponsor must submit a written description of its proposed purchase or project. The description must include:

- (1) Proposed purchase(s) or a description of the project.
- (2) The cost of each item or each part of the project.
- (3) How the item(s) purchased or how the results of the project will benefit the program.
- (4) If appropriate, a description of how staff will be used to develop the program.
- (5) Impact the sponsor expects the purchase(s) or project to have on the number of children participating in the summer food service program.
- (6) A timetable for the purchase and installation of equipment or a timetable for the project.
- (7) An assurance that a USDA grant is not available or application has been made for a USDA grant for the proposed purchases or project.
- (8) An assurance that the program will be continued for at least three years after the grant is received.

NEW SECTION

WAC 392-157-170 Proposal evaluation criteria. The proposals from all sponsors and potential sponsors will be evaluated by a committee established pursuant to WAC 392-157-140 and ranked based on the following criteria which are listed in descending order of importance:

- (1) A program will be made available where there was no program before.
- (2) The increased participation that is projected because of the proposed purchase or project.
- (3) Time frame in which a program will be started or expanded and/or how quickly the improvements can be made as the result of the purchase or project.
- (4) The availability of other sources of money for the proposed purchase or project.
- (5) Necessary assurances provided by the sponsor for the continuation of the program after the purchases are made or the project is completed.
- (6) The amount of grant money available.
- (7) The geographic dispersion of the grantees.

NEW SECTION

WAC 392-157-175 Grant budgets. School districts as part of the grant application process shall budget expenditures by object of expenditure and activity as described in the *Accounting Manual for Public Schools in the State of Washington*. All summer food service program sponsors shall submit a budget on forms provided by the superintendent of public instruction.

NEW SECTION

WAC 392-157-180 Budget adjustments. Budgeted expenditure adjustments may be made by increasing an approved activity-object expenditure amount for school districts and a budgeted line item for all other summer food service program sponsors by up to ten percent and decreasing others without filing a request for a budget revision with the superintendent of public instruction. These adjustments may be made only once for each grant and only if the increases, in total do not exceed ten percent of the total budgeted expenditures and do not increase total budgeted expenditures.

WSR 94-04-098

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed February 1, 1994, 10:51 a.m.]

Date of Adoption: January 27, 1994.

Purpose: To remove outdated rules pertaining to admissions, residency classification, residency classification and registration regulations which are no longer valid.

Citation of Existing Rules Affected by this Order: Repealing a portion of chapter 132H-160 WAC.

Pursuant to notice filed as WSR 94-01-091 on December 13 [14], 1993.

Effective Date of Rule: Thirty-one days after filing.
January 31, 1994
Elise J. Erickson
Executive Assistant
Secretary Board Trustees

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|--|
| WAC 132H-160-040 | Quarterly registration fees - Resident students |
| WAC 132H-160-050 | Quarterly registration fees - Nonresident students |
| WAC 132H-160-056 | Procedure for determining amount of tuition and fee waivers |
| WAC 132H-160-059 | Combination of tuition and fee waivers with other forms of student financial aid |
| WAC 132H-160-070 | Noncredit (enrollment) |
| WAC 132H-160-080 | Continuing education |
| WAC 132H-160-120 | Credit examination |
| WAC 132H-160-140 | General education development test |
| WAC 132H-160-150 | Parking permit |
| WAC 132H-160-260 | Admission of foreign students |
| WAC 132H-160-320 | Continuing education policy |
| WAC 132H-160-330 | Definition of continuing education |
| WAC 132H-160-350 | Residency classification procedures - Statement of purpose |
| WAC 132H-160-390 | Southeast asian veterans |

- WAC 132H-160-400 Appeal of determination of residency decision
- WAC 132H-160-430 Advanced registration fee requirement for fall, winter, and spring quarters
- WAC 132H-160-440 Refund of advanced registration fee
- WAC 132H-160-492 Withdrawal from a course (policy and procedures)
- WAC 132H-160-520 Auditing a course
- WAC 132H-160-600 Request for financial aid information
- WAC 132H-160-610 Priority for financial aid
- WAC 132H-160-620 Credit requirement for financial aid recipient
- WAC 132H-160-630 Adjustment of aid package
- WAC 132H-160-640 Limitation on hours employed
- WAC 132H-160-650 Cancellation of grant aid
- WAC 132H-160-660 Work study job termination
- WAC 132H-160-670 Limited aid funds - Priorities
- WAC 132H-160-680 Academic status of financial aid recipients
- WAC 132H-160-690 Student emergency loan requirements

with chapter 40.14 RCW. Nothing in this chapter can be construed to limit the admissibility as evidence of any public record. The purpose of this regulation is the preservation of information, and the facilitation of the migration of archival, permanent, and long-term records.

DEFINITIONS

NEW SECTION

WAC 434-663-200 Electronic document imaging system. An electronic document imaging system is a computer-based configuration of equipment and software that stores machine-readable document images and their associated character-coded index data for on-demand retrieval. Electronic images can be computer generated, or created through document scanning.

NEW SECTION

WAC 434-663-210 Document scanning. A specially designed input workstation is required to convert documents or images to machine-readable form for computer processing and storage. At a minimum, the input workstation includes a document scanner, an image processor unit, a video display unit, keyboard, and access to storage. Using a solid-state array or other photo-sensitive components, the document scanner measures the amount of light associated with successively encountered PELs (Picture Element) and transmits a corresponding electrical signal that is converted to computer compatible digital codes.

NEW SECTION

WAC 434-663-220 Image. An image can be a document, picture, or graphic. An image can be produced by scanning paper or film documents, producing images through a computer program, receiving an image by means of a fax, or by other means.

NEW SECTION

WAC 434-663-230 Enhancement. Any method including adjusting brightness and contrast, or algorithm employed with the objective of producing an accurate and legible copy.

NEW SECTION

WAC 434-663-240 Archival records. Archival records are records that have permanent and/or historical value and are scheduled as archival. Long-term records are records having a retention period in excess of ten years. Permanent records are those records that are required by specific statute to be retained permanently.

NEW SECTION

WAC 434-663-250 Open system. Open system is defined to be a system that implements sufficient public specifications for interfaces, services and supporting formats to enable applications software to be ported across a wide range of systems, to interoperate or interchange with other applications on local and remote systems, and to interact

**WSR 94-04-102
PERMANENT RULES
OFFICE OF**

SECRETARY OF STATE

(Division of Archives and Records Management)
[Filed February 1, 1994, 3:24 p.m., effective March 7, 1994]

Date of Adoption: February 15, 1994.

Purpose: Prescribes standards for the creation, maintenance, accuracy, durability, and permanence of electronic imaging systems used for public records by state and local government.

Statutory Authority for Adoption: Chapter 40.14 RCW. Pursuant to notice filed as WSR 94-01-161 on December 21, 1993.

Effective Date of Rule: March 7, 1994.

February 1, 1994

Michael Betz

State Senior Archivist/Conservator

**Chapter 434-663 WAC
IMAGING SYSTEMS, STANDARDS FOR
ACCURACY AND DURABILITY**

**LEGALITY OF ELECTRONIC IMAGING SYSTEMS
USED FOR MANAGING AND STORING PUBLIC
RECORDS**

NEW SECTION

WAC 434-663-100 Legality. Electronic imaging systems may be legally used for recording, producing, reproducing, maintaining, and storing public records provided that they materially meet the standards set forth in this regulation; and the retention and disposition of the original and copies regardless of media are scheduled in accordance

PERMANENT

with users in a style that facilitates portability. Public specifications are maintained by open, public consensus process to accommodate new technology over time, and which are consistent with international standards.

NEW SECTION

WAC 434-663-260 De facto standard. A de facto standard is a widely accepted industry standard without official recognition by a standards group.

QUALITY OF DIGITAL IMAGES

NEW SECTION

WAC 434-663-300 Quality of digital images. Ensuring the quality of digital images requires exercising control over six processes: Conversion of the original image to digital data, enhancement of the digital image if necessary, compression of the digital data for storage, decompression of digital data for retrieval, displaying the image, and printing.

NEW SECTION

WAC 434-663-310 Enhancement of original image. Enhancement can be used to ensure readability of the documents and to improve the accuracy of the copy by scanning these documents using varying enhancement algorithm settings. Use the best scanned images as the operational criteria for acceptable image quality.

NEW SECTION

WAC 434-663-320 Compressing image data for storage. Imaging systems containing archival, permanent, or long-term information must use a compression technique that meets either a published or de facto standard. If such a technique cannot be used, the software vendor must provide a bridge to a standard.

USABILITY OF IMAGE AND INDEX DATA OVER TIME

NEW SECTION

WAC 434-663-400 Usability of image and index data over time. Maintaining access to and usability of electronic records requires ensuring continuous readability and intelligibility. Readability means the ability to process images both on the computer system on which they were created and on different computer systems without loss of information. Intelligibility means that humans can comprehend the information the computer reads. Ensuring readability and intelligibility of electronic records over time entails maintenance of environmental conditions, periodic recopying, and strategies to preserve data by migration from one generation of technology to another through a commitment to open architecture.

NEW SECTION

WAC 434-663-410 Defining indexing requirements. The selection of indexing parameters is based on an analysis of retrieval requirements associated with a particular application, and must insure rapid and accurate retrieval of information. For systems containing archival, permanent, or long-term records, index design must take into account the retrieval requirements of both current and future users of the records, including government agency personnel as well as researchers and the general public.

NEW SECTION

WAC 434-663-420 Preservation strategy. A preservation strategy must be developed and implemented for each image system containing long-term, permanent, or archival information. Four preservation strategy options are acceptable:

- (1) Retain the original paper documents; or
- (2) Microfilm the original documents; or
- (3) Recopy optical media when necessary to insure the integrity of the information, and recopy magnetic media every ten years; or
- (4) Print images on microfilm.

NEW SECTION

WAC 434-663-430 Header on image files. A de facto or industry standard header label on image files or a gateway to a nonproprietary header label shall be used for imaging systems that contain long-term, permanent, or archival information. This will allow access to the information by dissimilar systems now and in the future.

NEW SECTION

WAC 434-663-440 Backup for recovery. In order to facilitate a recovery of lost information and the restoration of system operations in the event of a malfunction or other disaster, properly implemented backup procedures must be in place. Backup security copies of document images and indexes through either simultaneous recording or periodic batch mode backup.

NEW SECTION

WAC 434-663-450 Ensuring usability. At a minimum, the system must include an electronic error checking utility that will check the integrity of the data when written to the media.

NEW SECTION

WAC 434-663-460 Stability of media. Records and their indexes having a permanent or archival retention or a retention of over ten years require long-term stability of the media used. Three interrelated issues impact long-term stability:

- (1) Media selection, including storage and recording technology;
- (2) Quality of data stored;
- (3) Media protection.

NEW SECTION

WAC 434-663-470 Storage media. Write-once-read-many (WORM) media should be used for records having a permanent or archival retention or a retention of over ten years. If WORM technology is not practical for an application, and rewritable media is used, ensure that read/write privileges are carefully controlled and that an audit trail of rewrites is maintained.

NEW SECTION

WAC 434-663-480 Optical media durability. Durability for optical media is defined as post-write shelf life. For records having a permanent or archival retention or a retention of over ten years, use media with a minimum twenty-year post-write life. Vendors must document that aging tests have been conducted.

NEW SECTION

WAC 434-663-490 Archival, permanent, and long-term off-line storage environment. Media should be stored in a dust-free area with a stable temperature between sixty and seventy degrees Fahrenheit with a fluctuation of plus or minus two degrees, and relative humidity between twenty and forty-five percent with a fluctuation of plus or minus five percent. Media should be stored in a suitable container to protect against particulate and fingerprints. Optical disks and magnetic tapes should be stored vertically. The reliability of the data should be tested every ten years. Magnetic tape should be precision rewound every five years and before each use. Every ten years, data stored on magnetic tape shall be transferred to pretested fresh stock.

FUNCTIONALITY OF SYSTEM COMPONENTSNEW SECTION

WAC 434-663-500 Open systems architecture. Ensuring the usability of digital images to serve the functions for which they were designed involves long-term commitment to an open systems architecture and an approach to component upgrading, data transfer, and migration path that guarantees the portability of current data to be used with future technologies.

NEW SECTION

WAC 434-663-510 Backward compatibility. System upgrades or new systems acquired after the effective date of this regulation containing archival, long-term, or permanent records must provide backward compatibility to any existing systems containing the same records series, or be able to provide for the conversion of existing stored data to the new system.

NEW SECTION

WAC 434-663-520 Availability of index data base for off-line media. The index data must be available for media containing archival permanent or long-term documents.

NEW SECTION

WAC 434-663-530 Technical documentation. Technical documentation on system components, application software and operating systems is essential, and shall be maintained to facilitate long-term access to archival, permanent, and long-term records.

RETENTION AND DISPOSITION OF RECORDSNEW SECTION

WAC 434-663-600 Retention and disposition of public records. Conversion to an imaging system does not automatically authorize the destruction of the original records. Destruction of, or changes to the retention of any public records due to conversion to or the use of a new media requires legal approval of the state or local records committee of the state of Washington through the retention and disposition scheduling process in accordance with chapter 40.14 RCW and chapter 434-635 WAC.

NEW SECTION

WAC 434-663-610 Records retention scheduling for records on imaging system. The retention scheduling of information to be placed on an imaging system must be done prior to the creation or copying of the records, and may require a cost benefit analysis. Decisions about the retention value of information stored on an imaging system are related to the value of the original information included in the system.

NEW SECTION

WAC 434-663-620 Security copies. Records with permanent legal value, stored on electronic media should have a security backup copy on another type of media. If this is impractical, the user must obtain permission to retain electronic copies as the sole media from the state records committee or the local records committee on a case-by-case basis as part of the records scheduling process. Such permission will be granted if there are strong backup systems in place, and systems and procedures in place for periodic recopying.

NEW SECTION

WAC 434-663-630 Agency acquisition—Department of information services approval. State agencies intending to utilize an imaging system for the storage or conversion of public records must include such plans in their biennial information technology plan submitted to the department of information services and comply with other requirements of DIS as may apply.

WSR 94-04-120
PERMANENT RULES
STATE BOARD FOR COMMUNITY
AND TECHNICAL COLLEGES

[Filed February 2, 1994, 10:18 a.m.]

Date of Adoption: January 27, 1994.

Purpose: Establishes policies and procedures governing the running start program whereby high school students attend community college and earn both high school and college credit.

Citation of Existing Rules Affected by this Order: Amending WSR 93-01-014, filed December 4, 1992, effective January 4, 1993.

Statutory Authority for Adoption: RCW 28A.600.390, 28A.150.260, and [28A.150].290.

Pursuant to notice filed as WSR 94-01-113 on December 17, 1993.

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

February 2, 1994
 Claire C. Krueger
 Executive Assistant
 Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-010 Authority. The authority for this chapter is RCW 28A.600.390, which authorizes the superintendent of public instruction, the state board for community and technical colleges, and the higher education coordinating board to jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, and 28A.150.260 and 28A.150.290 which authorize the superintendent of public instruction to adopt rules governing basic education allocation moneys. The rules set forth in this chapter have been jointly developed and agreed upon by the three agencies, and adopted and codified in separate chapters of the Washington Administrative Code by each of the three agencies. The rules may be modified only by agreement of all three agencies.

DEFINITIONS OF TERMS

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-020 Running start program—Definition. As used in this chapter, the terms "running start" and "running start program" mean ~~((s)) the ((enrollment of an eligible student under this chapter simultaneously in school district and community college or technical college courses, or both, or solely in community college or technical college courses, or both,))~~ part-time to full-time equivalent enrollment of an eligible eleventh and twelfth grade high school student in a community college or technical college for the purpose of earning at least high school credit to be awarded by a school district, and such additional college level academic and college level vocational credit as may be awarded by ((a)) the community college or technical college.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-025 Eligible student—Definition. As used in this chapter, the term "eligible student" means any person, including a person who is otherwise attending a private school or receiving home-based instruction, who meets each of the following conditions:

(1) The person is under the age of twenty-one years of age ~~((at the beginning))~~ as of September 1 of the school year ~~((September 1 through August 31))~~.

(2) The person is eligible by reason of his or her residence ~~((or admission under the))~~ or other criterion established by law to enroll in the school district through which the person seeks to obtain the award of running start program high school credit. See ~~((;))~~ RCW 28A.175.090 ("at risk" students), RCW 28A.225.160 (residents of a school district), RCW 28A.225.170 (residents of the United States and Indian reservations), RCW 28A.225.210 (residents of "nonhigh" school districts), and RCW 28A.225.220 ("choice" students). Note: A running start student who changes his or her school district of residence, following enrollment in running start, solely for the purpose of attending college under this chapter shall be deemed to have retained his or her residence in the school district of initial running start enrollment for high school graduation, funding and other purposes under this chapter.

(3) The person is eligible under the grade placement policies of the school district through which the person seeks to obtain running start program high school credit to be in the eleventh or the twelfth grade.

~~((The person has not as of the beginning of the school year received a high school diploma or its equivalent, excluding a general education development certificate.~~

~~((5))~~ The person has not as of the beginning of the school year earned the credits required for the award of a high school diploma by the school district through which the person seeks to obtain the award of running start program high school credit.

(5) The person has not as of the beginning of the school year received a high school diploma or its equivalent. Note: A general education development certificate is not considered to be the equivalent of a high school diploma for purposes of this subsection.

(6) The person's running start program enrollment to date is below the applicable eleventh or twelfth grade running start enrollment limitation established under WAC 392-169-055.

NEW SECTION

WAC 131-46-027 Running start student—Definition. For the purposes of this chapter and chapter 392-121 WAC. The term "running start student" means an eligible student:

(1) Who is enrolled in the running start program in accordance with chapter;

(2) Whose enrollment has not been suspended or terminated by withdrawal, transfer, suspension or expulsion; and

(3) Who has participated in one or more instructional activities conducted by college staff (e.g., classroom or laboratory instruction, course work testing, post enrollment/registration academic counseling, and similar other instructional activities) on at least one college day during the current college quarter since the last enrollment count date.

NEW SECTION

WAC 131-46-029 College day—Definition. For the purposes of this chapter, the term "college day" means a day on which running start students are afforded the opportunity to be engaged in instructional activity which is planned and conducted by or under the supervision of college instructional staff, and on which day all or any portion of the enrolled running start students actually participate in such instructional activity.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-030 Full-time equivalent (~~high school student~~) (FTE) running start enrollment—Definition. ~~((The definition of a "full-time equivalent high school student" for purposes of the generation of basic education allocation moneys and enrollment limitations under this chapter means and includes, each eligible student enrolled in a school district high school program as of the fourth school day of the school year (September 1 through August 31) and/or as of the first school day of eight subsequent months, for not less than twenty five hours each week, or five hours (three hundred minutes) each scheduled school day.))~~ For the purposes of this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to the limitations of WAC 392-169-022, 392-169-055 and 392-169-115 as follows:

(1) For college courses denominated in college quarter credits, the quotient of an eligible student's quarter credits of running start enrollment divided by fifteen up to a maximum of 1.00 FTE.

(2) For college courses not denominated in college quarter credits, the quotient of an eligible student's average hours of running start enrollment per week divided by twenty-five up to a maximum of 1.00 FTE. Hours of enrollment shall be determined pursuant to WAC 392-121-106 through 392-121-183.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-035 Annual average full-time equivalent (~~community college and technical college student~~) (AAFTE) running start enrollment—Definition. ~~((The definition of a "full-time equivalent community college student" and "full-time equivalent technical college student" for purposes of the generation of basic education allocation moneys and enrollment limitations under this chapter means and includes each eligible student enrolled in a community college or a technical college as of the fourth college day of the school year (September 1 through August 31) and/or as of the first college day of eight subsequent months, for not less than fifteen quarter credit hours.))~~ For purposes of this chapter and chapter 392-121 WAC, "annual average full-time equivalent (AAFTE) running start enrollment" means the sum of the AAFTE of all running start students for a school year when each running start student's AAFTE equals the sum of the student's running start FTE enrollment on the nine running start count dates divided by nine.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-040 (~~Annual average full-time equivalent student~~) Community and technical colleges—Definition. ~~((The definition of "annual average full-time equivalent student" for purposes of the generation of basic education allocation moneys and enrollment limitations under this chapter, means and includes the quotient obtained by dividing the annual total of an eligible student's full-time running start program enrollment counts reported under WAC 392-169-100 by nine.))~~ As used in this chapter, the terms "community college" and "technical college" means a Washington public two-year institution of higher education established under chapter 28B.50 RCW.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-045 (~~Community college and technical college~~) School district(s)—Definition. ~~((As used in this chapter, the terms "community college district" and "technical college district" mean the appointed board of trustees of a Washington public community college district or technical college districts and the territory, facilities, and educational programs under the jurisdiction of the board of trustees.))~~ As used in this chapter, the term "school district" means a Washington public school district established under Title 28A RCW.

ENROLLMENT RIGHTS, REQUIREMENTS AND LIMITATIONS

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-050 (~~Community and technical colleges—Definition~~) Enrollment—General requirements and conditions. ~~((As used in this chapter, the terms "community college" and "technical college" mean a Washington public two-year institution of higher education under the jurisdiction of a community college district or technical college district.))~~ The enrollment of an eligible student in the running start program shall be governed as follows:

(1) An eligible student is responsible for applying for and pursuing admission to a community college or technical college on or before the deadline for enrollment established by the college.

(2) It shall not be necessary for an eligible student to obtain a release of attendance from his or her resident school district in order for the student to enroll in any community college or technical college.

(3) An eligible student is entitled to enroll in any community college and any technical college in the state for running start program purposes subject to each of the following conditions and limitations:

(a) Enrollment is limited to college level academic and college level vocational courses.

(b) Prior confirmation pursuant to WAC 392-169-050 by the school district through which the student seeks to obtain the award of running start program high school credit of the

amount of high school credit to be awarded on or before the deadline for enrollment established by the college.

(c) Acceptance of the student by the community college or technical college subject to generally applicable admission and enrollment requirements and limitations established by the community college or technical college, including a determination that the student is competent to profit from the college level academic or vocational course(s) the student seeks to enroll in: *Provided*, That a technical college shall not deny admission or continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

(d) The limitations upon the duration and extent of community college and technical college course enrollment set forth in WAC 392-169-055 and 392-169-057.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-055 ((~~School district—Definition.~~) **Enrollment—High school credit—Prior confirmation.** ((As used in this chapter, the term "school district" means the elected board of directors of a Washington public school district and the territory, facilities, and educational programs under the jurisdiction of the board of directors.)) As a condition to an eligible student's enrollment in community college or technical college courses under this chapter, the eligibility of the courses which the student intends to take for the award of high school credit and the amount of such credit shall first be established, as follows:

(1) The student shall notify the school district through which the student seeks to obtain the award of running start program high school credit of the specific community college and technical college courses he or she intends to take and shall request confirmation of the amount of high school credit that will be awarded upon successful completion of the courses.

(2) The school district shall establish on a course by course basis the amount of high school required or elective credit, or combination thereof, that shall be awarded for each college course successfully completed by the student based upon the conversion rate set forth in WAC 180-51-050.

(3) If a college course is not comparable to a school district course required for high school graduation, the school district superintendent shall determine the amount of required high school credit which shall be awarded following consultation with a community college or technical college representative designated for that purpose. The difference between the amount of required credit and the amount of credit earned at the conversion rate set forth in WAC 180-51-050 shall be awarded as elective credit.

(4) Within twenty school district business days of a student's request for confirmation of credit the school district superintendent or other designated school district representative shall confirm in writing the amount of high school required or elective credit, or combination thereof which shall be awarded upon successful completion of the courses.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-060 ((~~Annual notice to students and parents.~~) **Enrollment—Extent and duration.** ((Each school district shall annually provide general information respecting the running start program to all tenth and eleventh grade students of the school district and their parents and guardians.)) Running start program enrollment under this chapter is limited as follows:

(1) An eligible student who enrolls in grade eleven may enroll in a community or technical college while in the eleventh grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college quarters as a full-time equivalent community college student or nine months as a full-time equivalent technical college student).

(2) An eligible student who enrolls in grade twelve may enroll in a community or technical college while in the twelfth grade for no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college quarters as a full-time equivalent community college student or nine months as a full-time technical college student).

(3) Enrollment in a community college or technical college is limited to the fall, winter and spring quarters.

(4) As a general rule a student's eligibility for running start program enrollment terminates at the end of the student's twelfth grade regular academic year, notwithstanding the student's failure to have enrolled in a community college or technical college to the full extent permitted by subsections (1) and (2) of this section: *Provided*, That a student who has failed to meet high school graduation requirements as of the end of the student's twelfth grade regular academic year (September-June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-065 **Enrollment—((General requirements and conditions)) Extent and duration of combined high school and running start enrollment.** ((The enrollment of an eligible student in the running start program shall be governed as follows:

(1) An eligible student is responsible for applying for and pursuing admissions to a community college or technical college.

(2) It shall not be necessary for an eligible student to obtain a release of attendance from his or her resident school district in order for the student to enroll in any community college or technical college.

(3) An eligible student is entitled to enroll in any community college and any technical college in the state for running start program purposes subject to each of the following conditions and limitations:

(a) Enrollment is limited to college level academic or vocational courses.

(b) Prior confirmation pursuant to WAC 392-169-065 by the school district through which the student seeks to obtain the award of running start program high school credit of the amount of high school credit to be awarded.

(c) Acceptance by the community college or technical college subject to generally applicable admission and enrollment requirements and limitations established by the community college or technical college, including a determination that the student is competent to profit from the college level academic or vocational course(s) the student seeks to enroll in: *Provided*, That a technical college shall not deny admission or continued attendance to a student under twenty two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

(d) The limitations upon the duration and extent of community college and technical college course enrollment set forth at WAC 392-169-070.

