Washington State Register

JUNE 1, 1994

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IN THIS ISSUE

Agriculture, Department of
Attorney General, Office of the
Blind, Department of Services for the
Columbia River Gorge Commission
Convention and Trade Center
County Road Administration Board
Ecology, Department of
Edmonds Community College
Energy Office
Fish and Wildlife, Department of
Gambling Commission
General Administration, Department of
Hardwoods Commission
Health Services Commission
Health, Department of
Human Rights Commission
Insurance Commissioner, Office of the
Judicial Conduct, Commission on
Labor and Industries, Department of
Library, Washington State
Licensing, Department of
Liquor Control Board
Lottery Commission
Minority and Women's Business Enterprises, Office of
Multimodal Transportation Programs and Projects Selection Committee
Personnel, Department of
Public Disclosure Commission
Public Instruction, Superintendent of
Puget Sound Air Pollution Control Agency
Retirement Systems, Department of
Revenue, Department of
Social and Health Services, Department of
Transportation Improvement Board
Utilities and Transportation Commission
Vocational-Technical Education, Council on

(Subject/Agency index at back of issue)
This issue contains documents officially filed not later than May 18, 1994

STATE PRINTING PLANT OLYMPIA, WASHINGTON

CITATION

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

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

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of June 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.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

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

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

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

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

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

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

(a) In amendatory sections—

(i) underlined material is new material;

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

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

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

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

5. EDITORIAL CORRECTIONS

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

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		
For Inclusion in--	*File no later than--*			*Count 20 days from--*	*For hearing on or after*
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

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

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

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

WSR 94-11-005
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed May 4, 1994, 4:01 p.m.]

Original Notice.

Title of Rule: Commercial and personal use license rules.

Purpose: Amend license rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Provide exceptions for vessel designation; allow businesses to designate an operator; exempt tideland owners from licensing; adjust dealer's fees.

Reasons Supporting Proposal: Provide flexibility for commercial licensees; coordination of rule-making authority with licenses; set standard fee.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Patricia McLain, 1111 Washington Street, Olympia, 902-2233; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-20-051, with the elimination of license decals for 1994, positively identifying licensed vessels is required. This proposal allows Alaska fishers to use their ADFG number; Canadian delivery vessels are exempted from numbering requirements as no identification of the vessels on United States fishing grounds is necessary. WAC 220-20-065, business entities are allowed to designate a natural person to operate vessels and sign fish tickets. WAC 220-55-015, private tideland owners are currently exempt from harvest rules, RCW 75.08.080. This exemption is applied to personal use licensing for personal use harvest of clams and oysters. WAC 202-55-065 [220-55-155], the former wildlife license fee was one dollar. The reduction in the number of food fish and shellfish licenses demands parity.

Proposal Changes the Following Existing Rules: Vessel identification criteria; primary operator designation; shellfish license exemption for tideland owners; dealer fee change.

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

Exempting Alaska and Canadian vessels from mandatory marking causes no expense to these small businesses. Allowing business organizations who own commercial licenses to designate a natural person provides more flexibility for the licensee, as it allows three operators instead of two operators. Private tideland licensing does not affect small businesses. The increase in the dealer fee to $1.00 offsets the reduction in the number of documents sold by the dealers in 1993, and standardizes the dealer fee for game fish and food fish and shellfish licenses.

Hearing Location: Room 108, Natural Resource Building, 1111 Washington Street, Olympia, on June 21, 1994, at 8:00 a.m.

Submit Written Comments to: Hearings Officer, Washington Department of Fish and Wildlife, 600 Capitol Way, Olympia, 98501, by June 14, 1994.

Date of Intended Adoption: June 28, 1994.

May 4, 1994
Judith Freeman
for Robert Turner
Director

AMENDATORY SECTION (Amending 93-140 [WSR 94-01-001], filed 12/1/93, effective 1/1/94)

WAC 220-20-051 Vessel designation requirements. (1) In any licensed fishery for which a vessel is required under chapter 75.28 RCW, or for any delivery of food fish or shellfish, or for any charter fishery, it is unlawful to fish for, harvest, deliver, or possess food fish or shellfish unless the licensee has designated the vessel from which the food fish or shellfish are to be taken or delivered, the department has issued a commercial license to the licensee showing the vessel so designated, and the vessel operator has the commercial license in physical possession.

(2) The following definitions apply to this section:

(a) "Documentation" means vessel documentation by the United states Coast Guard showing eligibility for fishery. Once documentation is presented as evidence of ownership it becomes the only acceptable evidence of ownership unless the vessel is remeasured, found to be less than five net tons and no longer eligible for documentation.

(b) "Initial designation" means the designation by an individual licensee of a vessel to be used in a commercial fishery, for delivery of food fish or shellfish, or for charter fishing. Designation by that licensee on additional licenses is not "initial designation," and required evidence of ownership is the same as for continuing designation.

(c) "Continuing designation" means reapplication for a commercial license with no change in vessel designation.

(3) A licensee does not have to own the vessel being designated on the license. However, each licensee initially designating a vessel, except nontransferable emergency salmon delivery licensees, and every licensee continuing designation after the fourth continuous designation must offer evidence of ownership. The following is the only acceptable evidence of ownership:

(a) For initial designation of a vessel measuring less than thirty-two feet in length, evidence of ownership may be either current state vessel registration or current documentation.

(b) For initial designation of a vessel thirty-two feet or greater in length, evidence of ownership is:

(i) Current documentation; or

(ii) Coast Guard verification that the vessel does not meet the minimum tonnage requirement for documentation (simplified admeasurement); or

(iii) Verification from the American Bureau of Shipping that the vessel does not meet the minimum tonnage requirement for documentation (formal admeasurement).

(c) For continuing designation of vessel less than thirty-two feet in length, evidence of ownership may be either current state vessel registration or current documentation.

(d) For continuing designation of a vessel between thirty-two and thirty-six feet in length, evidence of owner-

ship is current state registration for vessels with state registration numbers or current documentation for documented vessels.

(e) For continuing designation of a vessel greater than thirty-six feet in length, evidence of ownership is:

(i) Current documentation; or

(ii) Coast Guard verification that the vessel does not meet the minimum tonnage requirement for documentation (simplified admeasurement); or

(iii) Verification from the American Bureau of Shipping that the vessel does not meet the minimum tonnage requirement for documentation (formal admeasurement).

(4) Every vessel designated to participate in a commercial fishery or to deliver food fish or shellfish must have the official Coast Guard documentation number, ((~~or~~)) complete state registration number, or Alaska Department of Fish and Game registration number permanently displayed in ten-inch tall numbers, or letters and numbers, of proportionate width, clearly visible from each side of the vessel. It is unlawful to participate in a commercial fishery or deliver food fish or shellfish without having such numbers displayed. This subsection does not apply to salmon guide, charter or nontransferable emergency salmon delivery licensees, or to Canadian vessels delivering under a nonlimited entry delivery license.

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

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

NEW SECTION

WAC 220-20-065 Commercial licensing—Business organizations—Operator designation. Any person which holds a commercial fishing license or delivery license and is a business organization may designate one natural person to act on behalf of the license holder to operate a designated vessel as provided for in this section:

(1) If the business is a sole proprietorship, the designated operator must be the sole proprietor.

(2) If the business is a partnership, the designated operator must be a partner.

(3) If the business is a corporation, the designated operator must be a corporate officer.

(4) In addition to the designated operator, a license holder who is a business organization may designate up to two alternate operators.

(5) A license holder which is a business organization may substitute the designated operator by surrendering the fishery license card, redesignating the operator under the criteria provided for in this section, and paying the replacement license fee provided for in RCW 75.28.030.

AMENDATORY SECTION (Amending Order 93-140, [WSR 94-01-001], filed 12/1/93, effective 1/1/94)

WAC 220-55-015 Valid personal use license required. (1) It is unlawful for any person required to have a license to take or possess food fish or shellfish for personal use without having in physical possession a valid license. A personal use shellfish and seaweed license is not required for private tideland owners or lessees of state tidelands or members of their immediate family to harvest clams, oysters, cockles, borers, or mussels taken for personal use from their own tidelands.

(2) A shellfish and seaweed license must be displayed on outer clothing while harvesting or transporting shellfish in the field.

(3) The department will not replace lost or mutilated personal use licenses.

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

NEW SECTION

WAC 220-55-155 Personal use license dealer's fee. A personal use license dealer may retain a license fee of one dollar for each personal use food fish and personal use shellfish and seaweed license sold. No dealers fee may be charged for distributing catch record cards or collecting the recreational fisheries enhancement surcharge and issuing stamps.

WSR 94-11-007
PREPROPOSAL COMMENTS
DEPARTMENT OF GENERAL ADMINISTRATION
[Filed May 4, 1994, 4:52 p.m.]

Subject of Possible Rule Making: New rules for commodity redistribution. Surplus property disposal priorities and intent of state surplus priorities.

Persons may comment on this subject in writing, Attention: Steve Borchardt, APA Rules Coordinator, General Administration Building, P.O. Box 41018, Olympia, WA 98504-1018, not later than 5:00 p.m., on June 21, 1994.

Other Information or Comments by Agency at this Time, if any: RCW 43.19.1919 is the specific statutory authority for this amendment to WAC 236-48-190. The amendment is needed to provide nonprofit organizations with priority over the general public in the disposal of state surplus property. The goal of the rule is to provide nonprofit organizations with this priority. The rule will be developed under the open public rule-making provisions of chapter 34.05 RCW and the Administrative Procedure Act to ensure effective participation by all interested parties. RCW 43.19.1919 is the specific statutory authority for this rule. This rule is needed to clarify the intent of state surplus priorities. The goal of the rule is to prohibit entities with priority under WAC 236-48-190 from profiting through the immediate resale of surplus property. The director of general administration will be given authority to take action against accounts in arrears, and priority purchasers who do not comply with the intent of the state surplus program. The rule will be developed under the open public rule-making provisions of chapter 34.05 RCW and the Administrative Procedure Act to ensure effective participation by all interested parties.