(4) An eligible student shall not be required by a community college or technical college to pay any tuition or other fee as a condition to the student's full participation in community college and technical college course work and related activities, or as a condition to the award of credit therefor: *Provided*, That requiring a student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this subsection.

(5) Once an eligible student has been enrolled in a community college or technical college course or program, the student shall not be displaced by another student: *Provided*, That the student's continued enrollment in a course or program and enrollment in other courses or programs shall be subject to generally applicable enrollment requirements and limitations established by the community college or technical college: *Provided further*, That a technical college shall not deny continued attendance to a student under twenty two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the student's disability:)) Concurrent or combined regular high school program and running start program enrollment is governed as follows:

(1) An eligible student's concurrent enrollment in the regular high school program, and running start or college under this chapter, may exceed the equivalent of full-time enrollment: *Provided*, That a school district representative and a college representative may jointly limit a student's concurrent high school and college enrollment to not less than the equivalent of full-time enrollment for bona fide academic reasons based upon a joint evaluation of the student's capabilities and the total course work the student seeks to enroll in.

(2) For purposes of this section thirty hours per week shall constitute full-time high school or technical college enrollment, and fifteen quarter credit hours shall constitute full-time community college enrollment. Thus, for example, a student enrolled in the regular high school program for ten hours per week (one-third FTE) and in a community college for ten quarter credit hours (two-third FTE) is enrolled the equivalent of full-time.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-070 Enrollment—((High school credit—Prior confirmation)) Exception from tuition and fees. ((As a condition to an eligible student's enrollment in community college or technical college courses under this chapter, the eligibility of the courses which the student intends to take for the award of high school credit and the amount of such credit shall first be established, as follows:

(1) The student shall notify the school district through which the student seeks to obtain the award of running start program high school credit of the specific community college and technical college courses he or she intends to take and shall request confirmation of the amount of high school credit that will be awarded upon successful completion of the courses.

(2) The school district shall establish in accordance with chapter 180-51 WAC the amount of high school required or elective credit that shall be awarded for each course successfully completed by the student.

(3) If no comparable course is offered by the school district, the school district superintendent shall determine the amount of high school credit which shall be awarded, if any, following consultation with a community college or technical college representative designated for that purpose.

(4) Within twenty school district business days of a student's request for confirmation of credit the school district superintendent or other designated school district representative shall confirm in writing the amount of high school credit which shall be awarded upon successful completion of the courses:)) A running start student shall not be required by a community college or technical college to pay any tuition or other fee as a condition to the student's full participation in running start community college and technical college course work and related activities, or as a condition to the award of credit therefore: *Provided*, That requiring a running start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this subsection: *Provided further*, That this limitation on the assessment of tuition and fees does not apply to a student's college enrollment above and beyond running start program enrollment under this chapter (i.e., college enrollment in excess of one FTE and college summer quarter enrollment may be conditioned upon the payment of regular tuition and fees).

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-075 Enrollment—((Extent and duration)) Continuing eligibility. ((The extent and duration of an eligible student's enrollment in the running start program shall be limited as set forth in subsections (1) through (5) of this section: **PROVIDED**, That a school district and a community college district or technical college district may mutually agree to allow eligible students to exceed the one full-time equivalent student enrollment limitation established by subsection (1) so long as the enrollment claimed for basic education allocation purposes does not exceed the WAC 392-169-105 full-time equivalent student claim limitations.

~~(1) The combined enrollments of an eligible student in a high school and in a community college or technical college, or any combination thereof, under this chapter shall not concurrently exceed one full-time equivalent student. Accordingly, an eligible student must elect to enroll in high school for less than twenty-five hours per week in order to concurrently enroll in a community college or technical college.~~

~~(2) A student who enrolls in grade eleven may enroll in a school district, community college, technical college, or any combination thereof, for no more than the course work equivalent to two regular academic years of attendance as an annual average full-time equivalent student, (i.e., six college quarters as a full-time equivalent community college or technical college student, two one-hundred-eighty-day or more regular school years as a high school full-time equivalent student, or a combination thereof not to exceed two annual average full-time equivalent enrollment(s).~~

~~(3) A student who enrolls in grade twelve may enroll in a school district, community college, technical college, or any combination thereof, for no more than the course work equivalent to one regular academic year of attendance as an annual average full-time equivalent student.~~

~~(4) A student who becomes eligible during the regular school year for the award of a high school diploma by the school district through which the student seeks the award of running start program high school credit shall nevertheless continue subject to the restrictions of subsections (1) and (2) of this section to be eligible for enrollment in the running start program through the last day of the regular one-hundred-eighty-day or more school year of the school district at which time the student's entitlement to enroll under this chapter shall terminate.~~

~~(5) A student whose twenty-first birthday occurs during the regular school year shall nevertheless continue subject to the restrictions of subsections (1) and (2) of this section to be eligible for enrollment in the running start program through the last day of the regular one-hundred-eighty-day or more school year of the school district through which the student seeks to obtain running start program high school credit at which time the student's entitlement under this chapter to enroll shall terminate.) Once an eligible student has been enrolled in a community college or technical college course or program, the student shall not be displaced by another student: *Provided*, That a student's continued enrollment in a course or program and enrollment in other courses or programs shall be subject to generally applicable enrollment requirements and limitations established by the community college or technical college: *Provided further*, That a technical college shall not deny continued attendance to a person under twenty-two years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.~~

MISCELLANEOUS

NEW SECTION

WAC 131-46-077 Annual notice to students and parents. Each school district shall annually provide general information respecting the running start program to all tenth

and eleventh grade students of the school district and their parents and guardians.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-080 Academic standards and discipline—Jurisdiction of educational agencies. Each school district, community college district, and technical college district shall have and exercise exclusive jurisdiction over academic and discipline matters involving an eligible student's enrollment and participation in courses of, and the receipt of services and benefits from, the school district, the community college district, and the technical college district.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-085 Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements. As a general rule, a school district, a community college district, and a technical college district are independently responsible for assuring compliance with federal and state requirements of law which are applicable to the provision of services and benefits by the school district, community college district, or technical college district under this chapter. If, however, the individualized education program of an eligible student established under chapter 392-171 WAC provides for such enrollment in a community college or a technical college, the school district which established the individualized education program shall also be responsible for assuring compliance with chapter 392-171 WAC in connection with the student's enrollment in the community college or technical college. School districts, community college districts, and technical college districts shall enter into cooperative agreements as necessary to assure compliance with their respective duties under federal and state law, including agreements which substantiate a school district's claim to necessary federal and state special education funding.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-090 High school credit—Award by school districts. Upon confirmation by a community college or technical college of ~~((an eligible))~~ a student's successful completion of running start program courses, under this chapter, the school district shall record on the student's secondary school records and transcript the high school credit previously confirmed under WAC ~~((392-169-065))~~ 392-169-050, together with a notation that the courses were taken at a community college or technical college. ~~((See WAC 180-51-050 which provides for the conversion of college credits to high school credits at the rate of one high school credit for five college quarter or three college semester hour credits.))~~

FINANCIAL REPORTS, CLAIMS, AND PAYMENTS

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-095 Finance—Generation and apportionment of state ((and federal)) basic education moneys.

(1) Each ((eligible)) running start student shall generate state ((and federal)) running start basic education moneys based upon the student's enrollment under this chapter in ((school district,)) community college(,)) or technical college courses or programs, or any combination thereof, in accordance with the definitions of ((full-time equivalent)) FTE and AAFTE students set forth in WAC 392-169-025 ((through 392-169-035)) and 392-169-030, the enrollment and enrollment count limitations set forth in WAC ((392-169-070 and 392-169-105)) 392-169-055 and 392-169-115, rules of the superintendent of public instruction set forth ((at)) in Title 392 WAC which supplement and do not conflict with this chapter, and the Biennial Operating Appropriations Act.

(2) The superintendent of public instruction shall apportion running start basic education moneys to school districts reporting running start enrollments based upon AAFTE nonvocational and vocational running start enrollments and uniform state-wide rates for nonvocational and vocational students as determined pursuant to WAC 392-169-095.

(3) School districts may retain and expend for running start program counseling or other school district purposes up to seven percent of the running start basic education moneys apportioned by the superintendent of public instruction.

(4) School districts shall apportion each community and technical college district's share of running start basic education moneys received under this chapter to each college district on at least a modified quarterly basis on or before December 31, March 31, June 30, and August 31 each school year.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-100 ((Finance—Community college and technical college reporting requirements.)) Determination of uniform state-wide rates for nonvocational and vocational students. ((Each community college and technical college that enrolls an eligible student under this chapter shall periodically report enrollment information as follows:

(1) Within ten calendar days of acceptance of the student, provide written notice to the student, superintendent of public instruction, and the school district through which the student seeks to obtain running start program high school credit of the courses and the credit hours or instructional/clock hours of enrollment.

(2) On a monthly basis, provide such enrollment information to the school district through which the student seeks to obtain the award of running start program high school credit as is necessary for the school district to claim basic education allocation moneys under this chapter and chapter 392-121 WAC including, but not limited to, notice of termination of the student's enrollment in a course due to absence, withdrawal, suspension, or expulsion.)) Prior to September 1 of each school year, the superintendent of public instruction shall calculate uniform state-wide rates for allocating state basic education moneys for nonvocational

and vocational running start enrollment in consultation with state board for community and technical college staff. Calculations shall be based on assumptions used in the state Operating Appropriations Act for the school year. Rates shall equal the average basic education formula generated amount per nonvocational and vocational AAFTE ninth through twelfth grade student for the school year excluding enhancements provided for small schools.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-105 ((Finance—School district reporting requirements.)) Running start enrollment count dates. ((Each school district through which an eligible student seeks to obtain running start program high school credit shall make all reports to the superintendent of public instruction in accordance with this chapter and chapter 392-121 WAC as are necessary to substantiate the district's entitlement to the receipt of basic education allocation moneys based upon the student's high school, community college, and technical college enrollment under this chapter. Eligible students shall be so reported as full-time equivalent students, or fractions thereof, in accordance with the definitions of full-time equivalent students set forth at WAC 392-169-025 through 392-169-035.)) Enrollment count dates for the running start program shall be the first college day of each of the months of October through June.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-110 ((Finance—Limitations on enrollment counts.)) Finance—Community college and technical college reporting requirements. ((No eligible student enrolled in a high school, community college, technical college, or any combination thereof, reported under WAC 392-169-095 and 392-169-100 shall be counted as more than one full-time equivalent student for any single month or more than one annual average full-time equivalent student in any school year: *Provided*, That an eligible student who enrolls in grade eleven and elects to enroll in a summer community college or technical college program that school year in order to accelerate his or her high school graduation may be counted as more than one annual average full-time equivalent student for that school year: *Provided further*, That the student shall not be counted the succeeding school year as more than one annual average full-time equivalent student less that portion of the prior school year count which exceeded one annual average full-time equivalent student count.)) Each community college and technical college that enrolls an eligible student under this chapter shall periodically report enrollment information as follows:

(1) Within ten calendar days of enrollment of the student, provide written notice to the student, and the school district through which the student seeks to obtain running start program high school credit of the courses and the credit hours or instructional/clock hours of enrollment.

(2) After each monthly count date the college shall report running start student enrollments by the eighth day of the month to the school district through which the student seeks to obtain the award of running start program high school credit as is necessary for the school district to claim

state running start basic education program moneys under this chapter and chapter 392-121 WAC.

(3) The monthly report shall be prepared in accordance with instructions provided by the superintendent of public instruction, and shall include, but not necessarily be limited to, the following:

(a) The total number of enrolled running start students on the count date; (see the definitions of an eligible "running start student" in WAC 131-46-025.)

(b) Total nonvocational running start FTE enrollment;

(c) Total vocational running start FTE enrollment; and

(d) The name of each running start student and the nonvocational and vocational running start FTE reported for the student.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-115 ((Finance—Apportionment and payment of basic education allocation moneys to community college districts and technical college districts.)) Finance—School district reporting requirements. ((School districts and community or technical college districts may enter into agreements which provide for and govern the apportionment and payment of basic education allocation moneys generated by running start program students. In the absence of such an agreement to the contrary, the school district through which an eligible student seeks to obtain running start program high school credit shall apportion such moneys and make payment on not less than a quarterly basis to the community college or technical college district serving the student under this chapter as follows:

(1) If an eligible student is enrolled exclusively in a community college or a technical college, all basic education moneys generated by the student shall be paid to the community college district or technical college of enrollment. *Provided*, That in such cases the school district through which the student seeks to obtain running start program high school credit may retain up to five percent of such moneys to offset costs incurred in evaluating and granting high school credit and processing basic education allocation claims and payments.

(2) If an eligible student is enrolled simultaneously in the school district through which the student seeks to obtain running start program high school credit and a community college or a technical college, the school district through which the student seeks such high school credit shall retain that portion of the basic education allocation moneys generated by the student based upon the student's high school enrollment, and shall pay to the community college district or technical college district the balance consisting of that portion of such moneys generated by the student based upon the student's community college or technical college enrollment (e.g., in the case of an eligible student enrolled five hours a week in a high school (one fifth of an FTE) and five quarter credit hours in a community college (one third of an FTE), the school district would retain an amount equal to one fifth of a full basic education allocation and pay to the community college district an amount equal to one third of a full basic education allocation).

(3) Notwithstanding subsections (1) and (2) of this section, small high school districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students and college districts shall negotiate in good faith with the objective of mutually establishing the reasonable amount payable to a college district. If good faith negotiations fail to establish agreement, the amount payable by such a small high school district to a college district shall be the incremental amount per full-time equivalent community college or technical college student that is or would be generated for student enrollments in excess of sixty annual full-time equivalent students.) Each school district through which a running start student seeks to obtain running start program high school credit shall make all reports to the superintendent of public instruction in accordance with this chapter and chapter 392-121 WAC as are necessary to substantiate the district's entitlement to the receipt of moneys based upon the student's community college and technical college enrollment under this chapter. Running start students shall be so reported as full-time equivalent vocational and nonvocational students, or fractions thereof, in accordance with the definitions of full-time equivalent student set forth in WAC 392-169-025.

AMENDATORY SECTION (Amending WSR 93-01-014, filed 12/4/92, effective 1/4/93)

WAC 131-46-120 ((Current and future community college and technical college enrollment alternatives not affected.)) Finance—Limitations on enrollment counts. ((This chapter shall not affect the alternative enrollment, and arrangements therefor, of a secondary student in a community college or technical college pursuant to a contractual agreement entered into pursuant to RCW 28B.50.530 (inter school district/college district cooperative programs) and chapter 39.34 RCW (the Interlocal Cooperation Act). See WAC 392-121-183 (contracting with an educational institution other than a school district.)) No running start student enrolled in a community college or technical college, or any combination thereof, reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time running start equivalent student on any enrollment count date or more than one annual average full-time equivalent student in any school year.

NEW SECTION

WAC 131-46-125 Finance—Documentation requirements. School districts and colleges shall maintain documentation supporting running start student enrollment and state funding claims, inclusive of the following:

(1) Colleges documentation shall show each student's college enrollment status on each enrollment count date and evidence of the student's participation in college instruction or activities on at least one day since the last enrollment count date. See WAC 392-169-022(3) for a description of required "instructional activities."

(2) School district documentation shall show each student's school district enrollment status on each enrollment count date and evidence that the student is earning high school graduation credit for running start enrollment reported for state funding.

**ALTERNATIVE CONTRACTUAL
ARRANGEMENTS**

February 2, 1994
John McGlenn
Chairman

NEW SECTION

WAC 131-46-130 Current and future community college and technical college enrollment alternatives not affected. This chapter shall not affect the alternative enrollment, and arrangements therefor, of a secondary student in a community college or technical college pursuant to a contractual agreement entered into pursuant to RCW 28B.50.530 (interschool district/college district cooperative programs) and chapter 39.34 RCW (the Interlocal Cooperation Act). See WAC 392-121-183 (Contracting with an educational institution other than a school district).

**WSR 94-04-123
PERMANENT RULES
WILDLIFE COMMISSION**

[Order 626—Filed February 2, 1994, 11:10 a.m.]

Date of Adoption: January 22, 1994.

Purpose: To establish 1994 Bighorn sheep auction permit season. To adopt a hunting season (time, place, and manner) for one bighorn sheep auction permit.

Summary: A conservation organization will be awarded one bighorn sheep permit to auction according to agency policy and procedures. This rule will establish the season dates, geographic area, and any other restrictions of the permit hunt.

Reasons supporting proposal: The auction permit will generate revenue for wildlife management of bighorn sheep. The adoption of a hunting season will ensure proper management of the resource.

Explanation of Rule, its Purpose, and Anticipated Effects: Adopts a bighorn hunting season for one permit hunter. The purpose is to generate revenue without detracting from other hunting opportunities. We anticipate generating several thousand dollars for bighorn management programs.

Impact of Rule: Resource: None. Financial: Will generate thousands of dollars for management of bighorn sheep. Funding will be spent on projects endorsed by the Wildlife Commission.

Statutory Authority for Adoption: RCW 77.12.040 and 77.12.700.

Pursuant to notice filed as WSR 93-24-097 on November 30, 1993.

Changes Other than Editing from Proposed to Adopted Version: The WAC title should have been 1994 rather than 1993 as filed; areas open to permittee were changed to: Hunt Area: Any sheep unit open in 1994 with two or more sheep permits; and under auction hunt permittee rules, subsection (1) and (2) were deleted and numeric order adjusted. The final rule in this section, now subsection (5) was changed to: The permittee will present the head and carcass of the bighorn sheep killed to any wildlife office within 72 hours of date of kill.

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

NEW SECTION

WAC 232-28-239 1994 Bighorn sheep auction permit

AUCTIONING OF PERMIT

The Director will select a conservation organization to conduct the 1994 bighorn auction. Selection of the conservation organization will be based on criteria developed by the Washington Department of Wildlife. The organization shall notify the Department of the name and address of the successful bidder within ten days of the auction.

AUCTION PERMIT HUNT

SPECIES - BIGHORN SHEEP

Hunting Season Dates: September 1 - October 31.

Hunt Area: Any sheep unit open in 1994 with two or more sheep permits.

Bag Limit: 1 Bighorn Ram

WHO MAY BID:

Anyone except those who have received a special bighorn sheep permit in Washington and were successful in taking a mountain sheep. A person who received a special permit for mountain sheep and were unsuccessful in taking a sheep may bid after a five year waiting period.

AUCTION HUNT PERMITTEE RULES

(1) Permittee shall contact the appropriate regional office of the Department of Wildlife when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a firearm and harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the Department, the permittee is required to accompany wildlife officials to the site of the kill.

(5) The permittee will present the head and carcass of the bighorn sheep killed to any wildlife office within 72 hours of date of kill.

**WSR 94-04-006
EMERGENCY RULES
BOARD OF
BOILER RULES**

[Filed January 20, 1994, 1:50 p.m.]

Date of Adoption: January 20, 1994.

Purpose: The purpose of this rule is to exempt from regulation, with certain provisions, small electric boilers used for such purposes as generating steam in such applications as espresso machines.

Citation of Existing Rules Affected by this Order: Amending chapter 296-104 WAC.

Statutory Authority for Adoption: RCW 70.79.040.

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: After deciding that small electric boilers used in such applications as espresso machines came under regulation as defined in chapter 296-104 WAC, the board felt these vessels, with certain provisions, pose no safety problems and should be exempt from regulation.

Effective Date of Rule: Immediately.

January 20, 1994

Robert E. Reid

Chairman

January 20, 1994

Pat McLain

Acting Director

NEW SECTION

WAC 296-104-281 Small electric boilers. Small electric boilers used for such purposes as generating steam in such applications as espresso machines shall be exempt from the rules of this chapter provided such devices:

(1) have a tank volume of 1.5 cubic feet (0.0425 cubic meters) or less;

(2) have a maximum allowable working pressure of 50 psig (0.172 MPa.) or less;

(3) have a pressure relief system to prevent excessive pressure; and

(4) are constructed to the ASME code or are approved or otherwise certified by a nationally recognized or foreign testing laboratory (including but not limited to UL, ETL, and ISPESL.)

**WSR 94-04-007
EMERGENCY RULES
DEPARTMENT OF WILDLIFE**

[Order 623—Filed January 20, 1994, 4:42 p.m.]

Date of Adoption: January 20, 1994.

Purpose: To close the 1993-94 Canada goose season in Pacific and Wahkiakum counties and on all lands in Cowlitz County north of the Kalama River.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-417.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 1993-94 southwest Washington Canada goose season was adopted by the Wildlife Commission on August 14, 1993, to be open during the period November 27, 1993, through January 23, 1994. The season was limited to Wednesdays, Saturdays, and Sundays due to continued low population levels of dusky Canada geese in 1993. At the time the season was adopted, the Wildlife Commission authorized the director to implement emergency closures in specific areas of southwestern Washington if the harvest of dusky Canada geese exceeded area harvest quotas. The harvest quota for dusky Canada geese was met on January 19, 1994, for the area comprised of Pacific and Wahkiakum counties and all lands in Cowlitz County north of the Kalama River. The harvest of Canada geese in this area must be restricted to ensure protection of remaining dusky Canada goose breeding stock for future production.

Effective Date of Rule: Immediately.

AMENDATORY SECTION [(Amending Order 612, filed 9/16/93)]

WAC 232-28-417 1993-94 Migratory waterfowl seasons and regulations

DUCKS

Western Washington

8:00 a.m. Oct. 16-24, 1993 and Nov. 14, 1993-Jan. 2, 1994

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex) and not more than 2 redheads, 2 canvasbacks, or 1 of each.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex) and not more than 4 shall be canvasbacks and/or redheads.

Eastern Washington

Noon Oct. 16-24, 1993 and Nov. 7, 1993-Jan. 2, 1994

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex) and not more than 2 redheads, 2 canvasbacks, or 1 of each.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex), and not more than 4 shall be canvasbacks and/or redheads.

COOT (Mudhen)

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

COMMON SNIPE

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

Caution: Hunters must take care in their identification of common snipe. Many species of estuarine shorebirds, similar in appearance to common snipe, are found in the same areas, particularly in Western Washington. Common snipe do not fly in flocks.

GEESE (except Brant, White-fronted, Snow, Cackling, and Aleutian Canada Geese)

Western Washington

Oct. 16, 1993-Jan. 2, 1994 in Island, Skagit, and Snohomish counties.

Daily bag limit: 3 geese.

Possession limit: 6 geese.

WRITTEN AUTHORIZATION REQUIRED TO HUNT SNOW GEESE. All persons hunting snow geese in this season are required to obtain written authorization from a Washington Department of Wildlife office. Application forms must be delivered to a Department office no later than September 24 or postmarked on or before September 24. With the authorization, hunters will receive a hunter activity and harvest report form. Immediately after taking a snow goose into possession, hunters must record in ink the information required on the harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by January 31, 1994 will be ineligible to participate in the 1994 snow goose season.

Oct. 16, 1993-Jan. 23, 1994 in all other parts of Western Washington EXCEPT: Canada geese in Clark, Cowlitz, Pacific, and Wahkiakum counties. (See seasons and special requirements for these counties below.)

Daily bag limit: 4 geese.

Possession limit: 8 geese.

*Special Canada Goose Season for Clark, Cowlitz, Pacific, and Wahkiakum counties:

Special season for 1993-94 arranged cooperatively by the Washington Department of Wildlife and the U.S. Fish and Wildlife Service.

The Canada goose season for Clark, Cowlitz, Pacific, and Wahkiakum counties will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 90 geese. The Wildlife Commission has authorized the Director to implement emergency area closures in accordance with the following quotas: a total of 90 duskys to be distributed, 45 for Clark and south Cowlitz private lands, 20 for Ridgefield National Wildlife Refuge, and 25 for north Cowlitz, Wahkiakum, and Pacific counties.

Canada goose season is OPEN in Clark County and on all lands in Cowlitz County south of the Kalama River only on the following dates from 8:00 a.m. to 4:00 p.m.:

Nov. 28, 30, 1993

Dec. 4, 8, 12, 14, 18, 22, 26, 28, 1993

Jan. 2, 4, 8, 12, 16, 18, 22, 1994

Canada goose season is OPEN in Pacific and Wahkiakum counties, and on all lands in Cowlitz County north of the Kalama River from 8:00 a.m. to 4:00 p.m., Saturdays, Sundays, and Wednesdays only, Nov. 27, 1993-Jan. (23) 19, 1994.

Bag limits for both areas:

Season limit: 1 dusky Canada goose.

Daily bag limit: 3 geese, only one of which may be a dusky Canada goose.

Possession limit: 6 geese, only one of which may be a dusky Canada goose.

Hunting only by written authorization from the Washington Department of Wildlife. Hunters who maintained a valid 1992 written authorization will be mailed a 1993 authorization card prior to the 1993 season. Hunters who did not maintain a valid 1992 authorization must attend a goose identification class at a Department of Wildlife office to receive authorization. With the authorization, hunters will receive a hunter activity and harvest report form. Hunters must carry the authorization card and harvest report form while hunting. Immediately after taking a Canada goose into possession, hunters must record in ink the information required on the harvest report form. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site. Written authorization will be revoked in the event that a hunter takes a dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the harvest report form.

Eastern Washington

Eastern Washington Goose Management Area 1

Saturdays, Sundays, and Wednesdays only, from noon Oct. 16, 1993-Jan. 17, 1994; Nov. 11, 25, 26, Dec. 24, 1993, and Dec. 31, 1993; and every day Jan. 17-23, 1994.

Eastern Washington Goose Management Area 2

Saturdays, Sundays, Tuesdays, and Wednesdays only, from noon Oct. 16, 1993-Jan. 16, 1994; Nov. 11, 25, 26, Dec. 24, 27, 30, 31, 1993; and every day Jan. 17-23, 1994.

Eastern Washington Goose Management Area 3

Noon Oct. 16, 1993-Jan. 23, 1994.