May 4, 1994
Michael R. Levenson
Assistant Director

WSR 94-11-012
PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
[Filed May 5, 1994, 1:18 p.m.]

Subject of Possible Rule Making: Chapter 70.42 RCW, Medical, and chapter 246-338 WAC, Medical test site rules. A new fee category is being proposed for medical test sites performing less than seven hundred fifty tests per year. This new category will lower the current fee for these limited testing sites. The "physician performed microscopic procedure" category will be expanded to include mid-level practitioners and tests recommended by the federal Clinical Laboratory Improvement Advisory Committee, if these changes will not affect out CLIA exemption. Other changes will be housekeeping or clarification issues.

Persons may Comment on this Subject in the Following Ways: Mail to Martha Simon, Office Director, Department of Health, Office of Laboratory Quality Assurance, 1610 N.E. 150th Street, Seattle, WA 98155-9701, or FAX (206) 361-2813. Comments received from now until June 15, 1994.

Other Information or Comments by Agency at this Time, if any: The proposed changes will be sent to all licensees when the draft is completed. A notice of the hearing date, and any additional changes made due to input from constituents will also be sent to all licensees.

May 4, 1994
Bruce Miyahara
Secretary

WSR 94-11-019
WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Filed May 5, 1994, 4:10 p.m.]

In WSR 94-07-135, the commission proposed changes to several rules, including WAC 480-12-180. The commission wishes to withdraw the proposed amendment to WAC 480-12-180. The commission is contemplating making more extensive changes to WAC 480-12-180; we will be starting a new rulemaking in the near future.

Steve McLellan
Secretary

WSR 94-11-020
WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Filed May 5, 1994, 4:12 p.m.]

In WSR 94-07-137, the commission proposed changes to several rules, including WAC 480-30-100. The commission wishes to withdraw the proposed amendment to WAC 480-30-100. The commission is contemplating making more extensive changes to WAC 480-30-100; we will be starting a new rulemaking in the near future.

Steve McLellan
Secretary

WSR 94-11-024
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 6, 1994, 1:38 p.m.]

Original Notice.

Title of Rule: WAC 388-235-7300 ADATSA referral requirements and 388-235-7400 Protective payments.

Purpose: Defines when protective payments are required, allows waiver of the protective payment requirement for clients the department determines can manage their own assistance funds despite active alcohol/drug addiction, and identifies vendor payments as an alternative to protective payments when a suitable protective payee cannot be found.

Statutory Authority for Adoption: RCW 74.04.057.

Statute Being Implemented: RCW 74.04.057.

Summary: Describes when protective payments are required for GAU, and waived for GAU clients determined to be actively addicted.

Reasons Supporting Proposal: WAC 388-235-7400 incorporates previous repealed subsection (9) of WAC 388-235-7300 to establish rules for use or waiver of protective payments under the GAU program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Douglas Sevin, Division of Income Assistance, 438-8320.

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 June 21, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by June 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 June 14, 1994.

Date of Intended Adoption: June 22, 1994.

May 6, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93)

WAC 388-235-7300 ADATSA referral requirements. (1) The department shall refer a person claiming incapacity based primarily on alcoholism or drug dependency for evaluation under the alcoholism and drug addiction treatment and support act (ADATSA).

(2) The department shall evaluate a person for general assistance who appears to have significant mental or physical impairments resulting from, or in addition to, alcoholism or drug addiction when the person:

(a) Indicates upon application that other physical or mental impairments may be incapacitating in themselves; or

(b) The person is rejected for the alcoholism and drug addiction treatment and support program, and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient shall be required to undergo an alcohol/drug assessment when the:

(a) Person claims an alcohol or drug problem; or

(b) Department obtains medical or clinical evidence indicating that within the last eighteen months, such a problem appears to exist; or

(c) Department receives information that the person has been arrested for an ((~~alcohol or~~)) alcohol- or drug-related offense within the last ninety days; or

(d) Person meets one or more of the criteria in subsections (3)(a) through (c) of this section and the need for a protective payee must be established.

(4) Applicants whose mental, emotional, and/or physical condition is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition.

(a) The effects of the alcoholism or drug addiction must be differentiated from the other condition in order to determine incapacity.

(b) Unless it can be reasonably established that the other condition would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the person is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition cannot be clearly differentiated, the department shall refer the person to ADATSA for evaluation and/or treatment.

(6) The provisions under subsections (4) and (5) of this section apply to recipients as well, except that a person whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established under the ADATSA or GAU program will remain on GAU subject to WAC 388-235-8130 provisions.

(7) The department may require a person to undergo a period of alcohol or drug treatment before re-evaluating the person's eligibility for general assistance.

(8) The department shall determine program eligibility for a person impaired by chemical dependency, who also has mental or physical impairments, as follows:

(a) A person qualifying for both general assistance and ADATSA shelter program may choose either program;

(b) A ((~~persons~~)) person qualifying for both general assistance and ADATSA treatment shall participate in ADATSA treatment when it can reasonably be expected to enable the person to work or reduce the need for assistance, unless the person has good cause to refuse; or

(c) ((~~An alcohol and drug addict~~)) A person qualifying for general assistance who has good cause to refuse or who does not qualify for ADATSA treatment, shall be required to cooperate with an alternative alcohol or drug treatment plan which can reasonably be expected to enable the person to work or to reduce the need for assistance, unless there is good cause to refuse.

((~~(9) A person qualifying for general assistance and also determined by the assessment center to be actively addicted shall have a general assistance grant issued by protective payment.~~))

NEW SECTION

WAC 388-235-7400 Protective payments. (1) The department shall issue a general assistance grant to a client in the form of protective payment when:

(a) The department determines the client is unable to manage the client's funds; or

(b) A department-designated chemical dependency assessment center diagnoses the client as chemically dependent and determines the client used drugs or alcohol within the ninety-day period immediately preceding assessment.

(2) The department shall have the discretion to waive the protective payment requirement for an actively addicted client when the department determines that the client has the ongoing ability to manage the client's funds.

(3) The department may issue a general assistance grant to the client in the form of vendor payment when no suitable protective payee is available.

WSR 94-11-026
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed May 6, 1994, 2:44 p.m.]

The Department of Licensing hereby withdraws proposed rule WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees, filed with your office on April 13, 1994, as part of WSR 94-09-018.

James D. Hanson
Program Administrator

WSR 94-11-053
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SERVICES FOR THE BLIND
[Filed May 10, 1994, 4:05 p.m.]

The Department of Services for the Blind hereby withdraws proposed new section WAC 67-35-230 Department responsibility—Maintained facility, filed with your office on March 14, 1994, as part of WSR 94-07-067.

Bonnie Jindra
Assistant Director

WSR 94-11-058
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 11, 1994, 2:21 p.m.]

The Department of Social and Health Services, medical assistance administration, is withdrawing WAC 388-81-065 filed as a proposal with the office of the code reviser under WSR 94-08-046. This withdrawal will become effective June 3, 1994, at 12:01 a.m.

Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-059
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 11, 1994, 2:22 p.m.]

Effective June 3, 1994, at 12:01 a.m., the Department of Social and Health Services is withdrawing WAC 388-82-140, 388-82-150, 388-82-160, 388-83-032, 388-83-033, and 388-95-360.

These sections were filed as proposals with the office of the code reviser under WSR 94-08-044.

Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-060
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 11, 1994, 2:23 p.m.]

Effective June 3, 1994, at 12:01 a.m., the Department of Social and Health Services is withdrawing the proposals to WAC 388-92-036 SSI-related income exemptions and 388-95-340 Computation of available income and resources.

As of June 3, 1994, the Division of Income Assistance will repeal these two sections in their Title 388 WAC rewrite.

Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-064
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 12, 1994, 2:20 p.m.]

Original Notice.

Title of Rule: WAC 388-49-015 General provisions.

Purpose: Clarifies the department can release information to child support programs under Title IV-D of the Social Security Act for administration purposes. Removes references to the systematic alien verification for entitlements (SAVE). The department is no longer required to validate alien documents effective January 1, 1994.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Clarifies that the department can release information to support enforcement division for the administration of the program. Deletes the references to SAVE.

Reasons Supporting Proposal: Adds Title IV-D child support programs (support enforcement division) to the programs that the department can release information for administration purposes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Income Assistance, 438-8323.

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 June 21, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by June 7, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, MS 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by June 14, 1994.

Date of Intended Adoption: June 22, 1994.

May 12, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3574, filed 6/23/93, effective 7/24/93)

WAC 388-49-015 General provisions. (1) The rules in this chapter are for the purpose of administrating the food stamp program. Rules and definitions in other chapters of Title 388 of the Washington Administrative Code do not apply to provisions of this chapter unless specifically identified.

(2) The department of social and health services shall administer the food stamp program in accordance with an approved plan with the food and nutrition service (FNS) of the United States Department of Agriculture.

(3) The department shall comply with all FNS directives to reduce, suspend, or terminate all or any portion of the food stamp program.

(4) During a presidential or FNS-declared disaster, the department shall certify affected households in accordance with FNS instructions.

(5) The department shall retain:

(a) Food stamp case records for three years from the month of closure of each record; and

(b) Fiscal and accountable documents for three years from the date of fiscal or administrative closure.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration for reason of:

(a) Age;

(b) Race;

(c) Color;

(d) Sex;

(e) Handicap;

(f) Religious creed;

(g) Political beliefs; or

(h) National origin.

(7) The department shall display nondiscrimination posters provided by FNS in all offices administrating the food stamp program.

(8) The department shall fully translate into the primary language of the limited English proficient applicants and recipients:

(a) Written notices of denial, termination, or reduction of benefits; and

(b) Written requests for additional information.

(9) A person believing the person has been subject to discrimination may file a written complaint with the:

(a) Food and nutrition service; or

(b) State office for equal opportunity.

(10) The department shall restrict use or disclosure of information obtained from applying or participating households to:

(a) A person directly connected with the administration or enforcement of the provisions of:

(i) The Food Stamp Act or regulations;

(ii) Other federal assistance programs; or

(iii) Federally assisted state programs providing assistance on a means-tested basis to a low-income person((~~:~~

~~(b) A person directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the systematic alien verification for entitlements (SAVE) program, to the extent the information is necessary to identify the person for verification purposes;~~)); and

(iv) Child Support Program under Title IV-D of the Social Security Act.

((~~(c)~~)) (b) An employee of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

((~~(d)~~)) (c) A local, state, or federal law enforcement official, upon written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the:

(i) Identity of the person requesting the information;

(ii) Authority of the person to make the request;

(iii) Violation being investigated; and

(iv) Identity of the person about whom the information is requested.

(11) ((~~The department shall use information obtained through the systematic alien verification for entitlements (SAVE) program only for the purposes of:~~

~~(a) Verifying the validity of documentation of alien status presented by an applicant;~~

~~(b) Verifying a person's eligibility for benefits;~~

~~(c) Investigating whether a participating household received benefits to which the household was not entitled, if a person was previously certified to receive benefits on the basis of eligible alien status; and~~

~~(d) Assisting in or conducting administrative disqualification hearings, or criminal or civil prosecutions based on receipt of food stamp benefits to which a participating household was not entitled.~~

~~(12)~~)) The department shall make the household's case file available to the household or household's representative for inspection during regular office hours as provided in chapter 388-320 WAC.

((~~(13)~~)) (12) The department shall make the following program information available to the public upon request during regular office hours:

(a) Federal regulations, federal procedures in FNS notices and policy memos, and the state plan of operation at the state office; and

(b) Washington Administrative Code and the *Food Stamp Procedures Manual* at the local office.

((~~(14)~~)) (13) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

((~~(15)~~)) (14) The department shall not permit a volunteer or other person not an employee of the department to conduct a certification interview or certify a food stamp applicant except:

(a) During a presidential or FNS-declared disaster; or

(b) A Social Security Administration (SSA) employee for a Supplemental Security Income (SSI) household as provided in WAC 388-49-040.

((~~(16)~~)) (15) The office of special investigation of the department, designated as the state law enforcement bureau, shall enter into an agreement with FNS to issue food stamps to state and local law enforcement agencies for the purpose of law enforcement and investigative activities.

((~~(17)~~)) (16) Redemption of food stamps shall be in accordance with 7 United States Code (USC) 2024 and 7 Code of Federal Regulations (CFR) 278.

((~~(18)~~)) (17) Misuse of food stamps issued under WAC 388-49-015(16) shall be a violation of RCW 9.91.140.

((~~(19)~~)) (18) The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedures," relative to counterfeiting, misuse, and alteration of obligations of the United States are applicable to food coupons.

WSR 94-11-066
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed May 12, 1994, 3:40 p.m.]

Original Notice.

Title of Rule: WAC 392-140-525 through 392-140-538.

Purpose: Governs distribution of local enhancement funding known as block grants.

Statutory Authority for Adoption: RCW 28A.150.370 and 28A.150.290.

Statute Being Implemented: The Biennial Operating Appropriations Act.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Old Capitol Building, 753-2298; Implementation: Thomas Case, Old Capitol Building, 753-6708; and

Enforcement: Dr. David Moberly, Old Capitol Building, 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 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: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, on June 24, 1994, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-7200, by June 23, 1994.

Date of Intended Adoption: June 27, 1994.

May 11, 1994
Judith A. Billings
Superintendent of
Public Instruction

NEW SECTION

WAC 392-140-525 1993-95 Local enhancement funding—Applicable provisions. WAC 392-140-525 through 392-140-538 apply to the distribution of moneys to school districts for local enhancement funding (also known as local education program enhancement) pursuant to section 517, chapter 24, Laws of 1993 sp. sess. (the state Operating Appropriations Act.)

NEW SECTION

WAC 392-140-527 1993-95 Local enhancement funding—Definition—Allocation enrollment. As used in WAC 392-140-525 through 392-140-538, "allocation enrollment" means the school district's annual average full-time equivalent students as defined in WAC 392-121-133 plus running start enrollment except in the following cases:

(1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:

(a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school district's annual average full-time equivalent enrollment less the annual average full-time equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

NEW SECTION

WAC 392-140-529 1993-95 Local enhancement funding—Definition—Form SPI 1129. "Form SPI 1129" means the form provided by the superintendent of public instruction on which school districts report expenditures of local enhancement funding in each program area and provide a narrative of benefits for the school year.

NEW SECTION

WAC 392-140-530 1993-95 Local enhancement funding—Definition—Enrolled as a Medicaid service provider. Enrolled as a Medicaid service provider means having applied for and received a core provider agreement number pursuant to WAC 388-78-007 from the department of social and health services medical assistance administration office of provider services.

NEW SECTION

WAC 392-140-531 1993-95 Local enhancement funding—Actively pursuing federal matching funds for medical services provided through special education programs. The superintendent of public instruction shall find that a district is actively pursuing federal matching funds if the district submits a letter to the superintendent of public instruction assuring that the district is enrolled as a Medicaid service provider as of June 30, 1994, and:

(1) That the district is billing for Medicaid eligible services provided to Medicaid eligible students in its special education program conducted pursuant to chapter 392-171 WAC during the 1993-94 school year and plans to do the same during the 1994-95 school year; or

(2) That the district participates in a special education cooperative and the serving district(s) is billing for all Medicaid eligible services provided to all Medicaid eligible students in the cooperative during the 1993-94 school year and plans to do the same during the 1994-95 school year; or

(3) That the Medicaid eligibility of the students enrolled in special education programs has been verified and none of the district's students enrolled in the district's special education program are eligible for Medicaid; or

(4) That the school district does not have any students needing special education.

NEW SECTION

WAC 392-140-533 1993-95 Local enhancement funding—Condition of receipt of moneys. For the 1994-95 school year, receipt by a school district of one-fourth of the district's local enhancement funding allocation shall be conditioned on a finding by the superintendent of public instruction that:

(1) The district is enrolled as a Medicaid service provider; and

(2) The district is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to chapter 149, Laws of 1993.

NEW SECTION

WAC 392-140-535 1993-95 Local enhancement funding—Conditions and limitations on expenditures. Expenditure of moneys allocated pursuant to WAC 392-140-525 through 392-140-538 is subject to the following conditions and limitations:

(1) Moneys shall be expended to meet education needs identified by the school district.

(2) School districts shall account for expenditures in Program 75, local education program enhancement.

(3) Moneys allocated for a school year shall be expended by August 31 of the school year.

(4) The school district shall report to the superintendent of public instruction as provided in WAC 392-140-537.

NEW SECTION

WAC 392-140-536 1993-95 Local enhancement funding—Apportionment of moneys. From moneys appropriated by the legislature for local enhancement funding, the superintendent of public instruction shall apportion money to each eligible school district as follows:

(1) The school district's allocation for the school year shall equal the district's allocation enrollment times a uniform state-wide rate that shall be a maximum of:

(a) $26.30 for school districts meeting the condition of receipt of moneys in WAC 392-140-533; and

(b) $19.72 for school districts not meeting the condition for the receipt of moneys in WAC 392-140-533.

(2) Moneys shall be allocated to the district in the same manner as provided in WAC 392-121-400.

(3) In January of the following school year or thereafter the allocation shall be adjusted to reflect any recovery made pursuant to WAC 392-140-538.

NEW SECTION

WAC 392-140-537 1993-95 Local enhancement funding—School district reporting. School districts receiving local enhancement funding shall report to the superintendent of public instruction as follows:

(1) Prior to November 2 of the following school year, the school district shall report on Form SPI 1129 the uses of local enhancement funding for the school year.

(2) Prior to November 15 of the following school year, the school district shall report on Form F-196 expenditures of local enhancement funding.

NEW SECTION

WAC 392-140-538 1993-95 Local enhancement funding—Recovery of moneys. In January of the following school year or thereafter, the superintendent of public instruction shall compare each school district's local enhancement funding allocation made pursuant to WAC 392-140-536 and its direct expenditures for Program 75 reported on Form F-196. If the allocation exceeds expenditures, the difference shall be recovered.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-140-190	1989-91 Local education program enhancement—Applicable provisions.
WAC 392-140-191	1989-91 Local education program enhancement—Definition—Annual average full-time equivalent students.
WAC 392-140-192	1989-91 Local education program enhancement—Definition—School year.
WAC 392-140-193	1989-91 Local education program enhancement—Definition—Following school year.
WAC 392-140-194	1989-91 Local education program enhancement—Definition—Allocation enrollment.
WAC 392-140-195	1989-91 Local education program enhancement—Definition—Procedural requirements.
WAC 392-140-196	1989-91 Local education program enhancement—Definition—Eligible programs.
WAC 392-140-197	1989-91 Local education program enhancement—Definition—SPI Form 1161.
WAC 392-140-198	1989-91 Local education program enhancement—School district application and application deadline.
WAC 392-140-199	1989-91 Local education program enhancement—Calculation of school year allocation.
WAC 392-140-200	1989-91 Local education program enhancement—Apportionment of the annual allocation.
WAC 392-140-201	1989-91 Local education program enhancement—End of year report.
WAC 392-140-202	1989-91 Local education program enhancement—Carryover prohibition.

WSR 94-11-071
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF PERSONNEL
[Filed May 13, 1994, 11:38 a.m.]