Bag limits for all areas:

Daily bag limit: 4 geese.

Possession limit: 8 geese.

BRANT

Open in Skagit, Pacific, and Whatcom counties on the following dates: Dec. 11, 12, 13, 15, 17, 18, 19, 22, 24, 25, and 26, 1993.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain written authoriza-

tion from Washington Department of Wildlife. Hunters who held a 1992 authorization and returned a harvest report prior to the deadline will be mailed a 1993 authorization in October. Hunters who did not possess a 1992 authorization must fill out an application (available at Washington Department of Wildlife regional offices). Application forms must be delivered to a Department office no later than 5:00 p.m. on November 10 or postmarked on or before November 10. With the authorization, hunters will receive a hunter activity and harvest report form. Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by Jan. 31, 1994 will be ineligible to participate in the 1994 brant season.

Daily bag limit: 2 brant.

Possession limit: 4 brant.

White-fronted Geese

Same areas, dates, and shooting hours as the general goose seasons.

Daily bag limit: 2 white-fronted geese.

Possession limit: 4 white-fronted geese

Snow Geese

Same areas, dates, and shooting hours as the general goose seasons.

Daily bag limit: 3 snow geese

Possession limit: 6 snow geese

Cackling and Aleutian Canada Geese, Swans

Season closed statewide.

EASTERN WASHINGTON GOOSE MANAGEMENT AREA 1

All of Lincoln, Spokane, and Walla Walla counties, and these parts of the following counties listed below:

Grant County: Those parts east of line beginning at the Douglas-Lincoln County line on State Highway 174, southwest on State Highway 174 to State Highway 155, south on State Highway 155 to U.S. Highway 2, southwest on U.S. Highway 2 to the Pinto Ridge Road, south on Pinto Ridge Road to State Highway 28, east on State Highway 28 to the Stratford Road, south on the Stratford Road to State Highway 17, south on State Highway 17 to the Grant-Adams County line.

Adams County: Those parts east of State Highway 17.

Franklin County: Those parts east and south of a line beginning at the Adams-Franklin County line on State Highway 17, south on State Highway 17 to U.S. Highway 395, south on U.S. Highway 395 to U.S. Interstate I-182, west on U.S. Interstate I-182 to the Franklin-Benton County line.

Benton County: Those parts south of U.S. Interstates I-182 and I-82.

Klickitat County: Those parts east of U.S. Highway 97.

EASTERN WASHINGTON GOOSE MANAGEMENT AREA 2

All of Okanogan, Douglas, and Kittitas counties and those parts of Grant, Adams, Franklin, and Benton counties not included in Eastern Washington Goose Management Area 1.

EASTERN WASHINGTON GOOSE MANAGEMENT AREA 3

All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

STEEL SHOT ZONES

It is unlawful to possess while hunting for or to take ducks, geese, or coots with shotshells or a muzzleloader shotgun loaded with any **metal** other than steel in all areas of Washington.

Skagit Wildlife Area Restrictions. It is unlawful to possess while hunting, shotshells or a muzzleloader shotgun loaded with any metal other than steel on the Skagit Wildlife Area. This change will reduce the lead shot availability in waterfowl feeding areas.

SPECIAL CLOSURES AND REGULATIONS

Special Closures

Columbia River:

It is unlawful to hunt waterfowl, coot, or snipe on or within one-fourth mile of the Columbia River in the following areas:

—Between the railroad bridge at Wishram and east along the Columbia River to the grain elevator at Roosevelt.

—Between Rock Island Dam and the Chelan County substation at Winesap in Chelan County and between Rock Island Dam and a point in Douglas County perpendicular to the Chelan County substation at Winesap.

—Between Chief Joseph Dam and the mouth of Nespelem Creek in Okanogan and Douglas counties.

—From the old Hanford townsite (wooden tower) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge (Highway 24).

—On or within one-fourth mile of Badger and Foundation Islands in Walla Walla County.

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

—From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)

—Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

The U.S. Department of Energy retains security closures on the Hanford Reservation along the Columbia River.

Snake River

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—On or within one-half mile of the Snake River from the Highway 12 bridge upriver to Lower Monumental Dam.

—On or within one-fourth mile of the Snake River between the Interstate Highway 12 bridges at Clarkston, downstream to the Lower Granite Dam.

Yakima River

It is unlawful to hunt waterfowl, coot, or snipe within one-fourth mile of the Yakima River in the following areas:

—From the Sunnyside-Mabton Road bridge downstream to the Euclid Road bridge (4 miles).

—From the Grant Avenue bridge (steel bridge) north of Prosser downstream 2-1/2 miles, to the powerline.

I-82 Ponds

It is unlawful to hunt waterfowl, coot, or snipe in the following area:

—Those waters under Department of Wildlife ownership known as Ponds 1, 2, 3, and 6 north and east of Interstate 82 and south and east of S.R. 12 from the city limits of Union Gap to the Zillah/Toppenish Road.

Padilla Bay

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—Swinomish Spit Game Reserve—Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; then in a northwesterly direction along the west side of the Swinomish Channel to the red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983); thence 6,000 feet ENE (East-northeast)/thence 3,300 feet SSE (South-southeast); thence 4,200 feet SW (southwest) to the dike at the south end of Padilla Bay; thence continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; thence continue along said railroad tracks (across swing bridge) to the west shoreline of the Swinomish Channel and the point of beginning.

—Bayview Game Reserve—Beginning at a point on the Bayview-Edison Road 750 feet south of the intersection of the Bayview Cemetery Entrance road; thence 4,000 feet WNW (west-northwest); thence 5,750 feet NNW (north-northwest); thence 3,750 feet ENE (east-northeast) to the northwest corner of Padilla Bay Tract No. 532; thence east to the northeast corner of Padilla Bay Tract No. 532; thence SSE (south-southeast) to the Bayview-Edison Road; thence southerly along said road to the point of beginning.

Special Regulations

Skagit Wildlife Area Shotgun Shell Restriction

It is unlawful to have in possession more than 15 shotgun shells or to fire more than 15 shells in one day on the farmed island segment of the Skagit public hunting area, between the south fork of the Skagit River and Fresh Water Slough.

It is unlawful to hunt waterfowl from a moving boat or any free-floating device that is not in a fixed position which is either anchored or secured to shore in Port Susan Bay, Skagit Bay, Padilla Bay, and Samish Bay.

Belfair - Hood Canal

It is unlawful to hunt waterfowl in Lynch Cove and the Union River except in designated blinds. The western and southern boundaries of this closure are posted with red steel markers. (This includes all of the Washington Department of Wildlife and Thelar Wetlands lands.)

FALCONRY SEASONS

A falconry license and a current hunting license are required for hunting with a raptor. In addition, an Eastern Washington Upland Bird Permit or the Western Washington Upland Bird Permit is required for pheasant, quail, and partridge; and federal and state waterfowl stamps for hunting waterfowl are required. A 1994 hunting license, 1994 falconry license, and a 1994 Eastern or Western Washington Upland Bird Permit is required for pheasant, partridge, and grouse after Dec. 31.

Ducks, Coots, and Snipe

(Bag limits include geese and mourning doves.)

Western Washington

Oct. 16-30; Nov. 7, 1993-Feb. 6, 1994

Daily bag limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese and mourning doves during established seasons.

Eastern Washington

Oct. 16-24; Nov. 7, 1993-Jan. 2, 1994; Jan. 29-Mar. 10, 1994

Daily bag limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese and mourning doves during established seasons.

Geese

(Bag limits include ducks, coot, snipe, and mourning doves)

Oct. 16, 1993-Jan. 30, 1994, statewide

Daily bag limit: 3, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

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

WSR 94-04-012

EMERGENCY RULES WILDLIFE COMMISSION

[Order 624—Filed January 21, 1994, 4:50 p.m., effective April 16, 1994]

Date of Adoption: January 21, 1994.

Purpose: Reinstates a twelve-inch minimum for trout for the Columbia River.

Statutory Authority: 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: During the 1994-95 game fish regulation development process a recommendation was presented by the Department of Wildlife to the Washington Wildlife Commission to establish an eight-inch minimum size limit for trout statewide. Regions 4, 5, and 6 at that time managed trout under the eight-inch minimum size, but Regions 1, 2, and 3 maintained no minimum size limit. The proposal requested increasing the size limit from none to eight inches in Regions 1, 2, and 3, thereby establishing an eight-inch minimum size limit for trout statewide. The purpose for the recommendation was to allow more trout the opportunity to spawn at least one time before being subject to harvest, and to increase the survival of juvenile anadromous fish. The Washington Wildlife Commission adopted this regulation at its October 1, 1993, meeting. Within the technical process for providing bill-draft language for regulation changes statewide, language was inadvertently included for the Columbia River, reducing the trout minimum size limit from twelve inches to eight inches. The intent of the Department of Wildlife was not to change the minimum size limit for trout on the Columbia River. The intent was to leave the minimum size limit at twelve inches as established. The state of Oregon manages trout under a twelve-inch minimum size limit for the Columbia River. An eight-inch minimum size limit is not adequate to protect smolts or sea-run cutthroat trout in the Columbia River. Correction of this error is necessary to provide adequate protection for the steelhead and trout resources in this river.

Effective Date of Rule: April 16, 1994.

January 21, 1994
John McGlenn
Chair

NEW SECTION

WAC 232-28-61945 1994-95 Washington game fish seasons and catch limits—Columbia River. Notwithstanding the provisions of WAC 232-28-619, the following regulations apply to the Columbia River:

<u>Game Fish Species</u>	<u>Daily Catch Limits</u>	<u>Minimum Size Limits</u>
Trout (Including kokanee and steelhead)	Two	Twelve inches

All other provisions of WAC 232-28-619 relating to the above water remain in effect and unchanged.

**WSR 94-04-015
EMERGENCY RULES
MULTIMODAL TRANSPORTATION
PROGRAMS AND PROJECTS
SELECTION COMMITTEE**

[Filed January 24, 1994, 2:16 p.m.]

Date of Adoption: January 24, 1994.

Purpose: These rules allow the committee to solicit applications for the ISTEA statewide STP competitive program.

Citation of Existing Rules Affected by this Order: Amending chapter 240-20 WAC.

Statutory Authority for Adoption: Chapter 393, Laws of 1993.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Chapter 393, Laws of 1993, requires the committee to adopt procedures to be incorporated into the Washington Administrative Code and to review and select applications, and award funds for the statewide STP competitive program. This amendment is needed to clarify the application and selection process.

Effective Date of Rule: Immediately.

January 24, 1994
Martha Choe
Chair

**Chapter 240-20 WAC
Multimodal Transportation Programs and Projects
Selection Committee**

NEW SECTION

WAC 240-20-425 Statewide STP competitive program, application schedule. Applications for funding from the Statewide STP Competitive Program shall be received by the committee by no later than 5:00 p.m. on March 18, 1994. The applications shall be mailed to the address identified in WAC 240-20-040, or delivered to the Local Programs office of the department. The address of the Local Programs office is 310 Maple Park, Room 1D19, Olympia, Washington.

NEW SECTION

WAC 240-20-427 Statewide STP competitive program, selection process. (1) Projects selected for funding from the Statewide STP Competitive Program shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

- (a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and
- (b) Energy efficiency issues, freight and goods movement as related to economic development, regional signifi-

cance, rural isolation, the leveraging of other funds administered by this committee, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) above, the committee may choose to identify additional criteria for program and project selection for the statewide competitive program. Such criteria shall be subject to public hearings as required by federal law, and shall be identified in the application guidelines.

(4) The committee shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted as noted in WAC 240-20-425.

WSR 94-04-023
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3694—Filed January 25, 1994, 12:28 p.m., effective January 26, 1994, 12:01 a.m.]

Date of Adoption: January 25, 1994.

Purpose: Adds number of speech therapy services not needing authorization, and adds when medically necessary, the department may approve additional occupational, physical, and speech therapy.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-073 Occupational therapy, 388-86-090 Physical therapy, and 388-86-098 Speech therapy services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To assure clients receive necessary services when medically necessary.

Effective Date of Rule: January 26, 1994, 12:01 a.m.

January 25, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

- (a) By a licensed occupational therapist;
- (b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or
- (c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

- (a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;

(b) By a home health agency as described under WAC 388-86-045;

(c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;

(d) In a neuromuscular center; or

(e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

- (a) One occupational therapy assessment;
- (b) Two durable medical equipment needs assessments;
- (c) Twelve occupational therapy sessions; ~~((and))~~
- (d) ~~((A maximum of))~~ Twenty-four additional outpatient occupational therapy sessions if ~~((services are specifically identified in the medical assistance administration billing instructions and))~~ the diagnosis is associated with:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities:

(A) Fractures; or

(B) Open wounds with tendon involvement ~~((or~~

~~((C) Dorsal rhizotomy))~~).

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(x) Symptoms involving nervous and musculoskeletal systems:

(A) Abnormality of gait; or

(B) Lack of coordination; or

(xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services, but continues to require specialized outpatient therapy.

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Additional sessions when requested and approved through department of health's children with special health care needs program;

(g) Subject to department approval, additional occupational therapy services regardless of diagnosis when such services are medically necessary.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program as part of the treatment program under home health care services as described under WAC 388-86-045

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve physical therapy sessions; and

(c) ~~((A maximum of))~~ Twenty-four additional outpatient sessions, when the services are ~~((specifically identified in the medical assistance administration billing instructions and are))~~ for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

(A) Fractures;

(B) Open wounds with tendon involvement~~((=~~

~~(C) Dorsal rhizotomy))~~.

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems~~((=~~

~~(A))~~ with abnormality of gait~~((=~~

~~((B))~~ lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program;

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Subject to department approval, additional physical therapy services regardless of diagnosis when such services are medically necessary.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3679, filed 12/8/93, effective 1/8/94)

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent

educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year when the health professional determines the services are medically appropriate:

- (a) One medical diagnostic evaluation;
- (b) Twelve speech therapy sessions; ~~((and))~~
- (c) ~~((A maximum of))~~ Twenty-four additional speech therapy sessions if the speech therapy service is for:
 - (i) Medically necessary conditions for developmentally delayed clients;
 - (ii) Cerebral Palsy;
 - (iii) Severe oral/motor problems:
 - (A) Dyspraxia;
 - (B) Cleft palate and/or cleft lip; or
 - (C) That interfere with adequate nutrition.
 - (iv) Meningomyelocele;
 - (v) Neurofibromatosis; ~~((or))~~
 - (vi) Downs Syndrome;
 - (vii) Traumatic head/brain injury (TBI);
 - (viii) Cerebral vascular accident (recent only) of dominant hemisphere; or
 - (ix) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing, but continues to require specialized outpatient therapy.
 - (d) Subject to department approval, additional speech therapy services regardless of diagnosis when such services are medically necessary.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

- (a) Hospital inpatient diagnosis related group services; and
 - (b) Nursing facility services.
- (5) The department shall pay for speech therapy provided to a client eligible under the:
- (a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;
 - (b) Medically needy program only when the client is:
 - (i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis(;) and treatment program/healthy kids program; or
 - (ii) Receiving home health care services as described under WAC 388-86-045.
 - (c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

WSR 94-04-032
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3678—Filed January 26, 1994, 3:30 p.m., effective January 30, 1994]

Date of Adoption: January 26, 1994.

Purpose: Clarifies policies during the transition period between the repeal of chapter 248-172 WAC and full implementation of chapter 388-43 WAC, new WAC 388-43-120 Policies for transition.

Statutory Authority for Adoption: RCW 43.20A.725.

Other Authority: SHB 1752.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: New chapter 388-43 WAC repeals chapter 248-172 WAC. This new section clarifies the transition between chapter 248-172 WAC and chapter 388-43 WAC.

Effective Date of Rule: January 30, 1994.

January 26, 1994

Dewey Brock, Chief

Office of Vendor Services

NEW SECTION

WAC 388-43-120 Policies for transition. (1) A person issued telecommunications equipment from telecommunications access service (TAS) at or before November 15, 1993, shall become the owner of the equipment. TAS shall be absolved of all responsibility for replacement or repair of equipment issued at or before November 15, 1993. An owner issued equipment at or before November 15, 1993, shall be responsible for equipment repairs.

(2) A person issued telecommunications equipment at or before November 15, 1991, who still has the equipment and the equipment breaks shall re-apply for new telecommunications equipment under chapter 388-43 WAC.

(3) A person issued telecommunications equipment from 1988 through November 15, 1993, exchanged for reconditioned equipment at or before November 15, 1993, and who has exchanged equipment an average of less than once per year over the period of issue shall re-apply under chapter 388-43 WAC.

(4) A person with a history of exchanging equipment an average of one or more times per year since the original issue shall wait two years before re-applying for new equipment. If such person received reconditioned equipment, refer to subsection (5) of this section.

(5) A person with no history of damaged equipment and less than one equipment exchange per year who was issued reconditioned equipment in 1993 which has a technical malfunction may apply for new equipment under chapter 388-43 WAC.

(6) The department shall allow a person to apply for equipment under chapter 388-43 WAC who:

(a) Has not previously applied for equipment from TAS; and
(b) Meets the eligibility requirements of WAC 388-43-010 of this chapter.

(7) The department shall allow a person to re-apply for new equipment who:

(a) Received equipment from TAS more than two years ago; and

(b) Has lost contact with the TAS office.

(8) The department shall not allow a person who has lost contact with the TAS office and has had TAS equipment for less than two years to re-apply until two years after the last date the person received new equipment.

(9) There may be a person wishing to re-apply whose situation does not fit subsections (1) through (8) of this section. In such instances, the TAS office and office of deaf and hard of hearing services (ODHHS) shall make determination on a case-by-case basis. TAS and ODHHS shall use the following guidelines to determine when a person may re-apply:

(a) Length of time the person had TAS equipment;

(b) Person's history of taking care of equipment;

(c) Person's history of exchanging equipment; and

(d) Person's contact with the TAS office to advise of address and/or status changes.

WSR 94-04-047

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 94-02—Filed January 28, 1994, 2:04 p.m., effective February 1, 1994]

Date of Adoption: January 28, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-49-020.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient stock are available for limited harvest.

Effective Date of Rule: February 1, 1994.

January 28, 1994

Loren J. Stern

for Robert Turner

Director

NEW SECTION

WAC 220-49-02000F Baitfish—Seasons. Notwithstanding the provisions of WAC 220-49-020, WAC 220-49-016 and WAC 220-49-021, it is unlawful to take, fish for or possess herring in Marine Fish and Shellfish Catch Reporting Area 20A, except as provided in the following subsections:

(1) Area 20A, excluding those waters inside and southerly of a line projected due east from the most northern tip of Pt. Semiahmoo (Drayton Harbor)

(2) Fishing periods

Open 8:00 a.m. to 6:00 p.m. daily, February 1 through February 4

Open 8:00 a.m. to 6:00 p.m. daily, February 7 through February 11

Open 8:00 a.m. to 6:00 p.m. daily, February 14 through February 18

Open 8:00 a.m. to 6:00 p.m. daily, February 21, through February 25

Open 8:00 a.m. to 6:00 p.m. daily, February 28 through March 4

Open 8:00 a.m. to 6:00 p.m. daily, March 7 through March 11

Open 8:00 a.m. to 6:00 p.m. daily, March 14 through March 18

(3) Gear - gillnets which shall not exceed 720 feet in length or contain meshes less than 2 1/8 inch stretch measure.

(4) Special considerations

(a) The fishery will close once the quota of 55 tons (short) of herring is estimated to have been taken, regardless of the fishing periods listed above.

(b) The director may close the fishery at anytime when it is deemed to be in the best interests of fishery management.

(c) Fishers are required to allow authorized fisheries department employees on board their vessel while fishing.

(d) Fishers are required to maintain a daily fishing log as provided by the department and to report each day's landings to the department's Mt. Vernon office at (206) 428-1007 no later than 8:00 a.m. the following morning.

(e) Fishers are not required to display a pennant while participating in the fishery.

WSR 94-04-048

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 94-03—Filed January 28, 1994, 2:06 p.m., effective February 1, 1994, 12 noon]

Date of Adoption: January 28, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available in the area between Bonneville Dam and McNary Dam. This rule is consistent with the actions of the January 13, 1994, meeting of the Columbia River Compact.

Effective Date of Rule: February 1, 1994, 12 noon.

EMERGENCY

January 28, 1994
Robert Turner
Director

NEW SECTION

WAC 220-32-05100E Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch reporting Areas 1F, 1G, and 1H except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish under the following provisions:

(a) Open for salmon, sturgeon and shad from noon February 1 to noon March 19, 1994.

(b) Open area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream

to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

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

WSR 94-04-085 EMERGENCY RULES

PERSONNEL RESOURCES BOARD

[Filed January 31, 1994, 1:39 p.m., effective February 1, 1994]

Date of Adoption: January 13, 1994.

Citation of Existing Rules Affected by this Order:
Amending WAC 356-26-030 and 356-26-070.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.150.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The immediate, emergency adoption of the rules is necessary in order to provide employees who are separated due to reduction in force from higher education institutions and related boards to have access to general agency reduction in force registers. Amendments to WAC 356-26-030 and 356-26-070 reciprocate the accessibility currently afforded to general government rified employees under Title 251 WAC (the rules covering higher education institutions and related boards). The adoption of the amendments is in the best interest of the state.

Effective Date of Rule: February 1, 1994.

January 21, 1994
Dennis Karras
Secretary

EMERGENCY

AMENDATORY SECTION (Amending WSR 93-12-088, filed 5/28/93, effective 7/1/93)

WAC 356-26-030 Register designation. (1) Agency reduction in force.

(a) Composition.

(i) The agency reduction in force register will consist of classes and the names of all employees who hold or have held permanent status in those classes and: (A) Have been notified they are scheduled for reduction in force; or (B) held permanent status prior to separation due to a reduction in force; or (C) who have accepted a voluntary demotion in a class in lieu of a reduction in force; or (D) were in a trial service period with another department and separated due to reduction in force; or (E) employees requesting to be placed on this register for classes held immediately prior to the position being reallocated downward; or (F) who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the director of personnel a current statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status since the employee's last separation other than a reduction in force, or in which he/she served more than six months on a position which would have meant permanent status had it been under the jurisdiction of the state personnel board at the time.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(ii) An employee's name shall not appear for classes at or below the range level of a class in which the employee is serving on a permanent full-time basis, except:

(A) When the employee has accepted an option beyond a reasonable commuting distance in lieu of separation due to reduction in force. The employee's name may appear for classes at the same or lower range levels when the availability would return the employee back to his/her previous work locations.

(B) When the employee has accepted a position in lieu of separation due to a reduction in force, in a different class series.

(C) Any other exceptions shall be approved by the director or designee.

(2) Service-wide reduction in force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction in force register, except for those requesting to be on the agency reduction in force register following a reallocation downward.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-agency reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency promotional.

(a) Composition.

(i) This register will be established by appropriate classes for each agency and shall include the names of those current permanent employees of each agency who have served six months of a probationary period, or past permanent employees who have been separated due to reduction in force within the last year and who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months.

(5) Higher education reduction in force.

(a) Composition.

(i) This register shall contain the names of permanent employees ranked in order of seniority from higher education institutions or related boards laid off or scheduled for layoff and who have requested placement on this register. The employee's name shall appear for all classifications or equivalent classifications for which the employee held permanent status.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of the register.

(i) An eligible's name will normally remain on this register for two years from the date of placement on the register.

(d) Special provisions.

(i) The employee must request placement on this register within thirty calendar days of the effective date of layoff or previously have requested placement on the inter-system employment register due to layoff. The employee may request placement on lower classes in the same class series or equivalent classes and must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination for classes in which the employee has held permanent status, or lower classes in the same class series, or equivalent classes. Employees appointed from this register shall be required to complete a trial service period of six months.

(6) Service-wide reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((6))~~ (7) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of ranking.

(i) This register will be unranked.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

~~((7))~~ (8) Voluntary demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of ranking.

(i) This register shall be unranked. However, employees subject to reduction in force shall have priority.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

~~((8))~~ (9) Service-wide promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees who have served six months of a probationary period or past permanent employees who have been separated due to reduction in force within the last year who have obtained a passing final grade in the total promotional examination. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((9))~~ (10) Reemployment.

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within five years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction in force status and have been offered and declined employment. The director of personnel may extend the time during which an employee may apply for reemployment if the director of personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of ranking.

- (i) This register shall be unranked.
- (c) Life of register.
- (i) An eligible's name will normally remain on this register for two years.
- (d) Special provisions.
- (i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.
- ~~((10))~~ (11) Inter-system employment.
- (a) Composition. This register shall contain the names of permanent classified employees under the jurisdiction of the higher education personnel board who have submitted an application and who have passed the required examination.
- (b) Method of ranking. This register shall be ranked according to final passing score from the highest to the lowest.
- (c) Life of register. An eligible's name will normally remain on this register for one year.
- (d) Special provisions. Employees appointed from this register will serve a six month trial service period.
- ~~((11))~~ (12) Open competitive.
- (a) Composition.
- (i) This register will contain the names of all persons who have passed the entrance examination.
- (b) Method of ranking.
- (i) This register shall be ranked by the final score.
- (c) Life of register.
- (i) An eligible's name will normally remain on this register for one year unless changed by the director of personnel.
- (d) Special provisions.
- (i) Persons on this register will indicate the geographic areas for which they are available.

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

AMENDATORY SECTION (Amending WSR 84-11-091, filed 5/23/84, effective 9/1/84)

WAC 356-26-070 Certification—Registers—Order of rank—Exception. The director of personnel will normally certify names from the registers in the following order:

- (1) Agency reduction in force register.
- (2) Service-wide reduction in force register.
- (3) Dual-agency reversion register.
- (4) Agency promotional register.
- (5) Higher education reduction in force register.
- (6) Service-wide reversion register.
- ~~((6))~~ (7) Transfer register.
- ~~((7))~~ (8) Voluntary demotion register.
- ~~((8))~~ (9) Service-wide promotional register.
- ~~((9))~~ (10) Reemployment unranked register.
- ~~((10))~~ (11) Inter-system employment register.
- ~~((11))~~ (12) Open competitive register.