The Department of Personnel hereby withdraws proposed new rules WAC 356-56-110, 356-56-240, 356-56-250, 356-56-275, and 356-56-300 filed with the code reviser's office as part of WSR 93-22-113 on November 3, 1993.

If you have any questions regarding the above withdrawal, please contact Sandra Brownrigg, rules coordinator, at 753-0381.

Dennis Karras
Director

WSR 94-11-079
PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
(Board of Nursing)
[Filed May 16, 1994, 10:14 a.m.]

Subject of Possible Rule Making: WAC 246-839-300 through 246-839-365; statutory authority RCW 18.88.175. New and revised WACs are needed to clarify requirements for advanced registered nurse practitioner education and practice. The goal is to assist potential applicants by expanding information on education required and to make explicit the scope of practice recognized by the board.

Persons may comment on this subject by written comments sent to the board office by May 31, 1994. Washington State Board of Nursing, P.O. Box 47864, Olympia, WA 98504-0764, and by oral participation allowed at the Washington State Board of Nursing meeting on June 3, 1994, at 9:00 a.m. This meeting will be held at: Wyndham Garden Hotel, 18118 Pacific Highway South, SeaTac, WA 98188.

Other Information or Comments by Agency at this Time, if any: This rule will be developed by staff, then brought to the board for revision prior to the filing of the proposed rule. This preproposal comment form was previously filed on May 2, 1994 - this form revises the time for oral participation at the Wyndham Garden Hotel, from 1:30 p.m. to 9:00 a.m.

May 11, 1994
Patricia O. Brown, RN, MSN
Executive Director

WSR 94-11-080
PROPOSED RULES
DEPARTMENT OF HEALTH
(HPS #3)
[Filed May 16, 1994, 10:17 a.m.]

Original Notice.

Title of Rule: WAC 246-807-135 Cooperation with investigation, 246-807-125 License renewal form, 246-807-173 Documentation of care, and 246-807-300 Scope of practice.

Purpose: To adopt rules regarding cooperation with investigation and license renewal and clarify existing rules.

Statutory Authority for Adoption: RCW 18.26.110.

Statute Being Implemented: Chapter 18.26 RCW.

Summary: Cooperation with investigation and license renewal form clarifies failure to cooperate with disciplinary authority when requested to provide information to the board. The two remaining are housekeeping.

Reasons Supporting Proposal: To clarify our rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie M. Glasgow, 1112 Quince Street, 664-2024.

Name of Proponent: [Department of Health], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Cooperation with investigation and license renewal form clarifies failure to cooperate with disciplinary authority when requested to provide information to the board. Documentation of care simplifies the doctors requirements for recordkeeping set by the board. Scope of practice eliminates duplication from RCW to WAC.

Proposal Changes the Following Existing Rules: Simplifies doctors requirements for recordkeeping. Eliminates treatment of disorders originating in the extremities, from rule. This is included in RCW.

Small Business Economic Impact Statement: The small business impact for the chiropractor would be a saving of decreased paperwork. The chiropractic profession is the only profession that regulates what must be included in the chiropractors recordkeeping on any given patient. This rule would reduce paperwork. There would be no loss of revenue and no increase in revenue.

Hearing Location: Tyee Hotel, 500 Tyee Drive S.W., Tumwater, WA 98501, on June 23, 1994, at 1:00 p.m.

Submit Written Comments to: Connie Glasgow, 1112 Quince Street, Olympia, WA 98504, by June 20, 1994.

Date of Intended Adoption: June 23, 1994.

May 6, 1994
Connie M. Glasgow
Program Manager

AMENDATORY SECTION (Amending Order 162B, filed 4/26/91, effective 5/27/91)

WAC 246-807-173 Documentation of care. (1) The record keeping procedures of a chiropractor shall be adequate to provide documentation of the necessity and rationale for examination, diagnostic/analytical procedures, and chiropractic services. The required documentation shall include, but not necessarily be limited to, the patient's history and/or subjective complaints; examination findings and/or objective findings; and a record of all chiropractic services performed.

(2) ((~~An accepted method of record keeping is the utilization of "SOAP" notes for examinations and "chart notes" for daily records.~~

~~(a) An examination shall involve the recording of a complete "SOAP" note:~~

~~(i) "S" denotes subjective complaints;~~

~~(ii) "O" denotes objective findings;~~

~~(iii) "A" denotes assessment or appraisal of the patient as to diagnosis/analysis; and~~

~~(iv) "P" denotes plan for case management.~~)) (a) Chiropractic examinations shall be documented by specifying subjective complaints, objective findings, an assessment or appraisal of the patient's condition and the plan for care.

(b) Daily chart notes ((~~are~~)) may be brief notations recorded in the patient's chart file between examinations. These notations shall ((~~include the chiropractic and diagnos-~~

~~tic/analytical services performed and/or ordered and/or~~)) indicate any changes in the care or progress of the patient((~~. Complete SOAP notes are not generally included on every visit when examinations are performed at reasonable intervals and include complete SOAP notations. Chart notes on each visit shall record care administered to a patient and any change in subjective and/or objective findings~~)) and the chiropractic, diagnostic, or analytical services performed or ordered. Detailed entries as required in subsection (2)(a) of this section need not be documented on every visit as long as examinations are performed at reasonable intervals and those examinations are documented as specified in subsection (2)(a) of this section.

(3) If a code is utilized by the doctor in connection with record keeping, a code legend shall be included in the records.

AMENDATORY SECTION (Amending Order 319B, filed 11/25/92, effective 12/26/92)

WAC 246-807-300 Scope of practice—Revocation or suspension of license authorized for practice outside scope. (1) The chiropractic disciplinary board finds that over the past few years there has been an increasing number of persons licensed as chiropractors who have been practicing other healing arts while holding themselves out to the public as chiropractors to the detriment of the public health and welfare of the state of Washington and contrary to the legislative directive contained in RCW 18.26.010(5). The board further finds and deems it necessary to carry out the provisions of chapter 18.26 RCW that this rule be adopted to give guidance to members of the profession, and the public, in interpreting for purposes of application by the disciplinary board of RCW 18.26.030, the scope of health care which comes within the definition of chiropractic in RCW 18.25.005 and which is authorized under a license to practice chiropractic in the state of Washington.

(2) RCW 18.25.005 defines the term "chiropractic" for purposes of chapters 18.25 and 18.26 RCW, as that practice of health care which deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, for the restoration and maintenance of health and recognizing the recuperative power of the body; it includes the use of procedures involving spinal adjustment, and extremity manipulation insofar as any such procedure is complementary or preparatory to a chiropractic spinal adjustment, the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation except for medicines of herbal, animal, or botanical origin, the normal regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventative measures, physiological therapeutic procedures such as traction and light, physical examination, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care, or the need for referral to other health care providers: *Provided,* That no chiropractor shall prescribe or dispense any medicine or drug nor practice obstetrics or surgery nor use x-rays or any other form of radiation for therapeutic purposes colonic irrigation, or any form of venipuncture, nor procedures involving the application of sound, diathermy, or electricity, nor treat disorders originating in the extremities.

(3) The board finds that the following diagnostic techniques and procedures, by whatever name known, are not within the definition of "chiropractic" as specified in subsection (2) of this section and in RCW 18.25.005, and, consequently, a license to practice chiropractic does not authorize their use:

(a) The use of x-rays or other forms of radiation for any other reason than to x-ray the human skeleton.

(b) The use of any form of electrocardiogram.

(c) The testing and reduction to mathematical formulae of sputum and/or urine (commonly known as "Reams" testing).

(d) Hair analysis.

(e) The use of iridology.

(f) The taking of blood samples.

(g) Female breast examinations.

The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW 18.25.005 that any other diagnostic technique or procedure is outside the scope of chiropractic practice.

(4) The board finds that the following treatment modalities, by whatever name known, are not within the definition of "chiropractic" as specified in subsection (2) of this section and in RCW 18.25.005 and, consequently, a license to practice chiropractic does not authorize their use:

(a) Ultrasound, diathermy, high voltage galvanic therapy and x-rays or other radiation.

(b) Electrotherapy.

(c) The use of a transcutaneous electrical nerve stimulator (TENS).

(d) The use of the endonasal technique.

(e) The use of any type of casting other than light body casting.

(f) The use of meridian therapy, whether known as "acupressure," or the same type of therapy under any other names unless complementary or preparatory to a chiropractic spinal adjustment.

(g) The use of hypnosis.

(h) The use of clinical herbology.

((~~(i) Treatment of disorders originating in the extremities.~~))

The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW 18.25.005 that any other treatment modalities are outside the scope of chiropractic practice.

(5) The use by a chiropractor of diagnostic techniques or procedures or treatment modalities which are outside the definition of chiropractic in RCW 18.25.005, whether or not listed in this rule, or the use by a chiropractor of any of the diagnostic techniques and procedures listed in subsection (3) of this section or the use by a chiropractor of any of the treatment modalities listed in subsection (4) of this section shall constitute unprofessional conduct under RCW 18.130.180(12) which shall be good and sufficient cause for revocation or suspension of that chiropractor's license to practice chiropractic in Washington.

NEW SECTION

WAC 246-807-125 License renewal form. A license shall not be renewed until the applicant has submitted completed renewal forms and the full amount of the renewal fee, including any penalty fee for late renewal of the license.

NEW SECTION

WAC 246-807-135 Cooperation with investigation. (1) A chiropractor must comply with a request for records, documents or explanation from an investigator who is acting on behalf of the board by submitting the requested items within fourteen calendar days of receipt of the request by the chiropractor or the chiropractor's attorney, whichever is first. If the chiropractor fails to comply with the request within fourteen calendar days, the investigator shall contact the chiropractor or the chiropractor's attorney by telephone or letter as a reminder.