However, if the director of personnel and appointing authority establish that it is in the best interest of the state to broaden the competition, agencies may request the director

of personnel to certify names combined from registers (4), ~~((8))~~ (9), ~~((10))~~ (11), and ~~((11))~~ (12) provided:

(a) That the written request to the director shall be evidence of assurance that:

(i) Such a request will not harmfully affect utilization of protected group members who are applicants for this class.

(ii) If the position is within a collective bargaining unit, the exclusive representative will be provided copy of the request.

(iii) That the request is in the best interest of the state and not solely intended to circumvent the policy of promotion from within the state as provided in WAC 356-30-150.

(b) Request for combined registers must be made on a position-by position or a class basis and prior to recruitment.

WSR 94-04-091

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 5028—Filed February 1, 1994, 8:31 a.m.]

Date of Adoption: February 1, 1994.

Purpose: To generate funds for Washington state's 1994 Apple maggot and Mediterranean fruit fly detection and survey programs through a temporary assessment of fresh apple shipments.

Citation of Existing Rules Affected by this Order: Amending WAC 16-400-210.

Statutory Authority for Adoption: Chapters 15.17 and 17.24 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The detection programs will allow both foreign and domestic market access for Washington grown apples.

Effective Date of Rule: Immediately.

February 1, 1994

James M. Jesernig

Director

AMENDATORY SECTION (Amending Order 4019, filed 3/23/93, effective 4/23/93)

WAC 16-400-210 Other charges. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of twenty dollars.

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of twenty dollars.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no

platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges—The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to twenty-seven dollars.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February).

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: *Provided*, That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method; \$.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards. Such fee shall apply from February 1 to May 31, ((1993)) 1994.

WSR 94-04-101

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 94-04—Filed February 1, 1994, 2:01 p.m., effective February 15, 1994, 12 noon]

Date of Adoption: February 1, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook salmon are available in the Columbia River. This rule is consistent with the actions of the January 13, 1993 [1994], meeting of the Columbia River Compact. The department anticipates that the National Marine Fisheries Service will issue an ESA incidental take permit for this fishery.

Effective Date of Rule: February 15, 1994, 12 noon.

February 1, 1994
Judith Freeman
Deputy
for Robert Turner
Director

WSR 94-04-108
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Filed February 1, 1994, 4:40 p.m.]

Date of Adoption: January 28, 1994.

Purpose: This emergency rule clarifies the emergency rule adopted November 10, 1993. A statement was added to the section addressing harvest in "Type A" or "B" Wetlands to clearly prevent all harvest in bogs and fens.

Citation of Existing Rules Affected by this Order:
Amending WAC 173-202-020.

Statutory Authority for Adoption: RCW 90.48.420 and 76.09.040.

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: Confusion over rule language concerning harvest within forested bogs and fens.

Effective Date of Rule: Immediately.

January 28, 1994
Mary Riveland
Director

NEW SECTION

WAC 220-33-01000U Columbia River salmon seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, 220-33-020, and 220-33-030, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River SMCRA 1A, 1B, 1C, and that portion of SCMRA 1D downstream from Kelley Point at the mouth of the Willamette River, except as provided in the following subsections.

FISHING PERIODS

(1) noon February 15 to 6:00 p.m. February 18, 1994.
noon February 21 to 6:00 p.m. February 25, 1994.

GEAR

(2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear that:

- (a) exceeds 1,500 feet in length along the corkline;
- (b) is constructed of monofilament webbing;
- (c) has webbing with a mesh size of less than 8 inches or more than 9-1/4 inches; or

(d) has lead or weight on the leadline that exceeds two pounds in any one fathom, measurement to be taken along the corkline of the net.

(3)(a) It is unlawful to gaff a sturgeon.

(b) White sturgeon less than 48 inches or greater than 66 inches may not be retained for commercial purposes and shall be returned immediately to the water. The length of a sturgeon is the shortest distance between the tip of the nose and the extreme tip of the tail measured while the fish is lying on its side on a flat surface with its tail in a normal position.

(c) Sturgeon must be delivered to wholesale dealers and fish buyers undressed (in the round).

(d) It is unlawful for a wholesale dealer or fish buyer to possess a sturgeon from which only the head and tail have been removed if the remaining carcass is less than 28 inches in length. A carcass length of less than 28 inches is prima facie evidence that the total length of the whole sturgeon was less than 48 inches.

SANCTUARIES

(4) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed to fishing:

- (a) Grays Bay
- (b) Elokomin-A
- (c) Kalama-A
- (d) Lewis-A
- (e) Cowlitz
- (f) Gnat Creek
- (g) Big Creek

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 93-11-062, filed 5/13/93, effective 6/13/93)

WAC 173-202-020 Certain WAC sections adopted by reference. The following sections of the Washington Administrative Code existing on (~~May 12~~) December 17, 1993, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

- WAC 222-08-035—Continuing review of forest practices regulations.
- WAC 222-12-010—Authority.
- WAC 222-12-040—Alternate plans.
- WAC 222-12-045—Adaptive management.
- WAC 222-12-046—Cumulative effect
- WAC 222-12-070—Enforcement policy.
- WAC 222-16-010—General definitions.
- WAC 222-16-030—Water typing system.
- WAC 222-16-035—Wetland typing system.
- WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n)—Classes of forest practices.
- WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.
- WAC 222-22-010—Policy.
- WAC 222-22-020—Watershed administrative units.
- WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.
- WAC 222-22-040—Watershed prioritization.
- WAC 222-22-050—Level 1 watershed resource assessment.
- WAC 222-22-060—Level 2 watershed resource assessment.
- WAC 222-22-070—Prescription recommendation.

- WAC 222-22-080—Approval of watershed analysis.
- WAC 222-22-090—Use and review of watershed analysis.
- WAC 222-22-100—Application review prior to watershed analysis.
- WAC 222-24-010—Policy.
- WAC 222-24-020 (2), (3), (4), (6)—Road location.
- WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.
- WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.
- WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.
- WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.
- WAC 222-24-050—Road maintenance.
- WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
- WAC 222-30-010—Policy—Timber harvesting.
- WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.
- WAC 222-30-025—Green-up: Even-aged harvest size and timing.
- WAC 222-30-030—Stream bank integrity.
- WAC 222-30-040—Shade requirements to maintain stream temperature.
- WAC 222-30-050 (1), (2), (3)—Felling and bucking.
- WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.
- WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.
- WAC 222-30-080 (1), (2)—Landing cleanup.
- WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
- WAC 222-34-040—Site preparation and rehabilitation.
- WAC 222-38-010—Policy—Forest chemicals.
- WAC 222-38-020—Handling, storage, and application of pesticides.
- WAC 222-38-030—Handling, storage, and application of fertilizers.
- WAC 222-38-040—Handling, storage, and application of other forest chemicals.

WSR 94-04-008
NOTICE OF PUBLIC MEETINGS
LEGAL FOUNDATION
OF WASHINGTON
 [Memorandum—January 19, 1994]

The following are meeting dates scheduled for 1994 by the board of trustees of the Legal Foundation of Washington for publication by the code reviser as required by the Washington Supreme Court.

Board Meeting Friday, January 28, 1994 8 a.m.	Seattle Sheraton Hotel 1400 Sixth Avenue Seattle, WA
Planning Meeting Friday and Saturday February 25 and 26 Fri. 8:30 a.m. - 4 p.m. Sat. 8:30 a.m. - 12 noon	Heller, Ehrman, White and McAuliffe 701 Fifth Avenue Suite 6100 Seattle, WA
Board Meeting Thursday, May 19 at 10 a.m.	Olympia, Washington
Board Meeting Thursday, September 8 8 a.m. - 3 p.m.	Logan Building 3rd Floor Conference Room 500 Union Street Seattle, WA
Board/Grants Meeting Friday, November 18 8 a.m. - 5 p.m.	Logan Building 3rd Floor Conference Room 500 Union Street Seattle, WA

WSR 94-04-013
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 14, 1994]

Following are the schedule(s) for regular meetings to be held by the University of Washington's Prosthodontics.

Department of Prosthodontics
 Faculty Meeting

Meeting Dates	Location	Time
Every Friday a.m. while U.W. is in session, autumn, winter, spring and summer quarters.	D-683, HSB	8:00 a.m.
January 19, 1994 March 30, 1994 September 19, 1994 November 16, 1994	T-wing, HSB	7:30 p.m.

WSR 94-04-014
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—January 24, 1994]

BOARD OF TRUSTEES

January 28, 1994, 9:00 a.m.

Louise Anderson Hall, First Floor Lounge

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in PUB Room 302 on campus.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 94-04-016
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 19, 1994]

Following are the schedule(s) for regular meetings to be held by the University of Washington's Genetics and Parent and Child Nursing.

Genetics
 Faculty Meeting

Meeting Dates	Location	Time
Second Tuesday of each month	J-279 HSB	1:30

Parent Child Nursing
 Faculty Business Meeting and Curriculum

Meeting Dates	Location	Time
January 3, 1994	T404	12:30-
February 7, 1994	T404	2:30
March 7, 1994	T404	"
April 4, 1994	T404	"
May 2, 1994	T404	"
June 6, 1994	T404	"
July 11, 1994	T404	"
August 1, 1994	T404	"
September 5, 1994	T404	"
October 3, 1994	T404	"
November 7, 1994	T404	"
December 5, 1994 (first Monday of the month)	T404	"

PCN Curriculum Meeting
 Faculty Business

Meeting Dates	Location	Time
January 17, 1994	T404	12:30-
February 21, 1994*	T404	2:30
March 21, 1994	T404	"
April 18, 1994	T404	"
May 16, 1994	T404	"
June 20, 1994	T404	"
July 18, 1994	T404	"

MISCELLANEOUS

August 15, 1994	T404	"	April 5, 1994	204M	4:15 p.m.
September 19, 1994	T404	"	April 12, 1994	204M	4:15 p.m.
October 3, 1994	T404	"	April 19, 1994	204M	4:15 p.m.
November 21, 1994	T404	"	April 26, 1994	204M	4:15 p.m.
December 19, 1994	T404	"	May 3, 1994	204M	4:15 p.m.
(third Monday			May 10, 1994	204M	4:15 p.m.
of the month)			May 17, 1994	204M	4:15 p.m.
			May 24, 1994	204M	4:15 p.m.
			May 31, 1994	204M	4:15 p.m.
			June 7, 1994	204M	4:15 p.m.

WSR 94-04-019
NOTICE OF PUBLIC MEETINGS
STATE INVESTMENT BOARD
 [Memorandum—January 21, 1994]

Pursuant to board approval on January 20, 1994, the following calendar has been adopted for the State Investment Board's meetings for the 1994 calendar year:

- *February 17, 1994
- March 17, 1994
- April 21, 1994
- *May 19, 1994
- June 16, 1994
- July 21, 1994
- *August 18, 1994
- September 15, 1994
- October 20, 1994
- *November 17, 1994
- December 15, 1994

The meetings will begin at 9:30 a.m. and will be held at the State Investment Board's conference room at 2424 Heritage Court S.W., Olympia, WA 98504-0916.

*Indicates regular (quarterly) meetings. The remainder are special meetings which have been scheduled, but could be cancelled if there are not enough agenda items to warrant holding a meeting. It is recommended that interested parties call the State Investment Board at 664-8265 to confirm that these special meetings have not been cancelled.

WSR 94-04-020
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 20, 1994]

Following is the 1994 meeting schedule for regular meetings to be held by the University of Washington's ASUW Personnel Committee.

ASUW Personnel

Meeting Dates	Location	Time
January 18, 1994	204M	4:15 p.m.
January 25, 1994	204M	4:15 p.m.
February 1, 1994	204M	4:15 p.m.
February 8, 1994	204M	4:15 p.m.
February 15, 1994	204M	4:15 p.m.
February 22, 1994	204M	4:15 p.m.
March 1, 1994	204M	4:15 p.m.
March 8, 1994	204M	4:15 p.m.
March 15, 1994	204M	4:15 p.m.
March 29, 1994	204M	4:15 p.m.

WSR 94-04-021
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 21, 1994]

Following are the schedule(s) for regular meetings to be held by the University of Washington's Ophthalmology, Oral Medicine, and Biostatistics.

Oral Medicine
 Faculty Meeting

Meeting Dates	Location	Time
January 5, 1994	B-317D	12:30 p.m.
January 26, 1994	B-317D	12:30 p.m.
February 23, 1994	B-317D	12:30 p.m.
March 23, 1994	B-317D	12:30 p.m.
April 27, 1994	B-317D	12:30 p.m.
May 25, 1994	B-317D	12:30 p.m.
June 22, 1994	B-317D	12:30 p.m.
July 27, 1994	B-317D	12:30 p.m.
August 24, 1994	B-317D	12:30 p.m.
September 28, 1994	B-317D	12:30 p.m.
October 26, 1994	B-317D	12:30 p.m.
November 23, 1994	B-317D	12:30 p.m.
December 28, 1994	B-317D	12:30 p.m.

Biostatistics
 Biostat Faculty Meeting

Meeting Dates	Location	Time
1st and 3rd Thursday of every month in 1994	Biostatistics Conference Room, #F643 HSB	12:00 noon

Ophthalmology
 Department Faculty Meeting

Meeting Dates	Location	Time
January 13, 1994	BB-824 HSC	noon
February 17, 1994	BB-824 HSC	noon
March 17, 1994	BB-824 HSC	noon

Ophthalmology
 Clinical Faculty Meeting

Meeting Dates	Location	Time
January 20, 1994	BB-824 HSC	noon
February 24, 1994	BB-824 HSC	noon
March 24, 1994	BB-824 HSC	noon

MISCELLANEOUS

WSR 94-04-026
RULES COORDINATOR
PENINSULA COLLEGE
 [Filed January 26, 1994, 2:40 p.m.]

Cristie Norwood has been designated as the rules coordinator for Peninsula College, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, (206) 452-9277 and scan 227-1201.
 Bonnie Cauffman

WSR 94-04-027
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE
 [Memorandum—January 24, 1994]

The schedule shown below of regular meetings of the board of trustees of Walla Walla Community College for 1994 was adopted at their meeting on January 19, 1994. Time of the meetings will be 10:30 a.m. except as noted on the schedule.

1994 MEETING SCHEDULE
 FOR
 WALLA WALLA COMMUNITY COLLEGE
 BOARD OF TRUSTEES

WWCC Board Room - 10:30 a.m.

Wednesday	January 19, 1994	
Wednesday	February 23, 1994	
Friday	March 18, 1994	1:00 p.m.
Wednesday	April 20, 1994	Clarkston
Wednesday	May 18, 1994	
Wednesday	June 15, 1994	
Wednesday	July 20, 1994	(optional)
Wednesday	August 17, 1994	(optional)
Wednesday	September 21, 1994	
Wednesday	October 19, 1994	
Wednesday	November 16, 1994	
Wednesday	December 21, 1994	

WSR 94-04-028
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 24, 1994]

Following is the schedule(s) for regular meetings to be held by the University of Washington's Geography Department.

Geography Faculty

Meeting Dates	Location	Time
Semi-regular during the month — but always on Tuesday	Smith Room 409	2:30 p.m.

WSR 94-04-029
ATTORNEY GENERAL OPINION
Cite as: AGO 1994 No. 1
 [January 12, 1994]

FIREARMS—WEAPONS—SCHOOLS—Possession of firearms in facilities used exclusively by schools

RCW 9.41.280 prohibits possession of firearms in areas of facilities while being used exclusively by public or private schools. An area of a facility is used exclusively by a school when the school has sole possession, control, or use of an area of the facility, regardless of the duration of the use.

Requested by:

Honorable Linda Smith
 State Senator, District 18
 205 Institutions Building, MS 40418
 Olympia, WA 98504-0418

WSR 94-04-039
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF TRANSPORTATION
 [Memorandum—January 26, 1994]

This is to formally advise you of changes to the Multimodal Transportation Programs and Projects Selection Committee meetings.

A meeting will be held from 5:30 p.m. to 9:00 p.m. at the WestCoast SeaTac Hotel on February 17, 1994.

WSR 94-04-040
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
 [Memorandum—January 25, 1994]

The February 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Tuesday, February 22, and 9:00 a.m. on Wednesday, February 23, 1994, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Tuesday, February 22, in the Transportation Building, Rooms 1D2 and 3F22, Olympia, Washington.

The March 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, March 16, and 9:00 a.m. on Thursday, March 17, 1994, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, March 16, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

MISCELLANEOUS

WSR 94-04-049
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—December 28, 1994]

On September 23, 1993, the Washington State Workforce Training and Education Coordinating Board adopted a 1994 meeting schedule.

- Wednesday, January 5, 1994
(Aerospace Machinists District Lodge 751, Seattle)
- Wednesday, January 19, 1994
(Association of Washington Business, Olympia)
- Wednesday, February 23, 1994
(North Thurston High School, Bower Center, Lacey)
- Thursday, April 28, 1994
(Tacoma Community College, Tacoma)
- Thursday, June 30, 1994
(Renton Technical College, Renton)
- Wednesday, July 20, 1994
(International Air Academy, Vancouver)
- Wednesday, October 19, 1994
(Columbia Basin College, Pasco)
- Wednesday, November 16, 1994
(WTECB Planning Session, Seattle)

WSR 94-04-070
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
 [EO 94-02]

ESTABLISHING THE GOVERNOR'S COUNCIL ON
SCHOOL-TO-WORK TRANSITION

WHEREAS, the state of Washington has provided leadership in its education programs for elementary, secondary, and postsecondary education; and

WHEREAS, the state of Washington has continued to be in the forefront concerning innovative educational programs in the 1990s; and

WHEREAS, these innovative programs have included performance-based education, the Education Reform Act of 1993, the School-to-Work Transition Program, applied academics, TECH PREP, the Task Force on College and University Admissions Standards, integration of vocational and academic programs, and student enrollment options; and

WHEREAS, a skilled workforce is the foundation for economic development and a high standard of living; and

WHEREAS, the state of Washington, like the rest of the nation, lacks a comprehensive and coherent system to help its youth acquire the knowledge, skills, and information about the labor market necessary to make an effective transition from school to career-oriented work; and

WHEREAS, three-fourths of Washington's workers enter the workforce without baccalaureate degrees; and

WHEREAS, there is a dramatic need for an educational system that facilitates transition from secondary to postsecondary education, from education to the world of work, and continued education in the work place:

NOW, THEREFORE, I, Mike Lowry, Governor of the state of Washington, by virtue of the authority vested in me, do hereby establish the Governor's Council on School-To-Work Transition.

- I. The Council is charged with the responsibility to develop an action plan to establish the Statewide School-to-Work Transition System. At a minimum, the system should include:
 - A. The integration of school-to-work transition as an essential part of Washington's education and employment and training systems;
 - B. Essential learning requirements and performance-based assessments for secondary students after they receive a Certificate of Mastery;
 - C. Effective working partnerships between education, labor, business (including small business), community-based organizations, and government at all levels;
 - D. An education and training system that is competency- or performance-based with competencies validated by representatives from business, labor, education, government, and the community;
 - E. Statewide, industry-based skills standards that are coordinated with national standards, and the awarding of a skills certificate to students who demonstrate skill competencies;
 - F. Structured work-based learning experiences connected to school-based learning;
 - G. Integration of vocational and academic learning for all students;
 - H. A seamless system of competency attainment and recognition at secondary schools, community and technical colleges, and four-year colleges and universities;
 - I. A process for using labor market information for program planning and for counseling students concerning education and career choices; and
 - J. A process for evaluating the postsecondary education and employment outcomes of former secondary students, and for analyzing the relation of these outcomes to secondary school experiences.
- II. Members of the council shall be appointed by the Governor and shall include representatives of common schools, two-year colleges, four-year colleges and universities, business, labor, community, government, and members of the public.
- III. The Governor shall designate the Chair of the Council.
- IV. The Council Chair will establish committees and work groups as may be necessary to carry out the work of the Council. The Chair shall also designate a Vice Chair

and provide for the recording of activities and actions taken by the Council.

V. The Executive Director of the Council shall be selected by the Governor and shall serve at his pleasure.

VI. The Council Shall:

- A. Issue a report to the Governor by within nine months from the effective date of this Executive Order recommending actions needed to implement the school-to-work transition system.
- B. Specify the needed legislation and other actions that should be taken to implement the system; and
- C. Coordinate its work with other education reform and workforce development activities currently taking place in the State of Washington.

VI. The Office of Financial Management will provide funds from federal grants for the staffing and support of the Council, with public agencies and private-sector firms loaning staff as may be necessary. The Chair of the Council shall establish a Council budget from these funds. Members of the Council shall receive per diem and travel expenses in accordance with OFM policies.

VII. This Executive Order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 28th 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.

WSR 94-04-071
NOTICE OF PUBLIC MEETINGS
HIGHLINE COMMUNITY COLLEGE
[Memorandum—January 27, 1994]

The following information regarding the regular monthly meetings of the Community College District 9 board of trustees for the calendar year January through December 1994 is forwarded in compliance with RCW 42.30.075. All meetings are held in Building 25 and begin at 8:00 a.m. with a study session followed by the regular meeting at 10:00 a.m.

- January 13, 1994
- February 10, 1994
- March 10, 1994
- April 14, 1994
- May 12, 1994
- June 9, 1994
- July 14, 1994

- August - No meeting
- September 8, 1994
- October 13, 1994
- November 10, 1994
- December 8, 1994

WSR 94-04-072
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Board of Dental Examiners)
[Memorandum—January 31, 1994]

Board meeting dates for the Board of Dental Examiners are as follows:

- January 21-22, 1994
- March 3-5, 1994
- May 5-7, 1994
- June 12, 1994
- July 29-30, 1994
- September 11, 1994
- October 28-29, 1994
- December 9-10, 1994

- February - No meeting
- April - No meeting
- August - No meeting
- November - No meeting

Meetings are normally held in the SeaTac area. Locations will be announced via meeting agenda 2 weeks prior to meeting date.

WSR 94-04-073
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Dental Hygiene Program)
[Memorandum—January 31, 1994]

Committee meeting dates for 1994 to be published by your office are as follows:

- January 21-22
- February 25-26
- March 25, 26, 27
- April 29-30
- May 21-22
- August 19-20
- October 28-29
- December 2-3

Meetings are normally held in the SeaTac area. Locations will be announced via meeting agenda 2 weeks prior to meeting date.

MISCELLANEOUS

WSR 94-04-074
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Dental Disciplinary Board)
 [Memorandum—January 31, 1994]

Board meeting dates for the Washington State Dental Disciplinary Board are as follows:

- January 14-15, 1994
- February 11-12, 1994
- March 11-12, 1994
- April 8-9, 1994
- May 13-14, 1994
- June 10-11, 1994
- July 8-9, 1994
- August 12-13, 1994
- September 9-10, 1994
- October 14-15, 1994
- November 11-12, 1994
- December 9-10, 1994

Meeting locations will be announced via the meeting agenda, 2 weeks prior to the meeting date.

WSR 94-04-080
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE
 [Memorandum—January 26, 1994]

The March 10, 1994, board of trustees meeting for Tacoma Community College will be held at 3:00 p.m. in the Baker Room of the Cascade Conference Center, Building 7, on the TCC campus. The previously announced time was 4:00 p.m.

WSR 94-04-081
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE
 [Memorandum—January 26, 1994]

The Tacoma Community College board of trustees will be meeting jointly on Tuesday, February 15, 1994, 7:30 a.m., with the board members of Tacoma Public Schools, District 10 for a breakfast meeting. This meeting will be held in the Baker Room of the Cascade Conference Center in Building 7 on the TCC campus.

No action will be taken at this meeting.

WSR 94-04-082
NOTICE OF PUBLIC MEETINGS
COUNCIL ON
VOCATIONAL-TECHNICAL EDUCATION
 [Memorandum—January 31, 1994]

Wyndham Garden Hotel
 18118 Pacific Highway South
 Seattle, WA
 (206) 244-6666

Thursday, February 10, Board Room B, 2:00 p.m. - 5:00 p.m.

Miscellaneous

Friday, February 11, Salon F, 8:30 a.m. - 12:15 p.m.

The meeting site is barrier free. People needing special accommodations should contact the council office at (206) 753-3715.

WSR 94-04-099
NOTICE OF PUBLIC MEETING
GAMBLING COMMISSION
 [Filed February 1, 1994, 10:52 a.m.]

The public meeting scheduled for February 11, 1994, at the Ramada Governor House in Olympia has been canceled. The next public meeting is scheduled for March 11, 1994, at the Nordic Inn in Aberdeen.

WSR 94-04-100
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
 (Efficiency and Accountability Commission)
 [Memorandum—January 31, 1994]

Efficiency and Accountability Commission meetings are scheduled from 7:30 a.m. to 10:30 a.m. in the Seattle World Trade Center Theater. Interested persons are requested to confirm the meeting place by calling (206) 586-0823. The 1994 meeting schedule follows:

- March 16, 1994
- May 18, 1994
- July 20, 1994
- September 21, 1994
- November 16, 1994
- December 21, 1994

The Seattle World Trade Center Theater (Door 5132) is located on the Ticketing Level in the Main Terminal of the Seattle-Tacoma International Airport behind the Mark Air Ticketing Counter.

If you have questions or would like additional information call (206) 586-0823.

WSR 94-04-103
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Radiologic Technology Advisory Committee)
 [Memorandum—January 31, 1994]

Committee meeting dates for the Washington State Radiologic Technology Advisory Committee are as follows: April 21, 1994.

PLEASE NOTE - Meeting locations will be announced via the meeting agenda, 2 weeks prior to the meeting date.

MISCELLANEOUS

WSR 94-04-109
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD
 [Memorandum—February 1, 1994]

CERB members have called for a special meeting of the board on February 24, 1994, at SeaTac Airport in the large auditorium, from 9:00 a.m. to 3:00 p.m. This meeting will replace the one scheduled for March 17, 1994.

Any questions regarding the CERB meetings should be sent to: CERB Administrator, Community Economic Revitalization Board, c/o Department of Trade and Economic Development, 2001 6th Avenue, Suite 2700, Seattle, WA 98121, (206) 464-6282.

WSR 94-04-110
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Chiropractic Disciplinary Board)
 [Memorandum—January 28, 1994]

The highlighted dates are changes made to our Chiropractic Disciplinary Board meetings for 1994.

January 20, 1994	Tyee Hotel, Olympia
February 17, 1994	Tyee Hotel, Olympia
March 17, 1994	SeaTac Marriott Hotel, Seattle
April 21, 1994	Capital Inn, Lacey
May 19, 1994	CANCELLED
June 16, 1994	Tyee Hotel, Olympia
July 21, 1994	Tyee Hotel, Olympia
August 18, 1994	Red Lion, Spokane
September 15, 1994	Tyee Hotel, Olympia
October 20, 1994	SeaTac Marriott Hotel, Seattle
November 17, 1994	Tyee Hotel, Olympia
December 15, 1994	Tyee Hotel, Olympia

The address for the Tyee Hotel is 500 Tyee Drive S.W., Tumwater, WA 98501. The address for the Marriott is 3201 South 176th Street, Seattle, WA 98108. The address for Capital Inn is 120 College Street S.E., Lacey WA 98503.

WSR 94-04-127
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS
 [Memorandum—February 2, 1994]

Please accept this memo as notice of our next public meeting to be held in March 5, 1994, at the Public Utilities Building in Pasco, Washington. The regular commission meeting will begin at 9 a.m. and end at 3:00 p.m. An agenda can be obtained by calling the Commission on Hispanic Affairs at (206) 753-3159. The public is invited to offer comment throughout the meeting. Any questions regarding the meeting or request for special accommodations can be made by calling Ana Rojas at the commission.

WSR 94-04-128
PUGET SOUND
WATER QUALITY AUTHORITY
 [Filed February 2, 1994, 2:44 p.m.]

NOTICE OF PROPOSED PLAN AMENDMENT
AND PUBLIC HEARINGS
PUGET SOUND WATER QUALITY AUTHORITY

Title of Plan: 1994 Puget Sound Water Quality Management Plan

Purpose: Adopt the 1994 Puget Sound Water Quality Management Plan based on amendments to the 1991 Puget Sound Water Quality Management Plan.

Statutory Authority for Adoption: Chapter 90.70 RCW and Section 320 of the federal Clean Water Act, as amended by P.L. 100-4, the Water Quality Act of 1987, 33 U.S.C. 1330.

Statute Being Implemented: Chapter 90.70 RCW and Section 320 of the federal Clean Water Act, as amended by P.L. 100-4, the Water Quality Act of 1987, 33 U.S.C. 1330.

State Environmental Policy Act Compliance: The Puget Sound Water Quality Authority has filed a Declaration of Non-Significance on this proposal. Public comment on the declaration is being accepted concurrently.

Summary: The Puget Sound Water Quality Management Plan is a comprehensive plan that includes programs relating to protection of Puget Sound resources and the reduction of threats to those resources. The 1994 Plan builds on experience gained in implementing the 1991 Plan. New elements are proposed, many elements are revised, and completed elements are deleted. These changes will protect Puget Sound and its resources more efficiently and effectively.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Dohrmann, PSWQA, 300 Desmond Drive, Lacey, WA. Mailing Address: P.O. Box 40900, Olympia, WA. 98504-0900. Telephone: (206) 407-7300 or 1-800-54-SOUND. FAX: (206) 407-7333.

Name of Proponent: Puget Sound Water Quality Authority, governmental.

The Puget Sound Water Quality Authority encourages all interested parties to review the proposed amendments package in its entirety. In addition to the proposed amendments, a plan status report and State Environmental Policy Act compliance materials are available. All materials may be obtained from the Authority at the address listed above.

Explanation of Plan, its Purpose, and Anticipated Effects: The purpose of this plan is to restore and protect the biological health and diversity of Puget Sound. The strategy for achieving this purpose is to protect and enhance the Sound's water and sediment quality; its fish and shellfish; and its wetlands and other habitats.

The Puget Sound water quality planning area includes Puget Sound south of Admiralty Inlet (including Hood Canal and Saratoga Passage); the marine waters north to the Canadian border, including portions of the Strait of Georgia; the Strait of Juan de Fuca south of the Canadian border, extending

westward to Cape Flattery; and all the land draining into these waters.

The plan potentially affects every resident of the Puget Sound area, since everyone's activities are potential pollution sources. Those most likely to be affected by the plan include federal, state, local, and tribal governments; operators of federal facilities; researchers; educators; owners of septic systems and recreational boats; farmers; rural and urban landowners and homeowners; shellfish growers; the development community; municipal and industrial dischargers with permits under the National Pollutant Discharge Elimination System; ports and other dredgers; the marine transportation industry and others potentially involved in spills of hazardous substances; commercial fishermen; and operators of laboratories performing water quality tests.

Hearings: Public hearings will be held at 7:00 p.m. at the following locations:

March 8, 1994

Everett Main Library Auditorium, 2702 Hoyt Ave., Everett, WA. 98201.

Silverdale Fire District, 10955 Silverdale Way NW, Silverdale, WA. 98383.

March 9, 1994

Thurston County Courthouse, Commissioners Hearing Room, Room 280, Bldg. 1, 2000 Lakeridge Drive SW, Olympia, WA. 98502.

Skagit County Courthouse, Hearing Room C, 2nd Ave. & Kincaid St., Mt. Vernon, WA. 98273.

March 10, 1994

Council Conference Room, City Hall, Main floor, 11511 Main St., Bellevue, WA. 98004.

Council Chambers, 152 W. Cedar St., Sequim, WA. 98382.

In addition, a public hearing will be held in San Juan County. Time and date will be determined. Call the Puget Sound Water Quality Authority for more information.

Submit Written Comments to: John Dohrmann, at the address listed above. Comments must be RECEIVED by 5:00 pm, March 21, 1994.

Date of Intended Adoption: The Authority proposes to adopt the final plan on April 20, 1994.

SUMMARY OF THE PROPOSED PLAN

The Summary and Chapters 1, 2 and 3 of the 1991 Plan will be revised for the 1994 Plan. Chapter 4 will be deleted. The Authority is accepting public comment on all these sections for the 1994 Plan. The Summary gives brief highlights of the major plan programs. Chapter 1 introduces the Puget Sound Water Quality Authority and provides an overview of the constraints, opportunities and framework within which the plan operates. Chapter 2 generally describes the state of Puget Sound pollution and resources.

The first part of Chapter 3 of the 1991 Plan states the plan goal, criteria for setting priorities, broad priorities and priorities by element. The balance of Chapter 3 describes an action program for each issue area and discusses plan costs. For the 1994 Plan, the Authority proposes to update the first part of Chapter 3 and to eliminate the listing of priorities by element. The Authority proposes to periodically select

portions of the plan for additional emphasis and to make recommendations on funding of state agency activities for each biennial budget.

The Chapter 3 action programs and significant changes to the 1991 version of each program are summarized below. (Note: In addition to the following changes, target dates have been updated for many program elements.)

ESTUARY MANAGEMENT AND PLAN IMPLEMENTATION PROGRAM

This program (1) defines the Puget Sound Estuary Program management structure; (2) proposes several new financing options to provide adequate funding for the Puget Sound Estuary Program and the management plan; (3) requires ongoing accountability by implementing agencies; (4) provides for strong enforcement at all levels of government; and (5) seeks to ensure that federal activities, including the operation of large federal facilities, are consistent with the plan.

Eight amendments are proposed to the 1991 Plan. Amendments to element EM-8, Plan Implementation, are enhancements to make the tracking system work better. Coordination of funding efforts is improved (EM-4). Other changes to this program are deletions of all or parts of elements to simplify the program.

FISH AND WILDLIFE HABITAT PROTECTION PROGRAM

This program (1) encourages and supports efforts by federal and state agencies, local and tribal governments, and private organizations to act proactively to protect rapidly disappearing habitats in the near term; and (2) coordinates among existing agencies and governments and their laws and programs to protect and manage Puget Sound habitat in the long term and to provide integrated solutions for habitat protection.

Three amendments are proposed to the 1991 Plan. The first articulates the role of the Growth Management Act in protecting habitat at the local level; the second eliminates the habitat task force but provides for an alternative method of coordination, and the last eliminates the call for public forums for hydraulic project approvals.

SPILL PREVENTION AND RESPONSE PROGRAM

This program (1) identifies the tools and resources needed to protect Puget Sound from spills; and (2) sets forth a comprehensive spill prevention and response program using current regulations and enacting new legislation if necessary.

Two amendments are proposed to the 1991 Plan. The first merges the unfinished or ongoing activities of SP-1, SP-2, SP-5, SP-6, SP-8 and SP-9 to reflect completed assignments and ongoing activities that are being implemented by newly established programs or agencies. The second deletes element SP-12 dealing with offshore drilling.

MONITORING PROGRAM

This program (1) establishes an institutional structure to manage the monitoring program; (2) implements the monitoring program design, data management system, and quality assurance plan recommended by the Monitoring Management Committee; (3) ensures that the collection, analysis, interpre-

tation, and reporting of data is conducted in a manner that is useful to water quality managers and the public; and (4) reviews the monitoring program to ensure that the most appropriate and cost-effective monitoring elements are included.

Four amendments are proposed to the 1991 Plan. The first restates program goals more clearly and includes support of research as a goal; the second amends language pertaining to the Monitoring Management Committee involvement in the program; the third directs agency intensive survey groups to use Puget Sound Ambient Monitoring Program data as a resource in defining problem areas in need of study; and the fourth broadens the study of pesticides monitoring.

RESEARCH PROGRAM

This program (1) promotes the coordination and funding of Puget Sound research; (2) establishes a renewable list of research priorities for the program; and (3) assists in making the results of research available to decisionmakers.

Three amendments are proposed to the 1991 Plan. The first replaces the Puget Sound Foundation with the Authority as an implementor of the program and reassigns to the Authority, with assistance from an advisory committee, priority-setting and fund-raising responsibilities for the program. The second expands the program to include research elements of other plan programs. The third re-organizes text (and renumbers elements) for clarification and to reduce duplication.

EDUCATION AND PUBLIC INVOLVEMENT PROGRAM

This program includes (1) a public involvement policy to be followed by agencies and local governments; (2) increased resources to state agencies and tribal governments for coordinated education programs on marine and freshwater habitats, water quality issues, and community activities; (3) field agents to coordinate among local and regional education and public involvement programs; and (4) a Public Involvement and Education Fund (PIE Fund) to support short-term public involvement and education efforts of both the private and public sectors.

Eleven amendments are proposed to the 1991 Plan. Language is added to the education guidelines and public involvement policy (EPI-1 and PI-1) to reflect the need for greater racial and cultural representation. Field agent assignments (EPI-2.1) are simplified and the coordinated training teams (EPI-2.3) are eliminated. Roles for the Governor's Council on Environmental Education (EPI-2.4) and the Office of the Superintendent of Public Instruction (EPI-2.6) are updated. A new element is proposed for coordination of federal agencies. All other changes involve deleting duplicative language and completed or unnecessary elements.

PUGET SOUND FOUNDATION PROGRAM

This program's goal was to establish a nonprofit corporation that would 1) fund and coordinate research and education programs on Puget Sound; and 2) assume responsibility for certain elements of the Research and Education and Public Involvement programs as staff and funding allow.

Efforts to establish the Puget Sound Foundation have not been successful. Therefore, the Authority proposes removing the Puget Sound Foundation Program from the Plan. Long-term support of research will be pursued under the Research Program and in cooperation with other organizations which specialize in research. Education activities will continue to be pursued through the Education and Public Involvement Program, the PIE Fund and through all Plan programs.

HOUSEHOLD HAZARDOUS WASTE PROGRAM

This program implements recent amendments to the Hazardous Waste Management Act, including waste reduction through oil recycling and conservative use of pesticides. No amendments are proposed to this program.

NONPOINT SOURCE POLLUTION PROGRAM

This program (1) targets state, federal & local resources on priority watersheds through a cooperative process of local watershed planning and implementation; (2) supplements watershed plans with education and preventive programs; and (3) develops or enhances state programs or regulations for those nonpoint sources that are most effectively controlled at the state level (specifically recreational boaters and on-site septic systems).

There are four major categories of amendments proposed to the 1991 Plan. The first adds a separate goal and strategy for the watersheds, on-site septic systems, agricultural practices, forest practices, and marina/boater portions of this program. The second involves a number of refinements to the watershed portion to facilitate planning and implementation. The third gives new assignments to local governments regarding local on-site sewage and pumpout operation and maintenance programs, assistance to commercial and noncommercial farmers, watershed monitoring, and private forest lands. The fourth adds new policies and language on integrating new federal legislation (Section 6217 of the 1990 Coastal Zone Act Reauthorization Amendments) and Growth Management Act requirements with nonpoint pollution control and prevention in Puget Sound. Other amendments clarify language and update elements.

Amendments to the Marinas and Recreational Boating portion of the Nonpoint Program expand disposal concerns in marinas to include waste recycling; update and clarify language relating to boater education (MB-4); ensure coordination of pumpout placement programs (MB-5); improve effectiveness of the monitoring program (MB-7); and increase awareness of no-discharge area designation (MB-8).

SHELLFISH PROTECTION PROGRAM

This program includes (1) adoption of shellfish policies to ensure that pollution source control programs protect shellfish; (2) responses to existing and potential shellfish contamination with aggressive restoration and protection programs; (3) monitoring of commercial and recreational shellfish areas for toxic contaminants and indicators of pathogenic organisms, and (4) increased public involvement and education activities in shellfish protection.

Four amendments are proposed to the 1991 Plan: (1) Reference to the "shellfish protection and closure prevention

strategy" is deleted and replaced by additional language to clarify assignments and to better target efforts at priority shellfish areas (SF-2); (2) The recreational shellfish program is updated to emphasize implementation of the Recreational Shellfish Action Plan (SF-4); (3) The funding source assessment (completed) is deleted (SF-6); and (4) The closure response strategy is updated to reflect adoption of the Ecology/Health closure response Memorandum of Agreement and passage of 1992 shellfish protection legislation (SF-8).

WETLANDS PROTECTION PROGRAM

This program protects wetlands through (1) preservation; (2) local government programs that meet Authority standards; (3) protection of wetlands on state-owned uplands and aquatic lands; (4) a long-range wetlands education strategy; (5) wetlands inventories and performance evaluations to determine whether the goal of no net loss (and net gain) of wetlands is being met; (6) interagency coordination and assistance from federal agencies; and (7) wetlands restoration.

Five amendments are proposed to the 1991 Plan. The first combines three elements (W-1, W-2 and W-3) to make fund administration easier and to promote preservation activities. The second encourages greater flexibility in mitigation projects to better compensate for wetlands impacts. The third assigns new tasks relating to wetlands inventories and tracking. The fourth encourages greater consistency in the design and monitoring of compensatory mitigation projects. The fifth updates and clarifies the wetlands restoration program. Element numbers are reorganized.

MUNICIPAL AND INDUSTRIAL DISCHARGES PROGRAM

The Municipal & Industrial Discharges Program (1) requires that all waste discharge permits include appropriate monitoring requirements and limitations on toxicants and other pollutants of concern; (2) develops the tools needed to make these permit improvements, including the permit writers manual, data management, lab support, quality assurance, and technical assistance and training; (3) allocates substantially increased resources to urban bay action teams and pretreatment; (4) devotes substantially increased resources to the inspection and enforcement of waste discharge permits for industrial and municipal discharges; and (5) discovers and controls unpermitted discharges.

Several amendments are proposed to the 1991 Plan. In some cases, key milestones have been reached or assignments have been completed: Standards (P-1, P-2, and P-3), permits or permit fees (P-4, P-5 and P-7), and pretreatment (P-22). Other proposed amendments update tasks or clarify assignments: Effluent limits (P-6), public notice (P-10), Urban Bay Action Teams (P-13), data management (P-17), enforcement (P-18), training (P-19), public outreach (P-26), and technical outreach to dischargers (P-27). Portions of two elements (P-8 and P-15) are merged and restructured to address industry self-monitoring more efficiently. A new element is proposed to address alternatives to sanitary discharge to marine waters (P-29).

CONTAMINATED SEDIMENTS AND DREDGING PROGRAM

This program includes (1) classification of sediments that cause adverse biological effects and human health risks; (2)

implementation of Soundwide controls on sources of contaminants that cause sediments to fail sediment standards; (3) provision of rules and sites for disposal of dredged materials; and (4) expansion of the Urban Bay Action Program to provide for additional source control and consideration of cleanup actions for existing areas of high sediment contamination levels.

Three amendments are proposed to the 1991 Plan: (1) Additional flexibility is provided in establishing standards for confined disposal; (2) Department of Ecology is directed to further investigate the feasibility of multiuser access to large disposal projects; and (3) Urban Bay Action Team efforts are directed to be coordinated with bay-wide planning initiatives. Completed portions of S-8 are deleted.

STORMWATER AND COMBINED SEWER OVERFLOWS PROGRAM

This program includes (1) development of stormwater programs in urbanized areas of Puget Sound in a phased program starting with the largest cities; (2) development of municipal stormwater NPDES permits for Seattle, Tacoma and unincorporated King, Pierce and Snohomish counties, and phase-in of additional municipal stormwater NPDES permits for smaller jurisdictions as further EPA regulations are promulgated; (3) development of additional Puget Sound stormwater programs on a priority basis; (4) requirements that all cities and counties develop operation and maintenance programs, adopt ordinances controlling runoff from new development and re-development, and develop stormwater education programs; (5) technical assistance through roving trainers who work at the local level; and (6) requirements for all cities with combined sewer overflows in the Puget Sound basin to develop and implement plans providing for the greatest reasonable reduction of combined sewer overflow events.

A number of key amendments, as well as numerous clarifications and updates, are proposed to the 1991 Plan: (1) Overall editing for cost effectiveness and regulatory coordination and streamlining; (2) enhancing cross-programmatic coordination within watersheds; (3) enhancing Growth Management Act linkages; (3) emphasizing habitat protection; (4) strengthening vector waste disposal solutions; (5) adding performance criteria for best management practices; and (6) requiring the Departments of Fish & Wildlife and Natural Resources to approve the stormwater manual and identify the most critical watersheds for fish protection.

LABORATORY SUPPORT PROGRAM

This program (1) establishes a laboratory certification program administered by the Department of Ecology; (2) assures that adequate laboratory support exists for agency and other sampling programs; (3) develops and updates protocols and guidelines to standardize data collection, analysis, and transfer within Puget Sound; and (4) develops and encourages the use of uniform quality assurance guidelines for data collected under all Puget Sound programs.

One amendment is proposed to the 1991 Plan. Update and maintenance of Puget Sound protocols and guidelines is assigned to agencies and organizations with expertise. Ecology is assigned oversight responsibility. Completed portions of elements are deleted.

February 2, 1994
John Dohrmann
Director of Planning and Compliance

The staff meetings are held at the Attorney General's Conference Center, Rowsix, Building 1, 4224 Sixth Avenue Southeast, Lacey, WA.

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

WSR 94-04-129
NOTICE OF PUBLIC MEETINGS
HEALTH SERVICES COMMISSION

[Memorandum—February 1, 1994]

REGULAR COMMISSION MEETINGS

The following is the schedule of the commission's regular meetings in 1994. All meetings normally will be held on Thursdays, beginning at 8:30 a.m. and ending about 5:30 p.m. (unless we schedule an evening public hearing). Meeting dates, times, and locations are subject to change, due to unforeseen circumstances.

Date/City	Facility/Address
February 17 Tumwater	Auditorium, Department of Labor and Industries, Linderson Way
March 17 Wenatchee	Auditorium, Chelan County Public Utility District, 327 North Wenatchee Avenue
April 21 Tacoma	Ninth Floor Education Center, Roleigh, Schwartz and Powell, 1201 Pacific Avenue, First Interstate Plaza Building
May 26 Vancouver	Conference Center, Southwest Washington Medical Center, 400 Northeast Mother Joseph Place
June 24 (Friday) Spokane	City Council Chambers, Spokane City Hall, 808 West Spokane Falls Boulevard
July 28 Bellingham	Room 100, Arntzen Hall, Western Washington University
August 25 Longview	Student Center, Lower Columbia Community College, 1600 Maple Street
September 22 Kennewick	United Way Conference Center, 401 North Young Street
October 27 Seattle	Volney Richmond, Jr. Auditorium, Virginia Mason Medical Center 1201 Terry Avenue
November 17 Kirkland	Auditorium, Red Zone 1st Floor, Room 551, Auditorium, Evergreen Hospital Medical Center, 12040 N.E. 128th Avenue
December 22 Everett	Cascade/Rainier Room, General Hospital Medical Office Building, 132P Rockefeller Avenue

COMMISSION STAFF MEETINGS

During 1994, commission staff meetings will usually be held on the second Tuesday of the month from 8:00 a.m. to about 10:00 a.m. and all other Tuesdays from 9:00 a.m. to about 11:00 a.m., with the following exceptions:

Monday, March 28 from 9:00 a.m. to about 11:00 a.m., instead of March 29th

Monday, August 29 from 9:00 a.m. to about 11:00 a.m., instead of August 30th

No staff meeting will be held the week of September 5th

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	16-680-001	REP	94-03-021	132H-160-059	REP	94-04-098
4-25-186	REP	94-02-070	16-680-010	REP	94-03-021	132H-160-070	REP	94-04-098
4-25-187	REP	94-02-070	16-680-015	REP	94-03-021	132H-160-080	REP	94-04-098
4-25-188	REP	94-02-070	50-60-010	NEW	94-03-009	132H-160-120	REP	94-04-098
4-25-280	REP	94-02-070	50-60-020	NEW	94-03-009	132H-160-140	REP	94-04-098
4-25-300	REP	94-02-070	50-60-030	NEW	94-03-009	132H-160-150	REP	94-04-098
4-25-320	REP	94-02-070	50-60-040	NEW	94-03-009	132H-160-260	REP	94-04-098
4-25-521	NEW	94-02-068	50-60-050	NEW	94-03-009	132H-160-320	REP	94-04-098
4-25-522	NEW	94-02-068	50-60-060	NEW	94-03-009	132H-160-330	REP	94-04-098
4-25-810	NEW	94-02-072	50-60-070	NEW	94-03-009	132H-160-350	REP	94-04-098
4-25-811	NEW	94-02-072	50-60-080	NEW	94-03-009	132H-160-390	REP	94-04-098
4-25-812	NEW	94-02-072	50-60-090	NEW	94-03-009	132H-160-400	REP	94-04-098
4-25-813	NEW	94-02-072	50-60-100	NEW	94-03-009	132H-160-430	REP	94-04-098
4-25-820	NEW	94-02-071	50-60-110	NEW	94-03-009	132H-160-440	REP	94-04-098
4-25-920	NEW	94-02-069	50-60-120	NEW	94-03-009	132H-160-492	REP	94-04-098
16-221-001	REP	94-03-024	50-60-130	NEW	94-03-009	132H-160-520	REP	94-04-098
16-221-010	REP	94-03-024	50-60-140	NEW	94-03-009	132H-160-600	REP	94-04-098
16-221-020	REP	94-03-024	50-60-150	NEW	94-03-009	132H-160-610	REP	94-04-098
16-221-030	REP	94-03-024	50-60-160	NEW	94-03-009	132H-160-620	REP	94-04-098
16-221-040	REP	94-03-024	50-60-170	NEW	94-03-009	132H-160-630	REP	94-04-098
16-223-001	REP	94-03-023	50-60-180	NEW	94-03-009	132H-160-640	REP	94-04-098
16-223-002	REP	94-03-023	131-46-010	AMD	94-04-120	132H-160-650	REP	94-04-098
16-223-004	REP	94-03-023	131-46-020	AMD	94-04-120	132H-160-660	REP	94-04-098
16-223-005	REP	94-03-023	131-46-025	AMD	94-04-120	132H-160-670	REP	94-04-098
16-223-010	REP	94-03-023	131-46-027	NEW	94-04-120	132H-160-680	REP	94-04-098
16-223-020	REP	94-03-023	131-46-029	NEW	94-04-120	132H-160-690	REP	94-04-098
16-223-030	REP	94-03-023	131-46-030	AMD	94-04-120	132J-108-050	AMD	94-04-051
16-223-040	REP	94-03-023	131-46-035	AMD	94-04-120	132J-116-010	AMD	94-04-052
16-223-050	REP	94-03-023	131-46-040	AMD	94-04-120	132J-116-020	REP	94-04-052
16-223-060	REP	94-03-023	131-46-045	AMD	94-04-120	132J-116-021	NEW	94-04-052
16-223-070	REP	94-03-023	131-46-050	AMD	94-04-120	132J-116-040	AMD	94-04-052
16-400-210	AMD-E	94-04-091	131-46-055	AMD	94-04-120	132J-116-050	AMD	94-04-052
16-415-010	REP	94-03-026	131-46-060	AMD	94-04-120	132J-116-060	AMD	94-04-052
16-415-020	REP	94-03-026	131-46-065	AMD	94-04-120	132J-116-070	REP	94-04-052
16-415-030	REP	94-03-026	131-46-070	AMD	94-04-120	132J-116-080	AMD	94-04-052
16-415-040	REP	94-03-026	131-46-075	AMD	94-04-120	132J-116-090	AMD	94-04-052
16-432-010	REP	94-03-025	131-46-077	NEW	94-04-120	132J-116-100	AMD	94-04-052
16-432-020	REP	94-03-025	131-46-080	AMD	94-04-120	132J-116-110	AMD	94-04-052
16-432-030	REP	94-03-025	131-46-085	AMD	94-04-120	132J-116-120	AMD	94-04-052
16-432-040	REP	94-03-025	131-46-090	AMD	94-04-120	132J-116-130	AMD	94-04-052
16-432-050	REP	94-03-025	131-46-095	AMD	94-04-120	132J-116-140	AMD	94-04-052
16-432-060	REP	94-03-025	131-46-100	AMD	94-04-120	132J-116-150	AMD	94-04-052
16-432-070	REP	94-03-025	131-46-105	AMD	94-04-120	132J-116-160	AMD	94-04-052
16-432-080	REP	94-03-025	131-46-110	AMD	94-04-120	132J-116-170	AMD	94-04-052
16-432-090	REP	94-03-025	131-46-115	AMD	94-04-120	132J-116-180	AMD	94-04-052
16-432-100	REP	94-03-025	131-46-120	AMD	94-04-120	132J-116-190	AMD	94-04-052
16-432-110	REP	94-03-025	131-46-125	NEW	94-04-120	132J-116-200	REP	94-04-052
16-432-120	REP	94-03-025	131-46-130	NEW	94-01-120	132J-116-210	AMD	94-04-052
16-432-130	REP	94-03-025	132H-160-040	REP	94-04-098	132J-116-220	AMD	94-04-052
16-678-001	REP	94-03-022	132H-160-050	REP	94-04-098	132J-116-240	AMD	94-04-052
16-678-010	REP	94-03-022	132H-160-056	REP	94-04-098	132J-128-010	REP	94-04-053