(2) Investigators may extend the time for response if the chiropractor requests an extension for a period not to exceed seven calendar days.

(3) If the chiropractor fails to comply with the request within three business days after the receipt of the reminder, then a subpoena shall be served upon the chiropractor to obtain the requested items.

(4) If the chiropractor fails to comply with the subpoena, a statement of charges shall be issued pursuant to RCW 18.130.180(8) and, if there is sufficient evidence to support additional charges, then those charges may be included in the statement of charges.

(5) If the chiropractor complies with the request after the issuance of the statement of charges, the board's assistant attorney general-prosecutor shall decide whether the charges based on RCW 18.130.180(8) will be prosecuted or settled. If the charges based on RCW 18.130.180 (8) are to be settled, the settlement proposal shall be presented to the board or a duly constituted panel of the board for a decision on ratification and until ratified, the settlement is not final.

WSR 94-11-082
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE
[Filed May 16, 1994, 2:59 p.m.]

Original Notice.

Title of Rule: Restrictions on the denial, exclusion, or limitation in health insurance policies or contracts for preexisting conditions.

Purpose: The purpose of the rule is to regulate preexisting condition provisions concerning denial, exclusion or limitations of benefits in health insurance policies or contracts.

Other Identifying Information: Insurance Commissioner Matter No. R 94-13.

Statutory Authority for Adoption: RCW 48.01.200, 48.02.060, 48.20.540, 48.21.340, 48.46.550.

Statute Being Implemented: RCW 48.20.540, 48.21.340, 48.46.550

Summary: The proposed amendment eliminates duplicate words and phrases.

Reasons Supporting Proposal: The proposed amendment corrects an earlier drafting error.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, Deputy Commissioner, Olympia, 753-7300; Implementation and Enforcement: Deborah Senn, Insurance Commissioner, Olympia, 753-7300.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This section regulates preexisting condition limitations, denials or exclusions in health insurance policies and contracts.

Proposal does not change existing rules.

The proposed amendment does not change existing rules; the proposed amendment eliminates duplicate words and phrases.

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

The proposed amendment does not change existing rules; the proposed amendment eliminates duplicate words and phrases.

Hearing Location: Conference Room, 2nd Floor, Insurance Building, Olympia, Washington, on June 21, 1994, at 9:30 a.m.

Submit Written Comments to: Arlo Manley, Insurance Commissioner's Office, P.O. Box 40255, Olympia, WA 98504-0255, by 5 p.m., June 21, 1994.

Date of Intended Adoption: June 22, 1994.

May 13, 1994
Bethany Weidner
Deputy Commissioner

AMENDATORY SECTION (Amending Order R 94-6, filed 4/5/94, effective 5/6/94)

WAC 284-10-050 Restrictions on the denial, exclusion, or limitation of health benefits for preexisting 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 preexisting conditions supersede other provisions of this chapter governing the same or similar subject matter. For purposes of this section "preexisting condition" means any health condition, illness, or injury which existed at any time prior to the effective date of health plan 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 carrier offering health plans may reject any individual based on the person's preexisting condition or exclude or otherwise limit coverage for a covered person's preexisting conditions as defined in this section.

For example, if the covered person needs a heart transplant and the plan provides coverage for heart transplants, the carrier may not do any of the following: Deny or exclude coverage for heart transplants as to this particular covered person because the covered person has a preexisting condition; impose any preexisting condition waiting period before providing coverage for the heart condition; or deny

coverage altogether for that individual. In addition, a carrier may not condition issuance of a group plan upon the exclusion of an individual within the group nor may a carrier issue a separate plan to an individual within the group to avoid inclusion of the individual under the group plan. However, nothing contained in this section shall be deemed to require a carrier to provide benefits not ordinarily available under the plan. For example, if the covered person needs a heart transplant and the plan does not cover heart transplants, the carrier has not improperly denied coverage for a preexisting condition. This rule does not prohibit a carrier from imposing waiting periods or other limitations with respect to particular medical procedures or treatments for all persons covered by the plan; 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 carrier may reject an individual for health plan coverage based upon preexisting conditions of the individual and no carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage or for which a prudent person would have sought advice from a health care provider. 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 carrier could impose a three-month waiting period before providing any type of coverage for the heart condition. To the extent that preexisting condition waiting periods continue after October 1, 1994, carriers must comply with provisions of WAC 284-10-030(1) that require a carrier to credit preexisting condition waiting periods for persons who had similar coverage under a different plan.

On and after July 1, 1994, no carrier may enforce a plan provision that conflicts with the provisions of this section. For example, if a covered person purchased coverage on ((~~April had similar coverage under a different plan.~~

~~On and after July 1, 1994, no carrier may enforce a plan provision that conflicts with the provisions of this section. For example, if a covered person purchased coverage on~~)) April 1, 1994 and the plan contained a twelve month waiting period, that waiting period could not be enforced after July 1, 1994 because enforcement of the waiting period would conflict with the provisions of this section. By way of additional example, if a covered person purchased coverage on March 1, 1994 and the plan contained an exclusion for that individual for problems related to asthma, the exclusion could not be enforced by the carrier after July 1, 1994 and coverage would have to be extended for asthma.

(4) No carrier 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, a carrier could not create a new rate classification for "uninsurable risks."

WSR 94-11-085
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 17, 1994, 9:46 a.m.]

Original Notice.

Title of Rule: WAC 314-64-060 Purpose.

Purpose: To eliminate unnecessary rules to make the requirement of the board easier for the public to understand.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.98.070 and 66.28.040.

Summary: Removes unnecessary rules.

Name of Agency Personnel Responsible for Drafting and Implementation: Janice Lee Britt, 1025 East Union, Olympia, WA, (206) 586-6701; Enforcement: Gary W. Gilbert, 1025 East Union, Olympia, WA, (206) 586-3052.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The current rule states what the statutes already require. Therefore, the rule is not necessary.

Proposal does not change existing rules.

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

Hearing Location: Liquor Control Board, Fifth Floor Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA, on June 22, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080, FAX (206) 664-9689, by June 21, 1994.

Date of Intended Adoption: June 22, 1994.

May 13, 1994
Joseph L. McGavick
Chairman

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-64-060 Purpose.

WSR 94-11-086
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 17, 1994, 9:48 a.m.]

Original Notice.

Title of Rule: WAC 314-64-080 Procedures.

Purpose: Delete language from (1)(b) prohibiting furnishing samples of unpasteurized beer. Remove language from subsection (1)(d)(iii) which no longer applies due to legislation passed which makes this portion of this rule obsolete.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.28.040, 66.28.150, 66.28.042, 66.28.043.

Summary: The change to (1)(b) deletes language prohibiting furnishing samples of unpasteurized beer. The term "unpasteurized" has been deleted from the statute. The change to (1)(d)(iii) removes outdated language which is preempted by statute.

Name of Agency Personnel Responsible for Drafting and Implementation: Janice lee Britt, 1025 East Union, Olympia, WA, (206) 586-6701; Enforcement: Gary W. Gilbert, 1025 East Union, Olympia, WA, (206) 586-3052.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Subsection (1)(b) would delete language prohibiting furnishing samples of unpasteurized beer. The term "unpasteurized" has been deleted from the statute. "Pasteurized" beer, per WAC 314-12-150, includes bottle conditioned beer which has been fermented in the container and which may contain residual active yeast. Subsection (1)(d)(iii) language has been superseded by statutory changes since the language was originally written. The current language was implemented in 1981. Since that time the legislature has passed RCW 66.28.150 in 1982, RCW 66.28.042 in 1990 and RCW 66.28.043 in 1990 all of which have had an impact on the rule. Since "materials" and "food" are now allowed for by law, food is no longer limited to the crackers, nuts, fruits and cheeses spelled out in the rule. The legislature took specific note that the "food" included in two of these statutes did include meals.

Proposal does not change existing rules.

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

Hearing Location: Liquor Control Board, Fifth Floor, Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA, on June 22, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080, FAX (206) 664-9689, by June 21, 1994.

Date of Intended Adoption: June 22, 1994.

May 13, 1994
Joseph L. McGavick
Chairman

AMENDATORY SECTION (Amending Order 185, Resolution No. 194, filed 5/13/86)

WAC 314-64-080 Procedures. Procedures for furnishing samples of beer and wine to licensees for the purpose of negotiating a sale are as follows:

(1) Quantity. Except as provided in (d) of this subsection, samples may be furnished only in their original packages or containers as produced by the manufacturer or bottler, as follows:

(a) Wholesaler or importer. A brewer, winery or importer may furnish a sample of beer or wine to a wholesaler or importer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each wholesaler or importer, the brewer, winery or importer may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine.

(b) Retailer. A brewer, winery, importer or wholesaler may except as hereinafter provided furnish a sample of beer or wine to a retail licensee who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each retail licensee, the brewer, winery, importer or wholesaler may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine. If a particular product is not available in a size within the quantity limitations of this section, a brewer, winery, importer or wholesaler may furnish the next largest size((~~: *Provided, however,* That unpasteurized beer in its original sealed package shall not be furnished as samples~~)).

(c) Out-of-state brewers and wineries who hold a certificate of approval to ship their products into this state who provide samples to retailers as outlined in (b) of this subsection shall be responsible for reporting monthly to the board any shipments of samples to retailers in Washington state and shall also be responsible for paying the taxes due on such beer and wine samples provided to retailers as provided for in WAC 314-20-010 and 314-24-110 as if they were a domestic brewer or a domestic winery.

(d) Samples in other than the original packages or containers may, subject to the conditions and limitations stated in (a), (b), and (c) of this subsection, be furnished as follows:

(i) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish to authorized licensees at their licensed premises or business office samples of beer and wine from an opened container carried by a licensed agent, provided such samples are furnished only in single-serving samples not to exceed two ounces of wine or twelve ounces of beer.

(ii) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish samples of beer or wine to authorized licensees at the premises of a retail licensee.

(iii) A licensed importer or licensed wholesaler may furnish samples to authorized licensees on the licensed premises of the importer or wholesaler((~~: *Provided,* That when exercising the privileges authorized in (d)(ii) and (iii) of this subsection a brewery, winery, importer, or wholesaler may, in addition to furnishing samples of beer or wine as provided, supply small amounts of breads, crackers, cheeses, fruits, or nuts to clear the taste buds of participants between successive samples of beer or wine but shall not furnish meals or additional treats which would be violative of WAC 314-12-140~~)).

(2) Identification. Brewers, wineries, importers or wholesalers shall identify the samples on the containers, cartons and shipping documents as "Samples for licensees."

(3) Shipping instructions. Brewers, wineries, importers or wholesalers shall, except as provided in subsection (1)(d) of this section, deliver or ship samples to licensees at their licensed premises or business office.

(4) Use and disposition of samples. Samples may be furnished for the purpose of negotiating a sale of beer or wine to a wholesaler, importer, or retail licensee.

WSR 94-11-087
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 17, 1994, 9:49 a.m.]

Original Notice.

Title of Rule: WAC 314-44-015 Agent license limited authority.

Purpose: The purpose of this rule is to state what agents may do and to clearly state what agents may not do.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.310.

Summary: Agents may perform goodwill activities; may not represent themselves as being an employee of the board, may not try to gain free admission to liquor licensed establishments, and may not check identification of patrons.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, 1025 East Union, Olympia, WA, (206) 586-6701; Implementation and Enforcement: Gary W. Gilbert, 1025 East Union, Olympia, WA, (206) 586-3052.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule clarifies that licensed agents are allowed to perform goodwill activities. The rule also clarifies that licensed agents may not misrepresent themselves as employees of the board.

Proposal does not change existing rules.

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

Hearing Location: Liquor Control Board, Fifth Floor Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA, on June 22, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080, FAX (206) 664-9689, by June 21, 1994.

Date of Intended Adoption: June 22, 1994.

May 13, 1994
Joseph L. McGavick
Chairman

NEW SECTION

WAC 314-44-015 Agent license limited authority. (1) Agents licensed under the authority of RCW 66.24.310 may perform goodwill activities as authorized by the Board.

(2) Agents licensed under RCW 66.24.310 are prohibited from using their agent's license as a means to represent their being an employee of the board for the purpose of (a) obtaining admission to liquor licensed establishments, (b) misleading anyone into thinking they are a liquor enforcement officer or (c) checking identification of patrons.

WSR 94-11-089
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed May 17, 1994, 9:58 a.m.]

Original Notice.

Title of Rule: Model procedural rules for boards.

Purpose: Creates a new section for common rules adopted by the board of pharmacy and adopts the Department of Health model rules for disciplinary boards.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This creates a new section for common rules for the authorization holders of the Board of Pharmacy and adopts the model rules for boards.

Reasons Supporting Proposal: Adoption of these model rules for boards will standardize the procedures by boards in the Department of Health. Also creates a section for adopting common rules for all authorization holders, which will simplify location of common rules in the WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald Williams, 1300 Quince S.E., Olympia, WA, 98504-7863, (206) 753-6834.

Name of Proponent: Board of Pharmacy, 1300 Quince S.E., P.O. Box 47863, Olympia, WA 98504-7863, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This creates a section of WAC for common rules adopted for all authorization holders of the Board of Pharmacy, making it easier to locate those rules which commonly apply. Adopting these model rules would standardize the procedures used by the boards in the health professions quality assurance division, thereby simplifying the processes used within the division.

Proposal does not change existing rules.

This proposal sets up a section for common rules and adopts a set of rules new to the Board of Pharmacy.

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

This is a change in procedures of the Board of Pharmacy, which does not affect small business.

Hearing Location: Swedish Hospital, Glacier Auditorium, 747 Summit, Seattle, WA, on July 20, 1994, at 9:30 a.m.

Submit Written Comments to: Donald H. Williams, P.O. Box 47863, Olympia, WA 98504-7863, by June 13, 1994.

Date of Intended Adoption: July 20, 1994.

May 16, 1994
Donald H. Williams
Executive Director

NEW SECTION

WAC 246-856-001 Purpose. The purpose of this chapter is to combine the common rules adopted by the Board of Pharmacy for all holders of licenses, registrations and certifications, as well as any other authorizations, issued by the Board of Pharmacy.

[NEW SECTION]

WAC 246-856-020 Adjudicative proceedings—Procedural rules for the board of pharmacy. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in Chapter 246-11, including subsequent amendments.

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

May 16, 1994
Donald H. Williams
Executive Director

WSR 94-11-090
PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed May 17, 1994, 10:00 a.m.]

Subject of Possible Rule Making: Pursuant to the authority given by RCW 18.64.005, the Board of Pharmacy is planning to make revisions to chapter 246-869 WAC, Pharmacy hospital standards. The revisions are needed to update the regulations to cover new technology and new procedures in hospital settings. This rule is being developed with input from a board member and the pharmacist consultant of the board office, both of whom have a great deal of hospital experience, with consultation with the Washington State Society of Hospital Pharmacists, Council on Legal and Public Affairs. Public input will also be considered as described below.

Persons may comment on this subject by mail to Donald Williams, Department of Health, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, FAX (206)586-4359. Please forward comments by June 21, 1994.

May 16, 1994
Donald H. Williams
Executive Director

WSR 94-11-091
PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed May 17, 1994, 10:02 a.m.]

Subject of Possible Rule Making: Pursuant to the authority given by RCW 18.64.005, the Board of Pharmacy is planning to make revisions to chapter 246-875 WAC, Patient medication record systems. The revisions are needed to update the regulations to cover new technology and new record-keeping requirements. This rule is being developed with input from board investigators who conduct inspections and, therefore, visit pharmacies frequently and are familiar with the technology being utilized in those pharmacies. Input has also been received from computer technology firms.

Persons may comment on this subject by mail to Donald Williams, Department of Health, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, FAX (206)586-4359. Please forward comments by June 21, 1994.

WSR 94-11-092
PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed May 17, 1994, 10:05 a.m.]

Subject of Possible Rule Making: Pursuant to the authority given by RCW 18.64.005, the Board of Pharmacy is planning to make revisions to chapter 246-861 WAC Pharmacists professional education. The revisions are needed to clarify the procedures relating to approval of continuing education and approval of continuing education providers. This rule is being developed with input from board investigators, who review continuing education requests for approval and with participation of the University of Washington Pharmacy School. Input was also gathered from the Washington State Pharmacists Association and from a task force convened by the Board of Pharmacy. Public input will also be considered as described below.

Persons may comment on this subject by mail to Donald Williams, Department of Health, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, FAX (206)586-4359. Please forward comments by June 21, 1994.

May 16, 1994
Donald H. williams
Executive Director

WSR 94-11-093
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Osteopathic Medicine and Surgery)
[Filed May 17, 1994, 10:08 a.m.]

Original Notice.

Title of Rule: WAC 246-853-025 Special purpose examination, 246-853-260 USMLE examination application deadline, 246-853-500 Adjudicative proceedings, 246-854-030 Osteopathic physician assistant prescriptions, and 246-854-080 Osteopathic physician assistant licensure.

Purpose: Adds SPEX exam for disciplinary sanctions; changes exam deadlines; adopts model adjudicative rules; permits physician assistants to issue prescriptions while waiting for NCCPA exam results; and changes physician assistant licensure renewal to birthdate.

Statutory Authority for Adoption: RCW 18.57.005 and 18.130.050.

Statute Being Implemented: Chapters 18.57 and 18.57A RCW.

Summary: Rules provide for implementation of new licensing examination, additional disciplinary sanctions, more flexibility for new physician assistant graduates to prescribe, and will implement physician assistant license renewal to birthdate for better workload distribution. Provides for use of model rules of disciplinary proceedings.

Reasons Supporting Proposal: Implementation will provide more efficiencies and consistencies with other professions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, Program Manager, 1300 Quince Street, Olympia, (206) 586-8438.

Name of Proponent: Washington Osteopathic Medical Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules provide for implementation of new licensing examination, additional disciplinary sanctions, more flexibility for new physician assistant graduate to prescribe, and will implement physician assistant license renewal to be issued on birthdate for better workload distribution, provides for use of model adjudicative rules which will provide consistencies in disciplinary actions.

Proposal Changes the Following Existing Rules: Adds the SPEX exam as a mechanism for evaluating competency; implementation of the newly developed national physician licensing examination; provides new physician assistant graduates a mechanism to prescribe while waiting for results of their certification exam; and switches physician assistant license renewal from July 1 to birthdate-thereby allowing for better distribution of workload.

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

These rules were considered prior to the requirement.

Hearing Location: WestCoast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on June 24, 1994, at 2:00 p.m.

Submit Written Comments to: Arlene Robertson, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, by June 22, 1994.

Date of Intended Adoption: June 24, 1994.

May 11, 1994
Arlene Robertson
Program Manager

AMENDATORY SECTION (Amending Order 303B, filed 9/23/92, effective 10/24/92)

WAC 246-853-025 Special purpose examination. (1) The board of osteopathic medicine and surgery, upon review of an application for licensure pursuant to RCW 18.57.130 or reinstatement of an inactive license, may require an applicant to pass a special purpose examination, e.g., SPEX, and/or any other examination deemed appropriate. An applicant may be required to take an examination when the board has concerns with the applicant's ability to practice competently for reasons which may include but are not limited to the following:

(a) Resolved or pending malpractice suits;

(b) Pending action by another state licensing authority;

(c) Actions pertaining to privileges at any institution; or

(d) Not having practiced for an interval of time.