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
132J-128-020	REP	94-04-053	162-30-070	NEW-W	94-04-087	180-40-235	AMD	94-03-102
132J-128-030	REP	94-04-053	162-30-080	NEW-W	94-04-087	180-50-115	AMD	94-03-104
132J-128-040	REP	94-04-053	162-30-090	NEW-W	94-04-087	180-50-120	AMD	94-03-104
132J-128-050	REP	94-04-053	162-30-100	NEW-W	94-04-087	180-51-050	AMD	94-03-100
132J-128-060	REP	94-04-053	173-19-100	AMD-P	94-03-093	180-51-075	AMD	94-03-104
132J-128-070	REP	94-04-053	173-19-120	AMD-P	94-03-092	180-51-105	AMD	94-03-103
132J-128-080	REP	94-04-053	173-19-2602	AMD-P	94-04-107	180-95-010	AMD	94-03-103
132J-128-090	REP	94-04-053	173-19-390	AMD	94-03-095	180-95-020	AMD	94-03-103
132J-128-100	REP	94-04-053	173-19-4205	AMD-P	94-03-094	180-95-030	AMD	94-03-103
132J-128-110	REP	94-04-053	173-34-010	REP-P	94-03-071	180-95-040	AMD	94-03-103
132J-128-120	REP	94-04-053	173-34-020	REP-P	94-03-071	180-95-050	AMD	94-03-103
132J-128-130	REP	94-04-053	173-34-030	REP-P	94-03-071	180-95-060	AMD	94-03-103
132J-128-140	REP	94-04-053	173-34-040	REP-P	94-03-071	180-96-005	AMD	94-03-101
132J-128-200	NEW	94-04-053	173-34-050	REP-P	94-03-071	180-96-010	AMD	94-03-101
132J-128-210	NEW	94-04-053	173-95-010	REP	94-04-030	180-96-015	REP	94-03-101
132J-136-020	REP	94-04-054	173-95-020	REP	94-04-030	180-96-025	REP	94-03-101
132J-136-025	REP	94-04-054	173-95-030	REP	94-04-030	180-96-030	REP	94-03-101
132J-136-030	REP	94-04-054	173-95-040	REP	94-04-030	180-96-035	AMD	94-03-101
132J-136-040	REP	94-04-054	173-95-050	REP	94-04-030	180-96-045	AMD	94-03-101
132J-136-050	REP	94-04-054	173-95-060	REP	94-04-030	180-96-048	NEW	94-03-101
132V-300-020	AMD-W	94-03-082	173-95-070	REP	94-04-030	180-96-050	AMD	94-03-101
132Y-125-004	AMD	94-03-010	173-95-080	REP	94-04-030	180-96-053	NEW	94-03-101
162-12-100	AMD-W	94-04-087	173-95-090	REP	94-04-030	180-96-055	REP	94-03-101
162-12-110	REP-W	94-04-087	173-95-100	REP	94-04-030	180-96-058	NEW	94-03-101
162-12-120	AMD-W	94-04-087	173-95-110	REP	94-04-030	180-96-060	REP	94-03-101
162-12-130	AMD-W	94-04-087	173-95-120	REP	94-04-030	180-96-065	REP	94-03-101
162-12-135	AMD-W	94-04-087	173-95-130	REP	94-04-030	180-96-070	REP	94-03-101
162-12-140	AMD-W	94-04-087	173-95-140	REP	94-04-030	180-96-075	REP	94-03-101
162-12-150	AMD-W	94-04-087	173-95-150	REP	94-04-030	192-28-145	AMD-P	94-04-124
162-12-160	AMD-W	94-04-087	173-95-160	REP	94-04-030	204-24-050	AMD-E	94-02-081
162-12-170	AMD-W	94-04-087	173-202-020	AMD-E	94-04-108	204-24-050	AMD-P	94-02-082
162-12-180	AMD-W	94-04-087	173-224-020	AMD-P	94-02-080	220-16-015	AMD-P	94-03-106
162-18-010	REP-W	94-04-087	173-224-030	AMD-P	94-02-080	220-16-460	NEW-P	94-03-105
162-18-020	REP-W	94-04-087	173-224-040	AMD-P	94-02-080	220-20-021	AMD-P	94-03-106
162-18-030	REP-W	94-04-087	173-224-050	AMD-P	94-02-080	220-20-025	AMD-P	94-03-106
162-18-040	REP-W	94-04-087	173-224-070	REP-P	94-02-080	220-32-05100E	NEW-E	94-04-048
162-18-050	REP-W	94-04-087	173-224-090	AMD-P	94-02-080	220-33-01000U	NEW-E	94-04-101
162-18-060	REP-W	94-04-087	173-224-100	AMD-P	94-02-080	220-33-060	AMD-P	94-03-106
162-18-070	REP-W	94-04-087	173-224-120	REP-P	94-02-080	220-44-020	AMD-P	94-03-106
162-18-080	REP-W	94-04-087	173-220-010	REP-P	94-03-071	220-44-030	AMD-P	94-03-106
162-18-090	REP-W	94-04-087	173-320-020	REP-P	94-03-071	220-44-090	NEW-P	94-03-106
162-18-100	REP-W	94-04-087	173-320-030	REP-P	94-03-071	220-48-001	AMD-P	94-03-106
162-22-010	AMD-W	94-04-087	173-320-040	REP-P	94-03-071	220-48-005	AMD-P	94-03-106
162-22-020	AMD-W	94-04-087	173-320-050	REP-P	94-03-071	220-48-011	AMD-P	94-03-106
162-22-030	REP-W	94-04-087	173-320-060	REP-P	94-03-071	220-48-015	AMD-P	94-03-106
162-22-040	REP-W	94-04-087	173-320-070	REP-P	94-03-071	220-48-016	NEW-P	94-03-106
162-22-050	AMD-W	94-04-087	173-320-080	REP-P	94-03-071	220-48-017	AMD-P	94-03-106
162-22-060	AMD-W	94-04-087	173-335-010	REP-P	94-03-071	220-48-019	AMD-P	94-03-106
162-22-070	AMD-W	94-04-087	173-335-020	REP-P	94-03-071	220-48-028	AMD-P	94-03-106
162-22-080	AMD-W	94-04-087	173-335-030	REP-P	94-03-071	220-48-031	AMD-P	94-03-106
162-22-090	AMD-W	94-04-087	173-335-040	REP-P	94-03-071	220-48-041	AMD-P	94-03-106
162-22-100	AMD-W	94-04-087	173-335-050	REP-P	94-03-071	220-48-051	AMD-P	94-03-106
162-26-010	AMD-W	94-04-087	173-400-045	NEW-P	94-04-106	220-48-061	AMD-P	94-03-106
162-26-020	AMD-W	94-04-087	173-400-101	NEW-P	94-04-105	220-48-071	AMD-P	94-03-106
162-26-030	AMD-W	94-04-087	173-400-116	NEW-P	94-04-106	220-49-005	NEW-P	94-03-106
162-26-040	AMD-W	94-04-087	173-401-200	AMD-P	94-04-104	220-49-011	AMD-P	94-03-106
162-26-050	AMD-W	94-04-087	173-401-510	AMD-P	94-04-104	220-49-012	AMD-P	94-03-106
162-26-060	AMD-W	94-04-087	173-401-530	NEW-P	94-04-104	220-49-013	AMD-P	94-03-106
162-26-070	AMD-W	94-04-087	173-401-531	NEW-P	94-04-104	220-49-014	AMD-P	94-03-106
162-26-080	AMD-W	94-04-087	173-401-532	NEW-P	94-04-104	220-49-015	REP-P	94-03-106
162-26-090	AMD-W	94-04-087	173-401-533	NEW-P	94-04-104	220-49-016	REP-P	94-03-106
162-26-100	AMD-W	94-04-087	173-460-020	AMD	94-03-072	220-49-017	AMD-P	94-03-106
162-26-110	AMD-W	94-04-087	173-460-030	AMD	94-03-072	220-49-020	AMD-P	94-03-106
162-26-120	AMD-W	94-04-087	173-460-040	AMD	94-03-072	220-49-02000F	NEW-E	94-04-047
162-26-130	AMD-W	94-04-087	173-460-050	AMD	94-03-072	220-49-021	AMD-P	94-03-106
162-26-140	AMD-W	94-04-087	173-460-060	AMD	94-03-072	220-49-022	REP-P	94-03-106
162-30-010	AMD-W	94-04-087	173-460-080	AMD	94-03-072	220-49-023	AMD-P	94-03-106
162-30-020	AMD-W	94-04-087	173-460-090	AMD	94-03-072	220-49-024	AMD-P	94-03-106
162-30-030	NEW-W	94-04-087	173-460-100	AMD	94-03-072	220-49-025	REP-P	94-03-106
162-30-035	NEW-W	94-04-087	173-460-110	AMD	94-03-072	220-49-026	REP-P	94-03-106
162-30-040	NEW-W	94-04-087	173-460-150	AMD	94-03-072	220-49-055	REP-P	94-03-106
162-30-050	NEW-W	94-04-087	173-460-160	AMD	94-03-072	220-49-056	AMD-P	94-03-106
162-30-060	NEW-W	94-04-087	180-16-200	AMD	94-03-104	220-49-057	AMD-P	94-03-106

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-49-063	AMD-P	94-03-106	220-57-425	AMD-P	94-03-105	245-01-020	NEW	94-04-046
220-49-064	AMD-P	94-03-106	220-57-430	AMD-P	94-03-105	245-01-030	NEW	94-04-046
220-52-010	AMD-P	94-03-106	220-57-435	AMD-P	94-03-105	245-01-040	NEW	94-04-046
220-52-018	AMD-P	94-03-106	220-57-450	AMD-P	94-03-105	245-01-050	NEW	94-04-046
220-52-019	AMD-P	94-03-106	220-57-455	AMD-P	94-03-105	245-01-060	NEW	94-04-046
220-52-01901	AMD-P	94-03-106	220-57-465	AMD-P	94-03-105	245-01-070	NEW	94-04-046
220-52-020	AMD-P	94-03-106	220-57-473	AMD-P	94-03-105	245-01-080	NEW	94-04-046
220-52-030	AMD-P	94-03-106	220-57-480	AMD-P	94-03-105	245-01-090	NEW	94-04-046
220-52-040	AMD-P	94-03-106	220-57-490	AMD-P	94-03-105	245-01-100	NEW	94-04-046
220-52-043	AMD-P	94-03-106	220-57-495	AMD-P	94-03-105	245-01-110	NEW	94-04-046
220-52-046	AMD-P	94-03-106	220-57-520	AMD-P	94-03-105	245-01-120	NEW	94-04-046
220-52-050	AMD-P	94-03-106	220-57-525	AMD-P	94-03-105	245-01-130	NEW	94-04-046
220-52-051	AMD-P	94-03-098	220-57A-012	AMD-P	94-03-105	245-01-140	NEW	94-04-046
220-52-051	AMD-P	94-03-106	220-57A-152	AMD-P	94-03-105	245-01-150	NEW	94-04-046
220-52-060	AMD-P	94-03-106	220-88A-010	NEW-P	94-03-098	246-08-450	AMD	94-04-079
220-52-063	AMD-P	94-03-106	220-88A-020	NEW-P	94-03-098	246-10-102	AMD	94-04-079
220-52-066	AMD-P	94-03-106	220-88A-030	NEW-P	94-03-098	246-10-103	AMD	94-04-079
220-52-068	AMD-P	94-03-106	220-88A-040	NEW-P	94-03-098	246-10-107	AMD	94-04-079
220-52-069	AMD-P	94-03-106	220-88A-050	NEW-P	94-03-098	246-10-109	AMD	94-04-079
220-52-070	AMD-P	94-03-106	220-88A-060	NEW-P	94-03-098	246-10-110	AMD	94-04-079
220-52-071	AMD-P	94-03-106	220-88A-070	NEW-P	94-03-098	246-10-114	AMD	94-04-079
220-52-073	AMD-P	94-03-106	220-88A-080	NEW-P	94-03-098	246-10-115	AMD	94-04-079
220-52-07300R	REP-E	94-03-063	230-02-161	AMD-P	94-04-024	246-10-123	AMD	94-04-079
220-52-07300S	NEW-E	94-03-063	220-88A-035	AMD-P	94-04-024	246-10-124	AMD	94-04-079
220-52-075	AMD-P	94-03-106	230-04-075	AMD-P	94-04-024	246-10-201	AMD	94-04-079
220-56-100	AMD-P	94-03-105	230-08-015	AMD-P	94-04-024	246-10-202	AMD	94-04-079
220-56-105	AMD-P	94-03-105	230-12-010	AMD-P	94-04-024	246-10-203	AMD	94-04-079
220-56-123	NEW-P	94-03-105	230-12-305	AMD-P	94-04-024	246-10-204	AMD	94-04-079
220-56-124	AMD-P	94-03-105	230-20-064	AMD-P	94-04-024	246-10-205	AMD	94-04-079
220-56-128	AMD-P	94-03-105	230-20-111	AMD-P	94-04-024	246-10-304	AMD	94-04-079
220-56-190	AMD-P	94-03-105	230-20-220	AMD-P	94-04-024	246-10-305	AMD	94-04-079
220-56-191	AMD-P	94-03-105	230-20-230	AMD-P	94-04-024	246-10-401	AMD	94-04-079
220-56-195	AMD-P	94-03-105	230-20-400	AMD-P	94-04-024	246-10-402	AMD	94-04-079
220-56-235	AMD-P	94-03-105	230-20-680	AMD-P	94-04-024	246-10-403	AMD	94-04-079
220-56-240	AMD-P	94-03-105	230-25-160	AMD-P	94-04-024	246-10-404	AMD	94-04-079
220-56-245	AMD-P	94-03-105	230-30-060	AMD-P	94-04-024	246-10-501	AMD	94-04-079
220-56-255	AMD-P	94-03-105	230-30-072	AMD-P	94-04-024	246-10-502	AMD	94-04-079
220-56-285	AMD-P	94-03-105	230-30-102	AMD-P	94-04-024	246-10-503	AMD	94-04-079
220-56-305	AMD-P	94-03-105	230-30-103	AMD-P	94-04-024	246-10-504	AMD	94-04-079
220-56-307	AMD-P	94-03-105	230-40-055	AMD-P	94-04-024	246-10-604	AMD	94-04-079
220-56-315	AMD-P	94-03-105	232-12-131	AMD-P	94-04-118	246-10-607	AMD	94-04-079
220-56-320	AMD-P	94-03-105	232-28-022	REP-P	94-04-055	246-10-701	AMD	94-04-079
220-56-350	AMD-P	94-03-105	232-28-02201	NEW-P	94-04-055	246-10-702	AMD	94-04-079
220-56-380	AMD-P	94-03-105	232-28-02202	NEW-P	94-04-057	246-10-704	AMD	94-04-079
220-56-382	AMD-P	94-03-105	232-28-02203	NEW-P	94-04-056	246-10-705	AMD	94-04-079
220-56-390	AMD-P	94-03-105	232-28-02204	NEW-P	94-04-058	246-10-706	AMD	94-04-079
220-56-400	AMD-P	94-03-105	232-28-02205	NEW-P	94-04-059	246-10-707	AMD	94-04-079
220-56-405	AMD-P	94-03-105	232-28-02206	NEW-P	94-04-060	246-11-010	AMD	94-04-078
220-56-410	AMD-P	94-03-105	232-28-02210	NEW-P	94-04-061	246-11-020	AMD	94-04-078
220-56-415	NEW-P	94-03-105	232-28-02220	NEW-P	94-04-062	246-11-030	AMD	94-04-078
220-57-130	AMD-P	94-03-105	232-28-02230	NEW-P	94-04-063	246-11-050	AMD	94-04-078
220-57-135	AMD-P	94-03-105	232-28-02240	NEW-P	94-04-064	246-11-060	AMD	94-04-078
220-57-140	AMD-P	94-03-105	232-28-02250	NEW-P	94-04-065	246-11-080	AMD	94-04-078
220-57-155	AMD-P	94-03-105	232-28-02260	NEW-P	94-04-066	246-11-090	AMD	94-04-078
220-57-200	AMD-P	94-03-105	232-28-02270	NEW-P	94-04-067	246-11-100	AMD	94-04-078
220-57-210	AMD-P	94-03-105	232-28-02280	NEW-P	94-04-068	246-11-110	AMD	94-04-078
220-57-215	AMD-P	94-03-105	232-28-02290	NEW-P	94-04-069	246-11-130	AMD	94-04-078
220-57-230	AMD-P	94-03-105	232-28-226	REP-P	94-04-114	246-11-140	AMD	94-04-078
220-57-235	REP-P	94-03-105	232-28-227	REP-P	94-04-116	246-11-160	AMD	94-04-078
220-57-250	AMD-P	94-03-105	232-28-228	REP-P	94-04-115	246-11-180	AMD	94-04-078
220-57-255	AMD-P	94-03-105	232-28-238	REP-P	94-04-117	246-11-220	AMD	94-04-078
220-57-270	AMD-P	94-03-105	232-28-239	NEW	94-04-123	246-11-230	AMD	94-04-078
220-57-280	AMD-P	94-03-105	232-28-240	NEW-P	94-04-114	246-11-250	AMD	94-04-078
220-57-285	AMD-P	94-03-105	232-28-241	NEW-P	94-04-115	246-11-260	AMD	94-04-078
220-57-300	AMD-P	94-03-105	232-28-242	NEW-P	94-04-116	246-11-270	AMD	94-04-078
220-57-310	AMD-P	94-03-105	232-28-243	NEW-P	94-04-117	246-11-280	AMD	94-04-078
220-57-319	AMD-P	94-03-105	232-28-417	AMD-E	94-04-007	246-11-290	AMD	94-04-078
220-57-335	AMD-P	94-03-105	232-28-61940	NEW	94-04-018	246-11-300	AMD	94-04-078
220-57-350	AMD-P	94-03-105	232-28-61944	NEW-E	94-03-038	246-11-330	AMD	94-04-078
220-57-370	AMD-P	94-03-105	232-28-61945	NEW-E	94-04-012	246-11-340	AMD	94-04-078
220-57-385	AMD-P	94-03-105	240-20-425	NEW-E	94-04-015	246-11-360	AMD	94-04-078
220-57-400	AMD-P	94-03-105	240-20-427	NEW-E	94-04-015	246-11-370	AMD	94-04-078
220-57-415	AMD-P	94-03-105	245-01-010	NEW	94-04-046	246-11-380	AMD	94-04-078

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-11-390	AMD	94-04-078	246-887-150	AMD-P	94-04-111	296-20-135	AMD	94-03-008
246-11-400	AMD	94-04-078	246-889-020	AMD-P	94-04-111	296-20-370	AMD	94-03-073
246-11-420	AMD	94-04-078	246-901-010	NEW-P	94-04-112	296-20-380	AMD	94-03-073
246-11-425	NEW	94-04-078	246-901-020	AMD-P	94-04-112	296-20-385	NEW	94-03-073
246-11-430	AMD	94-04-078	246-901-030	AMD-P	94-04-112	296-20-680	AMD	94-03-073
246-11-440	AMD	94-04-078	246-901-035	NEW-P	94-04-112	296-104-281	NEW-E	94-04-006
246-11-450	AMD	94-04-078	246-901-100	AMD-P	94-04-112	296-116-500	NEW-P	94-04-119
246-11-480	AMD	94-04-078	246-901-130	AMD-P	94-04-112	308-13-150	AMD	94-04-044
246-11-500	AMD	94-04-078	250-79-010	NEW-C	94-04-093	308-13-160	AMD	94-04-044
246-11-510	AMD	94-04-078	251-23-010	REP-W	94-04-010	308-62-010	REP-P	94-04-017
246-11-530	AMD	94-04-078	251-23-015	REP-W	94-04-010	308-62-020	REP-P	94-04-017
246-11-540	AMD	94-04-078	251-23-020	REP-W	94-04-010	308-62-030	REP-P	94-04-017
246-11-560	AMD	94-04-078	251-23-030	REP-W	94-04-010	308-72-543	NEW-P	94-02-076
246-11-580	AMD	94-04-078	251-23-040	REP-W	94-04-010	308-72-660	AMD-P	94-02-076
246-11-590	AMD	94-04-078	251-23-050	REP-W	94-04-010	308-72-665	NEW-P	94-02-076
246-11-600	AMD	94-04-078	251-23-060	REP-W	94-04-010	308-72-690	AMD-P	94-02-076
246-11-610	AMD	94-04-078	260-36-080	AMD	94-04-002	308-77-010	AMD-P	94-02-075
246-292-001	AMD	94-04-004	260-70-040	AMD	94-04-002	308-77-060	AMD-P	94-02-075
246-292-010	AMD	94-04-004	260-72-020	AMD	94-04-003	308-77-095	AMD-P	94-02-075
246-292-020	AMD	94-04-004	275-27-220	AMD	94-04-092	308-77-155	NEW-P	94-02-075
246-292-030	AMD	94-04-004	275-27-221	NEW	94-04-092	308-77-250	AMD-P	94-02-075
246-292-040	AMD	94-04-004	275-27-223	AMD	94-04-092	308-93-073	AMD-W	94-03-018
246-292-050	AMD	94-04-004	275-55-221	NEW-E	94-03-004	308-93-280	AMD-W	94-03-018
246-292-055	NEW	94-04-004	275-55-221	NEW-P	94-03-005	308-93-330	AMD-W	94-03-018
246-292-060	AMD	94-04-004	275-59-072	NEW-E	94-03-004	308-93-630	REP-W	94-03-018
246-292-070	AMD	94-04-004	275-59-072	NEW-P	94-03-005	308-128A-020	AMD	94-04-050
246-292-075	NEW	94-04-004	284-07-060	AMD	94-04-045	308-128A-030	AMD	94-04-050
246-292-080	AMD	94-04-004	284-07-100	AMD	94-04-045	308-128A-040	AMD	94-04-050
246-292-090	AMD	94-04-004	284-07-110	AMD	94-04-045	308-128C-040	AMD	94-04-050
246-292-100	AMD	94-04-004	284-07-130	AMD	94-04-045	308-128C-050	AMD	94-04-050
246-292-110	AMD	94-04-004	284-07-140	AMD	94-04-045	308-128D-010	AMD	94-04-050
246-292-120	REP	94-04-004	284-07-180	AMD	94-04-045	308-128D-030	AMD	94-04-050
246-292-130	REP	94-04-004	284-07-220	AMD	94-04-045	308-128D-040	AMD	94-04-050
246-292-140	REP	94-04-004	284-10	NEW-C	94-02-065	308-128D-070	AMD	94-04-050
246-292-150	REP	94-04-004	284-10	NEW-C	94-03-048	308-128E-011	AMD	94-04-050
246-292-160	NEW	94-04-004	284-10-010	NEW-E	94-03-084	308-128F-020	AMD	94-04-050
246-292-170	NEW	94-04-004	284-10-010	NEW-W	94-03-085	314-60-010	AMD	94-03-060
246-292-990	REP	94-04-004	284-10-010	NEW-P	94-04-126	314-60-020	AMD	94-03-060
246-490-100	NEW	94-04-083	284-10-015	NEW-E	94-03-084	314-60-030	AMD	94-03-060
246-490-110	NEW	94-04-083	284-10-015	NEW-W	94-03-085	314-60-080	AMD	94-03-060
246-807-115	NEW-P	94-03-053	284-10-015	NEW-P	94-04-126	314-60-105	AMD	94-03-060
246-815-300	NEW	94-04-005	284-10-020	NEW-E	94-03-084	314-60-110	AMD	94-03-060
246-815-990	AMD	94-02-059	284-10-020	NEW-W	94-03-085	315-02-120	REP	94-03-020
246-816-015	NEW-P	94-03-045	284-10-020	NEW-P	94-04-126	315-04-180	AMD	94-03-020
246-818-015	NEW-P	94-03-044	284-10-030	NEW-E	94-03-084	315-04-210	AMD	94-03-020
246-818-990	REP	94-02-058	284-10-030	NEW-W	94-03-085	315-06-035	AMD	94-03-020
246-818-991	NEW	94-02-058	284-10-030	NEW-P	94-04-126	315-06-140	REP	94-03-020
246-824-200	NEW-P	94-02-057	284-10-050	NEW-P	94-04-125	315-06-150	REP	94-03-020
246-824-210	NEW-P	94-02-057	284-10-060	NEW-E	94-03-084	315-06-160	REP	94-03-020
246-824-220	NEW-P	94-02-057	284-10-060	NEW-W	94-03-085	315-06-170	AMD	94-03-020
246-824-230	NEW-P	94-02-057	284-10-060	NEW-P	94-04-126	315-06-180	REP	94-03-020
246-851-110	AMD	94-04-041	284-10-070	NEW-E	94-03-084	315-06-190	AMD	94-03-020
246-851-550	NEW	94-04-041	284-10-070	NEW-W	94-03-085	315-10-030	AMD	94-03-020
246-863-020	AMD-P	94-04-113	284-10-070	NEW-P	94-04-126	315-10-060	AMD	94-03-020
246-863-030	AMD-P	94-04-113	284-10-080	NEW-W	94-03-085	315-10-080	AMD	94-03-020
246-865-060	AMD	94-02-077	284-10-090	NEW-E	94-03-084	315-11A-114	NEW	94-03-019
246-878-010	NEW-P	94-02-079	284-10-090	NEW-W	94-03-085	315-11A-115	NEW	94-03-019
246-878-020	NEW-P	94-02-079	284-10-090	NEW-P	94-04-126	315-11A-116	NEW	94-03-019
246-878-030	NEW-P	94-02-079	284-10-100	NEW-W	94-03-085	315-11A-117	NEW	94-03-019
246-878-040	NEW-P	94-02-079	284-10-110	NEW-W	94-03-085	315-11A-118	NEW-P	94-03-099
246-878-050	NEW-P	94-02-079	284-10-120	NEW-W	94-03-085	315-11A-119	NEW-P	94-03-099
246-878-060	NEW-P	94-02-079	284-10-130	NEW-W	94-03-085	315-11A-120	NEW-P	94-03-099
246-878-070	NEW-P	94-02-079	284-10-140	NEW-W	94-03-085	315-11A-121	NEW-P	94-03-099
246-878-080	NEW-P	94-02-079	284-10-150	NEW-W	94-03-085	315-30-030	AMD	94-03-020
246-878-090	NEW-P	94-02-079	284-10-160	NEW-W	94-03-085	315-34-040	AMD-P	94-03-099
246-878-100	NEW-P	94-02-079	284-10-170	NEW-W	94-03-085	326-30-041	AMD	94-03-068
246-878-110	NEW-P	94-02-079	284-10-180	NEW-W	94-03-085	352-32-010	AMD-P	94-03-097
246-878-120	NEW-P	94-02-079	284-10-190	NEW-W	94-03-085	352-32-045	AMD-P	94-03-097
246-883-030	AMD-P	94-02-078	284-10-200	NEW-W	94-03-085	352-32-250	AMD-P	94-03-097
246-886-030	AMD	94-02-060	296-15-020	AMD-C	94-03-006	352-32-25001	AMD	94-04-075
246-887	AMD-C	94-02-089	296-15-02606	NEW-C	94-03-006	352-32-252	AMD-P	94-03-097
246-887-100	AMD-P	94-04-111	296-15-030	AMD-C	94-03-006	352-32-255	AMD-P	94-03-097
246-887-140	AMD-P	94-04-111	296-15-170	AMD-C	94-03-006	352-32-320	NEW-P	94-03-097