(2) As a result of a determination in a disciplinary proceeding a licensee may be required to pass the SPEX examination.

(3) The minimum passing score on the SPEX examination shall be seventy-five. The passing score for any other examination under this rule shall be determined by the board.

AMENDATORY SECTION (Amending Order 159B, filed 4/25/91, effective 5/26/91)

WAC 246-853-260 ((~~FLEX~~)) USMLE examination application deadline. (1) All applications for osteopathic physician and surgeon license by ((~~FLEX~~)) USMLE examination in the state of Washington shall be received in the office of the ((~~professional licensing services~~)) health professions quality assurance division, department of health, no later than ((~~August 1~~)) September 12 for the following December examination and ((~~February 1~~)) March 29 for the following June examination.

An applicant with extenuating circumstances for being unable to meet the deadline may petition the board for waiver of the deadline date.

(2) The examination application and fee shall be required to be received in the office of the board's designated testing administration agency no later than September 12 for the following December examination and March 29 for the following June examination.

NEW SECTION

WAC 246-853-500 Adjudicative proceedings. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

AMENDATORY SECTION (Amending WSR 93-24-028, filed 11/22/93, effective 12/23/93)

WAC 246-854-030 Osteopathic physician assistant prescriptions. An osteopathic physician assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician.

(1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.

(a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address and telephone number of the physician and physician assistant. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.

(b) The physician assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and the physician assistant license number or physician assistant drug enforcement administration registration number or, if none, the supervising physician's drug enforcement administration registration number, followed by the initials "P.A." and the physician assistant license number issued by the board.

(c) Prescriptions for legend drugs and schedule three through five controlled substances must each be approved or signed by the supervising physician prior to administration,

dispensing or release of the medication to the patient, except as provided in subsection (5) of this section.

(2) A physician assistant extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, write medical orders, except those for schedule two controlled substances, for inpatients under the care of the physician responsible for his or her supervision.

(3) The license of a physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

(4) Physician assistants may not dispense prescription drugs to exceed treatment for forty-eight hours, except as provided in subsection (6) of this section. The medication so dispensed must comply with the state law prescription labeling requirements.

(5) Authority to issue prescriptions for legend drugs and schedule three through five controlled substances without the prior approval or signature of the supervising physician may be granted by the board to an osteopathic physician assistant who has:

(a) Provided a statement signed by the supervising physician that he or she assumes full responsibility and that he or she will review the physician assistant's prescription writing practice on an ongoing basis;

(b) A certificate from the National Commission on Certification of Physician Assistants';

(c) Demonstrated the necessity in the practice for authority to be granted permitting a physician assistant to issue prescriptions without prior approval or signature of the supervising physician.

(d) Temporary prescriptive privileges may be granted to recent physician assistant graduates provided the applicant passes the first available National Commission on Certification of Physician Assistants' examination following graduation and can meet the requirements in (a) and (c) of this subsection. Failure to receive the National Commission on Certification of Physician Assistants' certification on the first examination attempt shall invalidate the temporary prescriptive privileges.

(6) A physician assistant authorized to issue prescriptions under subsection (5) of this section may dispense medications the physician assistant has prescribed from office supplies. The physician assistant shall comply with the state laws concerning prescription labeling requirements.

(7) A physician assistant granted temporary prescriptive privileges shall be closely monitored by the sponsoring physician and patient charts reviewed on a daily basis.

AMENDATORY SECTION (Amending WSR 93-24-028, filed 11/22/93, effective 12/23/93)

WAC 246-854-080 Osteopathic physician assistant licensure. (1) Applications. All applications shall be made to the board on forms supplied by the board.

(2) The application shall detail the education, training, and experience of the osteopathic physician assistant and provide such other information as may be required. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the National Commission on Certification of Physician Assistants examination;

(b) That the applicant has not committed unprofessional conduct as defined in RCW 18.130.180; and

(c) That the applicant is physically and mentally capable of practicing as an osteopathic physician assistant with reasonable skill and safety.

(3) The license shall be renewed on a periodic basis as determined by the secretary of the department of health under RCW 43.70.280. The renewal shall include a completed renewal application and payment of a fee, in addition to any late penalty fee, determined by the secretary as provided in RCW 43.70.250.

(4) Effective with the July 1, 1995, renewal period, the annual license renewal date for osteopathic physician assistants will be changed to coincide with the licensee's birthdate. Conversion will be accomplished as follows:

(a) Current licensees, as of June 30, 1995, desiring to renew their license will be required to pay the renewal fee plus one-twelfth of that amount for each month, or fraction thereof, in order to extend their license renewal to expire on their next birth anniversary date following June 30, 1996.

(b) On or after July 1, 1995, all new or initial osteopathic physician assistant licenses issued will expire on the applicant's next anniversary date.

(5) After this conversion to a staggered renewal system, licensees may annually renew their license from birth anniversary date to the next birth anniversary date.

WSR 94-11-094
PROPOSED RULES
GAMBLING COMMISSION
[Filed May 17, 1994, 10:30 a.m.]

Continuance of WSR 94-10-005.

Title of Rule: WAC 230-40-244 Electronic bingo card daubers—Definition—Operating restriction.

Purpose: New rule establishes operating restrictions and standards of electronic bingo card daubers.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: New rule establishes operating restrictions and standards of electronic bingo card daubers.

Name of Agency Personnel Responsible for Drafting: Shanna Lingel, 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: New rule to establish operating restrictions and standards for electronic bingo card daubers.

Proposal Changes the Following Existing Rules: Establishes operating restrictions and standards for electronic bingo card daubers.

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: Silverdale on the Bay/West Coast Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, on July 15, 1994, at 10:00 a.m.

Submit Written Comments to: Shanna R. Lingel, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, by June 8, 1994.

Date of Intended Adoption: July 15, 1994.

May 16, 1994
Shanna R. Lingel
Rules Coordinator

NEW SECTION

WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restriction—Standards. The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy; restriction of such is in the public's interest. Electronic bingo card marking devises or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: *Provided,* That player-owned devices which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

(a) The player performs at least the following functions:

(i) Inputs the number or symbol called by the operator into the memory of the unit;

(ii) Notifies the operator when a winning pattern or "bingo" occurs; and

(iii) Identifies the winning card and displays the card to the operator;

(b) Each player using such a device is limited to playing a maximum of sixty-six cards during any game;

(c) The number of devices allowed in play by an operator does not exceed ten percent of the maximum seating capacity of the game;

(d) Electronic daubers owned, leased, or otherwise controlled by an operator must be made available to all players on a first come, first served basis: *Provided,* That when demand exceeds availability, operators may devise schemes for assignment of devices to players if such schemes allow all players an equal opportunity: *Provided further,* That operators shall reserve at least one device for players with disabilities. If there are no requests for use of this devise prior to five minutes before the scheduled session, it may be released for use by other players;

(e) Operators may charge players a fee for use of the devises. Such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased;

(f) Each player utilizing such a device must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-101(3). Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

(g) If the devices are leased to an operator, the lease cannot be based in whole or part on the amount of bingo card sales or rental income derived from such devices; and

(h) The use of these devices is prohibited when a licensee utilizes any marketing scheme for cards that result in a decrease in the per unit price of each card as the number of cards purchased increases;

(3) Electronic bingo card daubers must meet the following standards:

(a) Be manufactured by licensed manufacturers: *Provided,* That player-owned units are exempt from this provision;

(b) Be sold, leased, and serviced by licensed distributors or manufacturers: *Provided,* That operators may perform routine maintenance on devices under their control;

(c) Not be capable of modifying cards stored in the electronic data base in any way; and

(d) Be capable of complying with applicable requirements of WAC 230-20-101(3).

WSR 94-11-096
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE
[Filed May 17, 1994, 10:43 a.m.]

Supplemental Notice to WSR 94-09-050.

Title of Rule: Long-term care.

Purpose: Amend chapter 284-54 WAC.

Other Identifying Information: Insurance Commissioner Matter No. R 94-10.

Hearing Location: In addition to the hearing May 25, 1994, in Olympia, Commissioner Senn will hold a hearing at: City Council Chambers, 808 West Spokane Falls Boulevard, Spokane, WA, on June 6, 1994, at 3:00 p.m.

Submit Written Comments to: Arlo Manley, Rules Coordinator, P.O. Box 40257, Olympia, WA 98504-0257, by June 6, 1994.

Date of Intended Adoption: June 22, 1994.

May 16, 1994
Bethany Weidner
Deputy Commissioner

WSR 94-11-099
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 17, 1994, 11:25 a.m.]

Original Notice.

Title of Rule: New section WAC 458-16-215 Nonprofit organizations that solicit, collect, and distribute gifts, donations, or grants.

Purpose: To implement new statute creating a new exemption from property tax.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070.

Statute Being Implemented: RCW 84.36.550.

Summary: This rule implements and explains the new property tax exemption created by RCW 84.36.550 for nonprofit organizations that solicit, collect, and distribute gifts, donations, or grants.

Name of Agency Personnel Responsible for: Drafting: Kim Qually, 711 Capitol Way, #303, Olympia, (206) 664-0086; Implementation and Enforcement: William Rice, 604 Capitol Boulevard, Tumwater, 753-5503.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements a new statute that creates a new property tax exemption available to certain specified nonprofit organizations.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses. A small business economic impact statement is not required for the following reasons: The contents of this rule pertain to the activities of not-for-profit organizations. A not-for-profit organization is not defined as a small business. Therefore, there is no economic impact on small business as a result of this rule and the department is not aware of any administrative responsibilities placed on small business solely as a result of the filing of this rule.

Hearing Location: Directors Conference Room, General Administration Building, Room 415, 210 11th and Columbia, Olympia, WA, on June 29, 1994, at 9:30 a.m.

Submit Written Comments to: Kim Qually, Counsel, Department of Revenue, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by June 29, 1994.