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
352-65-010	AMD	94-04-076	388-86-090	AMD-E	94-04-023	392-140-505	NEW-P	94-04-122
352-65-020	AMD	94-04-076	388-86-098	AMD-P	94-04-022	392-140-506	NEW-P	94-04-122
352-65-030	AMD	94-04-076	388-86-098	AMD-E	94-04-023	392-140-507	NEW-P	94-04-122
352-65-040	AMD	94-04-076	388-217-3000	NEW	94-04-043	392-140-508	NEW-P	94-04-122
352-65-060	AMD	94-04-076	388-217-3050	NEW	94-04-043	392-140-509	NEW-P	94-04-122
352-74-040	AMD-P	94-03-089	388-217-3100	NEW	94-04-043	392-140-510	NEW-P	94-04-122
356-05-477	NEW	94-04-011	388-217-3150	NEW	94-04-043	392-140-511	NEW-P	94-04-122
356-05-479	NEW	94-04-011	388-217-3200	NEW	94-04-043	392-140-512	NEW-P	94-04-122
356-06-045	NEW	94-04-011	388-217-3250	NEW	94-04-043	392-140-516	NEW-P	94-04-122
356-09	NEW-C	94-04-086	388-217-3300	NEW	94-04-043	392-140-517	NEW-P	94-04-122
356-09-010	REP-W	94-04-010	388-217-3350	NEW	94-04-043	392-140-518	NEW-P	94-04-122
356-09-020	REP-W	94-04-010	388-225-0010	NEW-P	94-03-051	392-140-519	NEW-P	94-04-122
356-09-030	REP-W	94-04-010	388-225-0020	NEW-P	94-03-051	392-157-005	NEW	94-04-097
356-09-040	REP-W	94-04-010	388-225-0050	NEW-P	94-03-051	392-157-010	NEW	94-04-097
356-09-050	REP-W	94-04-010	388-225-0060	NEW-P	94-03-051	392-157-015	NEW	94-04-097
356-26-030	AMD-E	94-04-085	388-225-0070	NEW-P	94-03-051	392-157-020	NEW	94-04-097
356-26-070	AMD-E	94-04-085	388-225-0080	NEW-P	94-03-051	392-157-025	NEW	94-04-097
356-30-285	NEW	94-04-011	388-225-0090	NEW-P	94-03-051	392-157-030	NEW	94-04-097
356-30-315	NEW	94-04-011	388-225-0100	NEW-P	94-03-051	392-157-035	NEW	94-04-097
356-30-328	NEW-W	94-04-009	388-225-0120	NEW-P	94-03-051	392-157-040	NEW	94-04-097
356-37-080	AMD-P	94-04-084	388-225-0150	NEW-P	94-03-051	392-157-045	NEW	94-04-097
356-37-090	AMD-P	94-04-084	388-225-0160	NEW-P	94-03-051	392-157-050	NEW	94-04-097
356-56-015	AMD-E	94-03-069	388-225-0170	NEW-P	94-03-051	392-157-055	NEW	94-04-097
356-56-230	AMD-E	94-03-069	388-225-0180	NEW-P	94-03-051	392-157-060	NEW	94-04-097
388-22-030	AMD-P	94-04-042	388-225-0190	NEW-P	94-03-051	392-157-065	NEW	94-04-097
388-24-111	AMD	94-04-034	388-225-0300	NEW-P	94-03-051	392-157-070	NEW	94-04-097
388-24-250	REP-P	94-03-051	388-275-0010	NEW	94-04-033	392-157-075	NEW	94-04-097
388-24-252	REP-P	94-03-051	388-275-0020	NEW	94-04-033	392-157-080	NEW	94-04-097
388-24-253	REP-P	94-03-051	388-275-0030	NEW	94-04-033	392-157-085	NEW	94-04-097
388-24-254	REP-P	94-03-051	388-275-0040	NEW	94-04-033	392-157-090	NEW	94-04-097
388-24-255	REP-P	94-03-051	388-275-0050	NEW	94-04-033	392-157-095	NEW	94-04-097
388-24-260	REP-P	94-03-051	388-275-0060	NEW	94-04-033	392-157-100	NEW	94-04-097
388-24-265	REP-P	94-03-051	388-275-0070	NEW	94-04-033	392-157-105	NEW	94-04-097
388-28-370	REP	94-04-043	388-275-0080	NEW	94-04-033	392-157-110	NEW	94-04-097
388-28-439	AMD-P	94-03-055	388-275-0090	NEW	94-04-033	392-157-115	NEW	94-04-097
388-28-457	REP	94-04-043	388-538-110	AMD	94-04-038	392-157-120	NEW	94-04-097
388-28-458	REP	94-04-043	390-16-324	NEW-P	94-03-087	392-157-125	NEW	94-04-097
388-28-459	REP	94-04-043	390-16-324	NEW-W	94-04-121	392-157-130	NEW	94-04-097
388-28-460	REP	94-04-043	390-17-300	AMD-P	94-03-087	392-157-135	NEW	94-04-097
388-28-461	REP	94-04-043	390-17-300	AMD-W	94-04-121	392-157-140	NEW	94-04-097
388-28-462	REP	94-04-043	390-17-315	AMD-P	94-03-087	392-157-145	NEW	94-04-097
388-28-463	REP	94-04-043	390-17-315	AMD-W	94-04-121	392-157-150	NEW	94-04-097
388-28-464	REP	94-04-043	392-127-700	REP	94-04-096	392-157-155	NEW	94-04-097
388-28-465	REP	94-04-043	392-127-703	REP	94-04-096	392-157-160	NEW	94-04-097
388-28-470	REP	94-04-043	392-127-705	REP	94-04-096	392-157-165	NEW	94-04-097
388-28-471	REP	94-04-043	392-127-710	REP	94-04-096	392-157-170	NEW	94-04-097
388-28-472	REP	94-04-043	392-127-715	REP	94-04-096	392-157-175	NEW	94-04-097
388-28-473	REP	94-04-043	392-127-720	REP	94-04-096	392-157-180	NEW	94-04-097
388-28-600	AMD-P	94-04-042	392-127-725	REP	94-04-096	392-163-400	AMD-P	94-04-094
388-29-295	AMD	94-04-035	392-127-730	REP	94-04-096	392-163-405	AMD-P	94-04-094
388-43-120	NEW-E	94-04-032	392-127-735	REP	94-04-096	392-163-440	AMD-P	94-04-094
388-43-120	NEW	94-04-037	392-127-740	REP	94-04-096	392-163-445	AMD-P	94-04-094
388-49-535	AMD-P	94-03-041	392-127-745	REP	94-04-096	392-163-530	AMD-P	94-04-094
388-49-590	AMD-P	94-03-050	392-127-750	REP	94-04-096	392-163-580	AMD-P	94-04-094
388-53-010	REP	94-04-036	392-127-755	REP	94-04-096	392-169-005	NEW	94-04-095
388-53-050	REP	94-04-036	392-127-760	REP	94-04-096	392-169-010	NEW	94-04-095
388-59-010	REP	94-04-033	392-127-765	REP	94-04-096	392-169-015	NEW	94-04-095
388-59-020	REP	94-04-033	392-127-770	REP	94-04-096	392-169-020	NEW	94-04-095
388-59-030	REP	94-04-033	392-127-775	REP	94-04-096	392-169-022	NEW	94-04-095
388-59-040	REP	94-04-033	392-127-780	REP	94-04-096	392-169-023	NEW	94-04-095
388-59-045	REP	94-04-033	392-127-785	REP	94-04-096	392-169-025	NEW	94-04-095
388-59-048	REP	94-04-033	392-127-790	REP	94-04-096	392-169-030	NEW	94-04-095
388-59-050	REP	94-04-033	392-127-795	REP	94-04-096	392-169-035	NEW	94-04-095
388-59-060	REP	94-04-033	392-127-800	REP	94-04-096	392-169-040	NEW	94-04-095
388-59-070	REP	94-04-033	392-127-805	REP	94-04-096	392-169-045	NEW	94-04-095
388-59-080	REP	94-04-033	392-127-815	REP	94-04-096	392-169-050	NEW	94-04-095
388-59-090	REP	94-04-033	392-127-820	REP	94-04-096	392-169-055	NEW	94-04-095
388-59-100	REP	94-04-033	392-127-825	REP	94-04-096	392-169-057	NEW	94-04-095
388-86-030	AMD-C	94-04-031	392-127-830	REP	94-04-096	392-169-060	NEW	94-04-095
388-86-045	AMD	94-03-052	392-140-500	NEW-P	94-04-122	392-169-065	NEW	94-04-095
388-86-073	AMD-P	94-04-022	392-140-501	NEW-P	94-04-122	392-169-070	NEW	94-04-095
388-86-073	AMD-E	94-04-023	392-140-503	NEW-P	94-04-122	392-169-075	NEW	94-04-095
388-86-090	AMD-P	94-04-022	392-140-504	NEW-P	94-04-122	392-169-080	NEW	94-04-095

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
392-169-085	NEW	94-04-095	458-61-030	AMD	94-04-088	460-44A-501	AMD	94-03-061
392-169-090	NEW	94-04-095	458-61-040	REP	94-04-088	460-44A-502	AMD	94-03-061
392-169-095	NEW	94-04-095	458-61-050	AMD	94-04-088	460-44A-504	AMD	94-03-061
392-169-100	NEW	94-04-095	458-61-060	AMD	94-04-088	460-44A-505	AMD	94-03-061
392-169-105	NEW	94-04-095	458-61-070	AMD	94-04-088	460-44A-506	AMD	94-03-061
392-169-110	NEW	94-04-095	458-61-080	AMD	94-04-088	468-38-020	AMD-P	94-03-042
392-169-115	NEW	94-04-095	458-61-090	AMD	94-04-088	468-38-030	AMD-P	94-03-042
392-169-120	NEW	94-04-095	458-61-100	AMD	94-04-088	468-38-075	AMD-E	94-02-064
392-169-125	NEW	94-04-095	458-61-110	REP	94-04-088	468-38-075	AMD-P	94-03-043
392-320-005	NEW-P	94-04-025	458-61-120	AMD	94-04-088	468-300-010	AMD-P	94-04-077
392-320-010	NEW-P	94-04-025	458-61-130	AMD	94-04-088	468-300-020	AMD-P	94-04-077
392-320-015	NEW-P	94-04-025	458-61-140	REP	94-04-088	468-300-040	AMD-P	94-04-077
392-320-020	NEW-P	94-04-025	458-61-150	AMD	94-04-088	480-12-260	AMD	94-03-002
392-320-025	NEW-P	94-04-025	458-61-200	AMD	94-04-088	480-12-321	AMD	94-03-001
392-320-030	NEW-P	94-04-025	458-61-210	AMD	94-04-088	480-50-010	AMD	94-03-003
392-320-035	NEW-P	94-04-025	458-61-220	AMD	94-04-088	480-50-040	AMD	94-03-003
392-320-040	NEW-P	94-04-025	458-61-225	NEW	94-04-088	484-20-065	AMD	94-04-001
392-320-045	NEW-P	94-04-025	458-61-230	AMD	94-04-088			
392-320-050	NEW-P	94-04-025	458-61-235	NEW	94-04-088			
392-320-055	NEW-P	94-04-025	458-61-240	REP	94-04-088			
392-320-060	NEW-P	94-04-025	458-61-250	AMD	94-04-088			
434-663-001	NEW-W	94-03-081	458-61-255	NEW	94-04-088			
434-663-005	NEW-W	94-03-081	458-61-270	REP	94-04-088			
434-663-020	NEW-W	94-03-081	458-61-280	REP	94-04-088			
434-663-030	NEW-W	94-03-081	458-61-290	AMD	94-04-088			
434-663-050	NEW-W	94-03-081	458-61-300	AMD	94-04-088			
434-663-060	NEW-W	94-03-081	458-61-310	REP	94-04-088			
434-663-070	NEW-W	94-03-081	458-61-320	REP	94-04-088			
434-663-100	NEW	94-04-102	458-61-330	AMD	94-04-088			
434-663-200	NEW	94-04-102	458-61-335	AMD	94-04-088			
434-663-210	NEW	94-04-102	458-61-340	AMD	94-04-088			
434-663-220	NEW	94-04-102	458-61-360	REP	94-04-088			
434-663-230	NEW	94-04-102	458-61-370	AMD	94-04-088			
434-663-240	NEW	94-04-102	458-61-374	NEW	94-04-088			
434-663-250	NEW	94-04-102	458-61-375	NEW	94-04-088			
434-663-260	NEW	94-04-102	458-61-376	NEW	94-04-088			
434-663-300	NEW	94-04-102	458-61-380	REP	94-04-088			
434-663-310	NEW	94-04-102	458-61-390	REP	94-04-088			
434-663-320	NEW	94-04-102	458-61-400	AMD	94-04-088			
434-663-400	NEW	94-04-102	458-61-410	AMD	94-04-088			
434-663-410	NEW	94-04-102	458-61-411	NEW	94-04-088			
434-663-420	NEW	94-04-102	458-61-412	NEW	94-04-088			
434-663-430	NEW	94-04-102	458-61-420	AMD	94-04-088			
434-663-440	NEW	94-04-102	458-61-425	AMD	94-04-088			
434-663-450	NEW	94-04-102	458-61-430	AMD	94-04-088			
434-663-460	NEW	94-04-102	458-61-440	REP	94-04-088			
434-663-470	NEW	94-04-102	458-61-460	REP	94-04-088			
434-663-480	NEW	94-04-102	458-61-470	AMD	94-04-088			
434-663-490	NEW	94-04-102	458-61-480	AMD	94-04-088			
434-663-500	NEW	94-04-102	458-61-490	REP	94-04-088			
434-663-510	NEW	94-04-102	458-61-500	REP	94-04-088			
434-663-520	NEW	94-04-102	458-61-510	AMD	94-04-088			
434-663-530	NEW	94-04-102	458-61-520	AMD	94-04-088			
434-663-600	NEW	94-04-102	458-61-530	REP	94-04-088			
434-663-610	NEW	94-04-102	458-61-540	AMD	94-04-088			
434-663-620	NEW	94-04-102	458-61-545	AMD	94-04-088			
434-663-630	NEW	94-04-102	458-61-550	AMD	94-04-088			
456-09-010	AMD-P	94-03-056	458-61-553	NEW	94-04-088			
456-09-325	AMD-P	94-03-056	458-61-555	AMD	94-04-088			
456-09-365	AMD-P	94-03-056	458-61-560	REP	94-04-088			
456-10-010	AMD-P	94-03-057	458-61-570	REP	94-04-088			
456-10-325	AMD-P	94-03-057	458-61-590	AMD	94-04-088			
456-10-360	AMD-P	94-03-057	458-61-600	AMD	94-04-088			
458-20-122	AMD-P	94-03-035	458-61-610	AMD	94-04-088			
458-20-125	REP-P	94-03-037	458-61-620	REP	94-04-088			
458-20-167	AMD-P	94-03-047	458-61-630	REP	94-04-088			
458-20-209	AMD-P	94-03-036	458-61-640	AMD	94-04-088			
458-20-210	AMD-P	94-03-034	458-61-650	AMD	94-04-088			
458-20-238	PREP	94-03-046	458-61-660	AMD	94-04-088			
458-61-010	REP	94-04-088	458-61-670	AMD	94-04-088			
458-61-015	NEW	94-04-088	458-61-680	REP	94-04-088			
458-61-020	REP	94-04-088	458-61-690	REP	94-04-088			
458-61-025	NEW	94-04-088	460-44A-500	AMD	94-03-061			

TABLE

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF					
CPA certificates					
continuing professional education	PERM	94-02-070	Opinions		
	PERM	94-02-072	firearms in school facilities		
education requirements	PERM	94-02-070	(1994, No. 1)	MISC	94-04-029
	PERM	94-02-072	higher education institutions, fundraising		
Enforcement procedures	PERM	94-02-070	and gifts (1993, No. 18)	MISC	94-01-144
Hearings	PERM	94-02-072	higher education institutions, public works		
Operations and procedures	PERM	94-02-069	contracts (1993, No. 19)	MISC	94-01-145
Program standards	PERM	94-02-070	tuberculosis, authority of local		
Quality assurance review program	PERM	94-02-070	health officer to control		
	PERM	94-02-071	spread (1993, No. 20)	MISC	94-02-061
			BATES TECHNICAL COLLEGE		
AGRICULTURE, DEPARTMENT OF			Meetings	MISC	94-01-045
Apple commission			BELLEVUE COMMUNITY COLLEGE		
meetings	MISC	94-02-063	Admission	PROP	94-01-091
Apples			Meetings	PERM	94-04-098
assessments			Refund policy	MISC	94-03-011
apple pest certification	EMER	94-04-091	Registration	PERM	94-01-181
gift grade, standards	PERM	94-03-021		PROP	94-01-091
watercore in Fuji variety	EMER	94-01-165	Residency classification	PERM	94-04-098
Apiaries				PROP	94-01-091
registration fees, schedule	PROP	94-01-162		PERM	94-04-098
Asparagus commission			BELLINGHAM TECHNICAL COLLEGE		
meetings	MISC	94-01-130	Meetings	MISC	94-03-013
Barley commission				MISC	94-03-033
meetings	MISC	94-03-080	BIG BEND COMMUNITY COLLEGE		
Beef commission			Public records, availability	PROP	94-01-049
meetings	MISC	94-03-074	CENTRAL WASHINGTON UNIVERSITY		
Brucellosis, tuberculosis, and			Rules coordinator	MISC	94-01-105
scrapie control	PROP	94-01-177	CENTRALIA COLLEGE		
Farmed salmon commission			Meetings	MISC	94-03-014
meetings	MISC	94-03-075	CLARK COLLEGE		
Cherries			Meetings	MISC	94-02-022
sweet cherry containers,			CLOVER PARK TECHNICAL COLLEGE		
marking requirements	PERM	94-03-022	Rules coordinator	MISC	94-01-043
Holly, cut spray standards	PERM	94-03-026	COMBINED FUND DRIVE, STATE EMPLOYEE		
Hop commission			(See GOVERNOR, OFFICE OF THE)		
meetings	MISC	94-01-008	COMMUNITY AND TECHNICAL COLLEGES,		
Horsemeat decharacterization	PROP	94-01-176	STATE BOARD FOR		
Milk			Rules coordinator	MISC	94-01-023
processor assessments	PROP	94-01-151	Running start program	PROP	94-01-096
Noxious weeds				PROP	94-01-113
noxious weed list	MISC	94-01-076		PERM	94-04-120
Nursery stock			COMMUNITY DEVELOPMENT, DEPARTMENT OF		
standards	PERM	94-03-025	Affordable housing advisory board		
Pea cyst nematode quarantine	PROP	94-01-163	meetings	MISC	94-03-062
Pesticides			Fire protection services division		
DDT and DDD, registration,			meetings	MISC	94-01-017
distribution, and use	PERM	94-03-023		MISC	94-02-038
lindane products, registration			Public works board	MISC	94-03-064
and distribution	PERM	94-03-024	meetings	MISC	94-01-135
Plant services			CONVENTION AND TRADE CENTER		
holly, cut spray standards	PERM	94-03-026	Meetings	MISC	94-01-068
Potato commission				MISC	94-03-040
meetings	MISC	94-02-086	COUNTY ROAD ADMINISTRATION BOARD		
Red raspberry commission			Land area ratio, computation	PERM	94-01-115
meetings	MISC	94-02-049	Meetings	MISC	94-01-007
Scrapie, brucellosis, and tuberculosis			Rural arterials	PERM	94-01-116
control	PROP	94-01-177	DEFERRED COMPENSATION, COMMITTEE FOR		
Strawberry commission			Rules coordinator	MISC	94-03-058
meetings	MISC	94-03-067			
Tuberculosis, brucellosis, and scrapie					
control	PROP	94-01-177			
Weeds					
noxious weed list	MISC	94-01-076			
Wheat commission					
meetings	MISC	94-01-020			
Wine commission					
meetings	MISC	94-02-088			
ARTS COMMISSION					
Rules coordinator	MISC	94-01-099			
ATTORNEY GENERAL'S OFFICE					
Opinion, notice of request for	MISC	94-01-189			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

EASTERN WASHINGTON UNIVERSITY

Meetings MISC 94-04-014
Rules coordinator MISC 94-01-031

ECOLOGY, DEPARTMENT OF

Air quality fees
PROP 94-04-105
PROP 94-04-106
PROP 94-04-104
PERM 94-02-041

insignificant emission units operating permits
particulate matter standard for Seattle, Duwamish Valley and Tacoma tideflats
MISC 94-03-065

registration program interim fee
PROP 94-04-105

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

Centennial clean water
PERM 94-04-030

Clean Air Act
toxic air pollutants, control of sources
PERM 94-03-072
PERM 94-01-060
PROP 94-01-173
PROP 94-01-089
PROP 94-01-089

Dangerous waste designation
PROP 94-01-089

Environmental Policy Act exemptions from detailed statement requirements
PROP 94-03-071

Forest practices
forested bogs and fens protection
EMER 94-04-108

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 Orchard, city of
PROP 94-04-107
Port Townsend, city of
PROP 94-01-174
Snohomish County
PERM 94-03-095
Tumwater, city of
PROP 94-03-094
PROP 94-03-071

Tire recycling and removal
Wastewater discharge permit program fees
PROP 94-02-080

Water quality
centennial clean water
PERM 94-04-030

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 documents, approval
PERM 94-01-013
PERM 94-01-014

growth impact fees and mitigation payments
PERM 94-01-030

site acceptance criteria
PERM 94-01-014

Teachers certification requirements
PERM 94-01-101

EMPLOYMENT SECURITY DEPARTMENT

Overpayments interest charges
EMER 94-02-028
PROP 94-04-124

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
baitfish
areas and seasons
EMER 94-04-047

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

salmon
Columbia River above Bonneville, seasons
EMER 94-04-048

Columbia River below Bonneville, seasons
EMER 94-04-101

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
PROP 94-03-098

sturgeon
Columbia River above Bonneville, seasons
EMER 94-02-010

vessel designation
EMER 94-02-040

vessel registration
PERM 94-01-001

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

<u>Personal use</u>			HEALTH CARE AUTHORITY		
food fish			Public employees benefits board		
rules and definitions	PROP	94-03-105	meetings	MISC	94-03-007
licenses	PERM	94-01-001			
	EMER	94-02-040	HEALTH SERVICES COMMISSION		
salmon			Meetings	MISC	94-04-129
area closures	EMER	94-01-012	Organization and operation	PROP	94-01-141
shellfish				PERM	94-04-046
rules and definitions	PROP	94-03-105	Rules coordinator	MISC	94-01-070
FOREST PRACTICES BOARD					
Enforcement	PERM	94-01-134	HEALTH, DEPARTMENT OF		
Meetings	MISC	94-01-133	Abortion facilities		
Penalties			authority of department to regulate	PERM	94-04-083
assessment and enforcement	PERM	94-01-134	Adjudicative proceedings		
Wetlands			disciplinary boards	PERM	94-04-078
forested bogs and fens	EMER	94-01-124	secretary programs and professions	PERM	94-04-079
GAMBLING COMMISSION			Boarding homes		
Amusement games			nursing care for residents	PERM	94-01-058
approval and authorization	PERM	94-01-036	Chiropractic disciplinary board		
Bingo			adjudicative proceedings	PROP	94-03-053
disposable bingo cards	PERM	94-01-034	future care contracts	PROP	94-02-016
equipment requirements	PERM	94-01-033	meetings	MISC	94-04-110
Charitable or nonprofit organizations			Dental disciplinary board		
qualifications, procedures, and			adjudicative proceedings	PROP	94-03-045
responsibilities	PERM	94-01-035	meetings	MISC	94-04-074
Meetings	MISC	94-01-037	Dental examiners, board of		
	MISC	94-04-099	adjudicative proceedings	PROP	94-03-044
Nonprofit or charitable organizations			dentist fees	PERM	94-02-058
qualification, procedures, and			meetings	MISC	94-04-072
responsibilities	PERM	94-01-035	Dental hygienists		
Punchboards and pull tabs			education requirements	PROP	94-01-056
retention requirements	PERM	94-01-032	licenses		
Rules, housekeeping changes	PROP	94-04-024	fees	PERM	94-02-059
			reinstatement of expired license	PERM	94-04-005
GOVERNOR, OFFICE OF THE			meetings	MISC	94-04-073
Clemency and pardons board			Health statistics, center for		
meetings	MISC	94-03-090	pregnancy terminations,		
Combined fund drive, state employee			reporting	PERM	94-04-083
charity membership criteria	PERM	94-01-038	HIV		
Efficiency and accountability commission			health insurance eligibility	PROP	94-01-057
meetings	MISC	94-04-100	Optometry board		
Energy strategy, implementation	MISC	94-03-088	continuing education	PERM	94-04-041
Multimodal transportation programs and projects			sexual misconduct	PERM	94-04-041
selection committee			Massage, board of		
meetings	MISC	94-01-182	continuing education	PROP	94-01-055
	MISC	94-04-039	Nursing, board of		
project selection process	EMER	94-01-069	computer adaptive testing	PROP	94-01-132
	EMER	94-04-015	Nursing home administrators, board of		
School-to-work transition, council on			meetings	MISC	94-03-054
establishment	MISC	94-04-070	Opticians		
GRAYS HARBOR COLLEGE			contact lenses		
Meetings	MISC	94-02-024	fitting and dispensing	PROP	94-02-057
			records retention	PROP	94-02-057
GREEN RIVER COMMUNITY COLLEGE			Pharmacy, board of		
Adjudicative proceedings	PERM	94-04-051	compounding practices	PROP	94-02-079
Meetings	MISC	94-02-087	controlled substances		
Parking and traffic	PERM	94-04-051	destruction of schedule II		
	PERM	94-04-052	substances in nursing homes	PERM	94-02-077
Smoking regulations	PERM	94-04-054	list corrections and additions	PROP	94-02-089
Tenure	PERM	94-04-053		PROP	94-04-111
			ephedrine prescription restrictions	PROP	94-02-078
GROWTH PLANNING HEARINGS BOARDS			examinations	PROP	94-04-113
Meetings	MISC	94-01-053	good compounding practices	PROP	94-02-079
	MISC	94-01-067	pharmacy assistants		
	MISC	94-01-077	specialized functions	PROP	94-01-088
Practice and procedure	PROP	94-01-097		PROP	94-04-112
Rules coordinator	MISC	94-01-053	reciprocity	PROP	94-04-111
HARDWOODS COMMISSION (See TRADE AND			Physical therapy, board of		
ECONOMIC DEVELOPMENT, DEPARTMENT OF)			meetings	MISC	94-02-056
			wildlife, department of		
			approved legend drug use	PERM	94-02-060
			Radiation protection, division of		
			fees	PROP	94-01-142

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

radiation protection standards	PROP 94-01-059	pre-existing condition limitations, restrictions	PROP 94-04-125
	PERM 94-01-073	Malpractice insurance	PERM 94-02-053
	PROP 94-01-142	midwifery and birthing centers	
Radiologic technology advisory committee meetings	MISC 94-04-103	Midwifery and birthing centers malpractice joint underwriting authority	PERM 94-02-053
Uniform Disciplinary Act			
model procedural rules for boards	PERM 94-04-078		
secretary programs and professions, adjudicative proceedings	PERM 94-04-079	INVESTMENT BOARD	
Water		Meetings	MISC 94-04-019
water works operator certification	PERM 94-04-004		
HIGHER EDUCATION COORDINATING BOARD		JUDICIAL CONDUCT, COMMISSION ON	
Meetings	MISC 94-03-049	Meetings	MISC 94-01-050
Running start program	PROP 94-01-112		MISC 94-01-051
	PROP 94-04-093		
HIGHLINE COMMUNITY COLLEGE		LABOR AND INDUSTRIES, DEPARTMENT OF	
Meetings	MISC 94-04-071	Boiler rules, board of meetings	MISC 94-01-015
HISPANIC AFFAIRS, COMMISSION ON		small electric boilers, exemption from rules	EMER 94-04-006
Meetings	MISC 94-04-127	Crime victims compensation	
HORSE RACING COMMISSION		mental health treatment fees and rules	PERM 94-02-015
Licenses		Electrical board	
duration	PERM 94-04-002	meetings	MISC 94-02-055
Medication testing program	PERM 94-04-002	Electrical installations	
Race results, transmission	PERM 94-04-003	wiring and apparatus	PERM 94-01-005
HUMAN RIGHTS COMMISSION		Electricians	
Disability discrimination	PROP 94-04-087	journeyman electricians	
Meetings	MISC 94-01-119	certificate of competency	PERM 94-01-005
	MISC 94-01-120	Fees	PERM 94-01-100
	MISC 94-03-083	Medical and mental health treatment	
Preemployment inquiries	PROP 94-04-087	fees and rules	PERM 94-02-015
Pregnancy discrimination	PROP 94-04-087	Prevailing wages	
Sex discrimination	PROP 94-04-087	fees for filing statements	PERM 94-01-100
INDETERMINATE SENTENCE REVIEW BOARD		Safety and health standards	
Rules coordinator	MISC 94-02-067	agriculture	PROP 94-01-186
INTEREST RATES		Workers' compensation	
(See inside front cover)		health care providers' reimbursement	PERM 94-02-045
			PERM 94-03-008
INSURANCE COMMISSIONER, OFFICE OF		general	PROP 94-01-186
Audited financial statements	PROP 94-01-192	respiratory impairment, evaluation	PERM 94-03-073
	PERM 94-04-045	self-insurance	
Financial statements	PROP 94-01-192	certification	PROP 94-03-006
	PERM 94-04-045	employee rights	PROP 94-03-006
Health care service contractors		LAKE WASHINGTON TECHNICAL COLLEGE	
participating provider contracts	PROP 94-01-075	Meetings	MISC 94-01-052
pre-existing condition limitations, restrictions	PROP 94-04-125		MISC 94-03-016
Health insurance		LEGAL FOUNDATION OF WASHINGTON	
pre-existing condition limitations, restrictions	PROP 94-04-125	Meetings	MISC 94-04-008
Health insurance reform short term form modification		LICENSING, DEPARTMENT OF	
	PROP 94-02-065	Cemetery board	
	PROP 94-03-048	fees	PERM 94-01-117
	PROP 94-03-085	Escrow commission	
portability	PROP 94-02-065	escrow officer, responsibilities	PERM 94-04-050
	PROP 94-03-048	organization and operation	PERM 94-04-050
	EMER 94-03-084	meetings	MISC 94-02-018
	PROP 94-03-085	Landscape architects	
	PROP 94-04-126	fees	PROP 94-01-047
rate limitations	PROP 94-02-065	licenses	PERM 94-04-044
	PROP 94-03-048	examination	PROP 94-01-047
	PROP 94-03-085	renewal	PROP 94-01-047
renewability	PROP 94-02-065		PERM 94-04-044
	PROP 94-03-048	Model traffic ordinance	PERM 94-01-082
	EMER 94-03-084	reciprocity and proration	PROP 94-02-025
	PROP 94-03-085	special fuel, tax exemption and refunds	PROP 94-02-075
unfair practices	PROP 94-02-065		PROP 94-02-076
Health maintenance organizations		Motor vehicles	
participating provider contracts	PROP 94-01-075	model traffic ordinance	PERM 94-01-082
		title and registration advisory committee	MISC 94-01-111

Subject/Agency Index

(Citation in bold type refer to material in this issue)

unauthorized vehicles, procedures for taking custody of	PROP	94-04-017	MARITIME COMMISSION Meetings	MISC	94-01-027
Real estate appraisers residential classification	PERM	94-01-002	MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF		
Real estate commission meetings	MISC	94-02-018	Agency and educational institution plans contents	PROP	94-01-164
Vessels fees	PROP	94-03-018	Annual goals for participation	PROP	94-01-127
registration and certificate of title	PROP	94-03-018	Fees	PERM	94-03-068
				PROP	94-01-090
				PROP	94-01-187
				EMER	94-01-188
LIQUOR CONTROL BOARD			MULTIMODAL TRANSPORTATION PROGRAMS AND PROJECTS SELECTION COMMITTEE		
Breweries			(See GOVERNOR, OFFICE OF THE)		
retail sale of beer on premises	PROP	94-02-013	NATURAL RESOURCES, DEPARTMENT OF		
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 meetings	MISC	94-03-070
Public records, availability	PERM	94-03-060	Survey monuments		
Wineries			removal or destruction	PROP	94-01-022
retail sale of wine on premises	PROP	94-02-013	NORTHWEST AIR POLLUTION AUTHORITY		
retailers' winery license	PROP	94-02-013	Air contaminant sources		
			reporting	PERM	94-01-108
			Fees	PERM	94-01-108
			Operating permits	PERM	94-01-108
LOTTERY COMMISSION			OLYMPIC COLLEGE		
<u>Instant game number 114 - Wildcard</u>			Meetings	MISC	94-01-122
criteria	PERM	94-03-019		MISC	94-01-123
definitions	PERM	94-03-019		MISC	94-02-085
ticket validation	PERM	94-03-019	OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR		
<u>Instant game number 115 - Cash Roulette</u>			Rules coordinator	MISC	94-02-062
criteria	PERM	94-03-019	PARKS AND RECREATION COMMISSION		
definitions	PERM	94-03-019	Aircraft		
ticket validation	PERM	94-03-019	paragliders, prohibition exemption	PERM	94-01-087
<u>Instant game number 116 - Fortune</u>			Boating safety program	PROP	94-01-149
criteria	PERM	94-03-019	local government programs	PERM	94-04-076
definitions	PERM	94-03-019	Camping facilities		
ticket validation	PERM	94-03-019	fees	PROP	94-03-097
<u>Instant game number 117 - Cash Crop</u>			Day use		
criteria	PERM	94-03-019	fees	PROP	94-03-097
definitions	PERM	94-03-019	Film permit application, fee	PROP	94-03-089
ticket validation	PERM	94-03-019	Fort Worden		
<u>Instant game number 118 - Aces Wild</u>			fees	PROP	94-01-150
criteria	PROP	94-03-099	Meetings	PERM	94-04-075
definitions	PROP	94-03-099	Paragliders	MISC	94-01-148
ticket validation	PROP	94-03-099	aircraft prohibition, exemption	PERM	94-01-087
<u>Instant game number 119 - Big Bucks</u>			Senior citizens, off-season pass	PROP	94-03-097
criteria	PROP	94-03-099	PENINSULA COLLEGE		
definitions	PROP	94-03-099	Meetings	MISC	94-01-185
ticket validation	PROP	94-03-099	Rules coordinator	MISC	94-04-026
<u>Instant game number 120 - Lucky Deal</u>			PERSONNEL, DEPARTMENT OF		
criteria	PROP	94-03-099	Career executive program		
definitions	PROP	94-03-099	transition into Washington management service	PROP	94-01-125
ticket validation	PROP	94-03-099	Personnel resources board, See PERSONNEL RESOURCES BOARD		
<u>Instant game number 121 - Hog Mania</u>			Rules coordinator	MISC	94-01-160
criteria	PROP	94-03-099	Washington management service		
definitions	PROP	94-03-099	career executive program, transition from establishment	PROP	94-01-125
ticket validation	PROP	94-03-099		PROP	94-01-048
Instant games				PERM	94-01-126
criteria	PERM	94-03-020		EMER	94-03-069
official end	PERM	94-03-020			
Lotto					
prizes	PROP	94-03-099			
retailer settlement	PERM	94-03-020			
On-line games					
criteria	PERM	94-03-020			
Retailers					
obligations	PERM	94-03-020			
procedures	PERM	94-03-020			
retailer settlement	PERM	94-03-020			
MARINE OVERSIGHT BOARD					
Meetings	MISC	94-02-084			
MARINE SAFETY, OFFICE OF					
Regional marine safety committee meetings	MISC	94-01-110			
Rules coordinator	MISC	94-02-021			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

PERSONNEL RESOURCES BOARD

Affirmative action
PROP 94-04-010
PROP 94-04-086

Appeals
 Demotion
 Dismissal
 Exemptions, civil service law
 Filing of papers
 Higher education institutions and related boards, civil service law exemptions
 Layoff or separation
 Operations
 Position allocations and reallocations
 Public records, availability
 Reduction in force register designation
 Register designation reduction in force
 Service of process
 State internship program
 Trial service
 Washington management service
 Washington general service, movement between

PIERCE COLLEGE

Meetings
 MISC 94-02-017

PILOTAGE COMMISSIONERS, BOARD OF

Oil tankers
 tug escort requirements
PROP 94-04-119

Pilotage tariff rates
 Grays Harbor district
 PROP 94-01-153
 EMER 94-01-154

PUBLIC DISCLOSURE COMMISSION

Aggregate, definition
 Campaign finance reporting forms
 Contributions designation for primary and general elections
 encouraging expenditures to avoid contributions, result personal use, standard
 political committees
 Exempt activities definition and reporting limitations

PUBLIC EMPLOYEES BENEFITS BOARD

(See **HEALTH CARE AUTHORITY**)

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Administrator internship program
PROP 94-04-025

Child nutrition practice and procedures
 PROP 94-01-137
PERM 94-04-097

Funding Elementary and Secondary Education Act compliance
PROP 94-04-094

Running start program
 PROP 94-01-114

Salary allocations
 certificated instructional staff
 Student learning improvement grants
 PERM 94-01-190
PROP 94-04-122

PUBLIC WORKS BOARD

(See **COMMUNITY DEVELOPMENT, DEPARTMENT OF**)

PUGET SOUND AIR POLLUTION CONTROL AGENCY

Chronic acid plating and anodizing
 Coatings
 Compliance with regulations
 Control officer duties and powers
 Definitions
 Emission standards compliance
 Gasoline loading terminals
 Gasoline stations
 vapor recovery
 Refuse burning
 Sources registration

PUGET SOUND WATER QUALITY AUTHORITY

Meetings
 Puget Sound water quality management plan
 Rules coordinator
 MISC 94-03-017
MISC 94-04-128
 MISC 94-02-019

RENTON TECHNICAL COLLEGE

Meetings
 MISC 94-03-015

REVENUE, DEPARTMENT OF

Business and occupation tax
 agricultural products, sales by producers
 farmers, miscellaneous sales to feed, seed, fertilizer, and spray materials for farm use
 heat or steam sales
 horticultural services to farmers
 hospitals, medical care facilities, and adult family homes
 hotels, motels, and boarding houses
 laundries and dry cleaners
 schools and educational institutions

Excise tax
 real estate excise tax administration and compliance
PERM 94-04-088

Property tax
 agricultural land valuation
 exemptions
 forest land values
 nonprofit organizations, associations, and corporations, exemption conditions
 personal property ratio, computation
 refunds, rate of interest
 Public utility tax
 Sales tax
 agricultural products, sales by producers
 farmers, miscellaneous sales to feed, seed, fertilizer, and spray materials for farm use
 heat or steam sales
 horticultural services to farmers
 hospitals, medical care facilities, and adult family homes
 hotels, motels, and boarding houses
 laundries and dry cleaners

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

schools and educational institutions	PROP	94-03-047	SOCIAL AND HEALTH SERVICES, DEPARTMENT OF Alcohol and substance abuse, division of chemical dependency treatment service providers certification Deaf and hard of hearing services telecommunications access service (TAS) Developmental disabilities, division of family support services Disaster relief Food stamp program income budgeting interview process monthly reporting standards of assistance Income assistance consolidated emergency assistance program (CEAP) incorrect payments in-kind income self-employment resource exemptions standards of assistance supplemental security income (SSI) program transfer of property Individual and family grant program disaster relief Medical assistance client grievances drugs discount agreement exempt resources eyeglasses and examinations hearing aids home health services incorrect payments institutionalized client, allocation of income and resources mental health services, managed care prepaid healthcare plans occupational therapy physical therapy speech therapy services SSI-related income exemptions		
watercraft, sales to nonresidents	PROP	94-03-046			
Timber excise tax					
stumpage values	PERM	94-02-047			
	PROP	94-02-073			
	PROP	94-02-074			
	PROP	94-03-086			
	PROP	94-04-089			
	PROP	94-04-090			
					PERM 94-02-002
					PROP 94-02-020
					PROP 94-01-080
					PERM 94-02-042
					EMER 94-04-032
					PERM 94-04-037
					PROP 94-01-062
					EMER 94-01-063
					EMER 94-01-064
					PERM 94-04-092
				PROP 94-01-011	
				PROP 94-03-041	
				PERM 94-01-066	
				PROP 94-03-050	
				EMER 94-02-043	
				PROP 94-03-051	
				PROP 94-02-052	
				PROP 94-04-042	
				PROP 94-03-055	
				PROP 94-01-118	
				PERM 94-04-035	
				PROP 94-01-118	
				PROP 94-01-138	
				PERM 94-04-033	
				PERM 94-04-035	
				PROP 94-01-139	
				PERM 94-04-043	
				PROP 94-01-011	
				PERM 94-04-036	
				PROP 94-01-003	
				PERM 94-04-038	
				PROP 94-01-046	
				PERM 94-01-094	
				PERM 94-02-007	
				PROP 94-01-081	
				EMER 94-02-044	
				PROP 94-04-031	
				PROP 94-02-050	
				EMER 94-02-051	
				PROP 94-01-147	
				PERM 94-03-052	
				PROP 94-02-052	
				PERM 94-02-006	
				PROP 94-01-079	
				PROP 94-01-140	
				PROP 94-02-003	
				EMER 94-02-004	
				EMER 94-02-008	
				PROP 94-02-009	
				PERM 94-01-065	
				PROP 94-04-022	
				EMER 94-04-023	
				PERM 94-01-065	
				EMER 94-04-023	
				PERM 94-01-065	
				PROP 94-04-022	
				EMER 94-04-023	
				PERM 94-02-005	

RULES COORDINATORS

(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 of	MISC	94-03-058
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
Peninsula College	MISC	94-04-026
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

SEATTLE COMMUNITY COLLEGES

Meetings	MISC	94-01-006
	MISC	94-01-085
	MISC	94-01-131
	MISC	94-03-059
Rules coordinator	MISC	94-01-107

SECRETARY OF STATE

Archives and records management, division of electronic imaging systems, standards for accuracy and durability	PROP	94-01-161
	PROP	94-03-081
	PERM	94-04-102
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

SHORELINE COMMUNITY COLLEGE

Meetings	MISC	94-03-012
----------	------	-----------

SKAGIT VALLEY COLLEGE

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

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Mental health division managed care prepaid healthcare plans	PROP 94-02-003 EMER 94-02-004 EMER 94-02-008 PROP 94-02-009	Motor vehicles overlength exemptions temporary additional tonnage permits	EMER 94-02-064 PROP 94-03-043 PROP 94-03-042
Restoration of right to possess firearms by former involuntary committed person	EMER 94-03-004 PROP 94-03-005	UNIVERSITY OF WASHINGTON Meetings	MISC 94-01-098 MISC 94-02-054 MISC 94-03-028 MISC 94-03-029 MISC 94-03-077 MISC 94-03-078 MISC 94-04-013 MISC 94-04-016 MISC 94-04-020 MISC 94-04-021 MISC 94-04-028
Support enforcement good cause not to cooperate	PROP 94-01-042 PERM 94-04-034		
Telecommunications access service (TAS) transition policies	PROP 94-01-080 EMER 94-04-032 PERM 94-04-037		
SOUTH PUGET SOUND COMMUNITY COLLEGE Meetings	MISC 94-03-032		
SPOKANE, COMMUNITY COLLEGES OF Meetings Rules coordinator	MISC 94-01-019 MISC 94-01-009	USURY RATES (See inside front cover)	
SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY Solid fuel burning devices standards	PERM 94-03-027	UTILITIES AND TRANSPORTATION COMMISSION Commercial ferries definitions tariffs Electric utilities purchases of electricity Log road classification Meetings Motor freight carriers bills of lading Motor vehicles interstate carriers registration log road classification Rules coordinator Telecommunication companies mandatory cost changes open network architecture environment Water companies customer deposits, interest	PERM 94-03-003 PERM 94-03-003 PROP 94-01-175 PERM 94-03-001 MISC 94-02-027 PERM 94-03-002 EMER 94-01-041 PERM 94-03-001 MISC 94-02-026 PERM 94-01-146 PROP 94-01-191 PERM 94-01-095
SUPREME COURT Bar Association collective bargaining for employees (GR 12) Videotaped proceedings (RAP)	MISC 94-01-025 MISC 94-01-024		
TACOMA COMMUNITY COLLEGE Discrimination Grievance procedure Meetings Sexual harassment	PROP 94-03-082 PROP 94-03-082 MISC 94-01-129 MISC 94-03-079 MISC 94-04-080 MISC 94-04-081 PROP 94-03-082		
TAX APPEALS, BOARD OF Hearings procedures for requesting formal or informal hearing Meetings	PROP 94-03-056 PROP 94-03-057 MISC 94-01-016	VETERANS' AFFAIRS, DEPARTMENT OF State veterans' homes resident income and resources	PERM 94-04-001
TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF Community economic revitalization board meetings Hardwoods commission meetings Rules coordinator	MISC 94-04-109 MISC 94-03-039 MISC 94-01-183	VOCATIONAL-TECHNICAL EDUCATION, COUNCIL ON Meetings	MISC 94-01-093 MISC 94-04-082
TRAFFIC SAFETY COMMISSION Meetings	MISC 94-02-066	VOLUNTEER FIREFIGHTERS, BOARD FOR Meetings	MISC 94-03-031
TRANSPORTATION COMMISSION Meetings	MISC 94-01-143 MISC 94-04-040	WALLA WALLA COMMUNITY COLLEGE Meetings	MISC 94-04-027
TRANSPORTATION IMPROVEMENT BOARD Meetings	MISC 94-03-030	WASHINGTON STATE HISTORICAL SOCIETY Meetings	MISC 94-01-018
TRANSPORTATION, DEPARTMENT OF Contractors prequalification Ferry system tolls	PROP 94-01-021 PROP 94-04-077	WASHINGTON STATE PATROL Commercial vehicles tire chains or traction devices Hazardous materials procedure upon entering state Private carriers drivers' qualifications hours of service of drivers School buses lamps, operation stop signal arms	EMER 94-02-081 PROP 94-02-082 PERM 94-01-180 PERM 94-01-178 PERM 94-01-178 PERM 94-01-179 PERM 94-01-179

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

WASHINGTON STATE UNIVERSITY

Meetings MISC 94-01-121

WHATCOM COMMUNITY COLLEGE

Meetings MISC 94-01-184
Rules coordinator MISC 94-01-044

WILDLIFE, COMMISSION AND DEPARTMENT

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
Columbia River EMER 94-04-012
PERM 94-04-018
steelhead EMER 94-02-037
EMER 94-03-038

Game

bighorn sheep units PROP 94-04-067
cougar areas PROP 94-04-068
deer area descriptions PROP 94-04-061
elk area descriptions PROP 94-04-062
goat units PROP 94-04-065
moose units PROP 94-04-066
private lands wildlife management area PROP 94-04-069
Game management units (GMUs)
boundary descriptions PROP 94-04-055
PROP 94-04-056
PROP 94-04-057
PROP 94-04-058
PROP 94-04-059
PROP 94-04-060

Hunting

bow and arrow area descriptions PROP 94-04-063
firearm restriction areas and
special closures, 1994-95 PROP 94-04-117
muzzleloader area descriptions PROP 94-04-064
special closures and firearm
restriction area, 1994-95 PROP 94-04-117
special hunting and trapping seasons, permits PROP 94-04-118
Hunting seasons
bighorn sheep auction permit, 1994 PERM 94-04-123
deer and bear, 1994-97 PROP 94-04-114
elk, 1994-97 PROP 94-04-116
hunting hours and small game
seasons, 1994-97 PROP 94-04-115
migratory waterfowl, 1993-94 EMER 94-04-007
Meetings MISC 94-02-001
Migratory waterfowl
1993-94 seasons and regulations EMER 94-02-012
Trapping
special hunting and trapping seasons, permits PROP 94-04-118

WINE COMMISSION (See AGRICULTURE, DEPARTMENT OF)

WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

Meetings MISC 94-01-078
MISC 94-02-048
MISC 94-04-049

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