Date of Intended Adoption: July 13, 1994.

May 16, 1994
William N. Rice
Assistant Director

NEW SECTION

WAC 458-16-215 Nonprofit organizations that solicit, collect, and distribute gifts, donations, or grants. (1) **Introduction.** This section explains the property tax exemption available under RCW 84.36.550 to nonprofit organizations that solicit or collect gifts, donations, or grants to be distributed to other nonprofit organizations for character-building, benevolent, protective, or rehabilitative social services.

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

(a) "Benevolent" refers to social services or programs that are directed at persons of all ages, that arise from or are prompted by motives of charity or a sense of benevolence, that are marked by a kindly disposition to promote the happiness and prosperity of others, by generosity in and pleasure at doing good works, or that are organized for the purpose of doing good. For example, a benevolent organization may provide a food bank, a soup kitchen, or counseling services at cost.

(b) "Gifts, donations, or grants" means only amounts that are given or received as outright gifts. Any amount, however designated, that is given or received in return for any goods, services, or other benefits will not be considered a "gift, donation, or grant" for the purposes of this rule. A "gift, donation, or grant" is an amount given or received without conditions, from detached and disinterested generosity, out of affection, respect, charity or like impulses and not because of any moral or legal duty or from the expectation of anticipated benefits. For example, the purchase of a "raffle ticket" or "bingo card" does not qualify as a "gift, donation, or grant" because the sponsor of the raffle or bingo game is selling a chance to win a prize and the participant is paying a portion of the purchase price of that prize and is receiving the chance to receive the prize or prizes in exchange for his or her payment.

(c) "Nonsectarian purpose" means a purpose that is not associated with or limited to a particular religious group.

(d) "Organization" includes associations and corporations.

(e) "Protective" refers to activities that are meant to cover, to guard, or to shield other persons from injury or destruction or to save others from financial loss. For example, a protective organization may provide housing for battered persons or for the developmentally disabled or may assist persons with behavioral problems by providing encouragement, support, and training.

(f) "Rehabilitative or rehabilitation" refers to activities designed to restore individuals to a former capacity, to a condition of health, or to useful or constructive activity. For example, a rehabilitative organization may assist persons to overcome alcohol or substance abuse, or to overcome the effects of a physical injury, stroke, or heart attack.

(g) "Social service" means programs designed to help people resolve problems, become more self-sufficient, prevent dependency, strengthen family relationships, and/or enhance the functioning of individuals in society. These services include, but are not limited to, programs in the general categories of:

(i) socialization and development; and

(ii) therapy, help, rehabilitation, and social protection.

(3) **Exemption.** The real and personal property owned by a nonprofit organization is exempt from taxation if the property is owned by a nonprofit organization and is used to solicit or collect gifts, donations, or grants for distribution to other nonprofit organizations, associations, or corporations organized and conducted for nonsectarian purposes that provide character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages. To qualify for this exemption, the nonprofit organization must meet all of the following conditions:

(a) Organized and conducted for nonsectarian purposes;

(b) Affiliated with a state or national organization that authorizes, approves, or sanctions volunteer charitable fund-raising organizations;

(c) Qualified for exemption under section 501 (c)(3) of the federal Internal Revenue Code;

(d) Governed by a volunteer board of directors;

(e) Use the gifts, donations, and grants solicited or collected for character building, benevolent, protective, or rehabilitative social services directed at persons of all ages or distribute the gifts, donations, or grants in accordance with subsection (f) of this subsection;

(f) Annually distribute gifts, donations, or grants to at least five other nonprofit organizations, associations, or corporations organized and conducted for nonsectarian purposes that provide character building, benevolent, protective, or rehabilitative social services directed at persons of all ages.

(4) **Examples.** (a) The United Way solicits and collects gifts, donations, and grants from numerous sources such as government employees, private businesses, and corporate sponsors. The gifts, donations, and grants received by the United Way are, in turn, distributed to other nonprofit organizations, associations, and corporations that provide character building, benevolent, protective, or rehabilitative social services directed at persons of all ages. The United Way does not necessarily provide these social services itself but it does own property that is used to solicit and collect gifts, donations, and grants. The United Way would be entitled to receive this exemption if, in addition to owning and using the property to solicit and collect gifts, donations, and grants, it meets all of the conditions listed in subsection (3) of this section.

(b) A nonprofit organization owns real and personal property that is used for bingo games, pulltabs, and food services to raise funds for the organization's charitable activities that are not conducted at this location. Even if the nonprofit organization in this case is organized for nonsectarian purposes, affiliated with a national organization that authorizes, approves, and sanctions volunteer charitable fund-raising organizations, classified as a section 501 (c)(3) organization with the Internal Revenue Service, and governed by a volunteer board of directors, the bingo facility would not be entitled to an exemption because this property is not used to solicit or collect gifts, donations, or grants because the purchase of a bingo card is not a "gift, donation, or grant" within the meaning of this rule.

(5) **Additional requirements.** Any organization or association that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.550.

WSR 94-11-100
PROPOSED RULES
INSURANCE COMMISSIONER
[Filed May 17, 1994, 1:52 p.m.]

Original Notice.

Title of Rule: Issuance and renewal of insurance licenses, appointments, affiliations. Approval and renewal of continuing education course materials.

Purpose: Amend to identify changes from one-year to two-year renewal cycle and to increase required continuing education hours by six hours per license year. Update chapters 284-12 and 284-17 WAC to conform to amendments, chapter 131, Laws of 1994.

Other Identifying Information: Insurance Commissioner Matter No. R 94-14.

Statutory Authority for Adoption: RCW 48.01.030, 48.02.060(3), 48.14.010, 48.17.150(2), 48.17.160 (1)(5), 48.17.500(3).

Statute Being Implemented: Chapter 131, Laws of 1994, RCW 48.14.010, 48.17.160.

Summary: Amend to indicate change from a one-year to a two-year renewal cycle for licenses, appointments, affiliations and education courses; increase required continuing education by six hours; bring existing rules up to date.

Reasons Supporting Proposal: These amendments are necessary in order to implement changes, chapter 131, Laws of 1994.

Name of Agency Personnel Responsible for Drafting and Implementation: Erika Taylor, Federation Building, 1212 Jefferson Street, Olympia, WA, (206) 753-0361; Enforcement: William E. Frandsen, Federation Building, 1212 Jefferson Street, Olympia, WA, (206) 753-7309.

Name of Proponent: Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These amendments change the renewal cycle for insurance licenses, appointments, affiliations and approved continuing education courses from one year to two years and increase continuing education requirements by six hours annually. Amendments are necessary in order to conform chapters 284-12 and 284-17 WAC to the new requirements of chapter 131, Laws of 1994. Amendments are designed to significantly assist in providing licensing services more efficiently and within an acceptable time frame. Processing renewals on a biennial, rather than an annual basis, will reduce unnecessary steps and paperwork that added to staff's workload without benefitting consumers. Changes will benefit the insurance industry as well as the Insurance Commissioner's Office. It is anticipated that the cost savings to the state of Washington will be in excess of $100,000 per year.

Proposal Changes the Following Existing Rules: Rules are amended to show the change from a one-year to a two-year renewal cycle and to increase continuing education by six hours annually. Updates are necessary in order to

conform chapters 284-12 and 284-17 WAC to the new requirements of chapter 131, Laws of 1994.

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

The change from a one-year to a two-year license cycle has no economic impact on the insurance industry. It impacts licensees, who must comply with continuing education requirements, because six additional credit hours must be earned. Most licensees, however, are already taking more courses than necessary to renew their licenses. The financial impact on the remaining licensees is minor or nonexisting.

Hearing Location: Insurance Commissioner's Office, Insurance Building, 2nd Floor Conference Room, Olympia, Washington, on June 22, 1994, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Attention: Arlo Manley, P.O. Box 40255, Olympia, WA 94504-0255, by June 22, 1994.

Date of Intended Adoption: June 28, 1994.

May 17, 1994
Deborah Senn
Insurance Commissioner
By William E. Frandsen
Deputy Commissioner

AMENDATORY SECTION (Amending Order R 88-13, filed 12/7/88)

WAC 284-17-120 Examination procedures for agents, solicitors and adjusters. (1) The commissioner has contracted with an independent testing service for the administration of agents', solicitors', and adjusters' examinations. On and after June 1, 1982, any person desiring to take an examination for the type of license shown in subsection (2) of this section will be required to submit a registration form and the appropriate examination fee to the independent testing service. Such fee is not refundable. Registration forms and information about examinations may be obtained from the office of insurance commissioner or from the independent testing service.

(2) At least twice each month at predetermined locations, the independent testing service will conduct the examinations required for the following types of licenses:

TYPE OF LICENSE	EXAMINATION(S) REQUIRED
Life insurance agent or solicitor	Life
Disability insurance agent or solicitor	Disability
Life and disability agent or solicitor	Life, disability
Property/casualty agent or solicitor	Property, casualty
((~~General lines~~)) Property/casualty and disability agent or solicitor	Property, casualty, disability
((~~All lines~~)) Life/disability/property/casualty agent or solicitor	Life, disability, property, casualty
Vehicle only agent or solicitor	Vehicle
Surety only agent or solicitor	Surety
Credit life and disability agent or solicitor	Credit life and disability
Independent adjuster	((~~Independent~~)) Adjuster
Public adjuster	((~~Public~~)) Adjuster
Life and disability broker	Life and disability
Property/casualty broker	Property and casualty (Disability questions are included)

(3) If an applicant fails to take a scheduled examination, a new registration form and appropriate fees must be submitted for any later examination, unless a serious emergency prevented attendance.

(4) Tests ((~~for vehicle, surety, or credit insurance and for adjusters will be graded by the insurance commissioner's licensing department which will notify applicants of the results. Other tests~~)) will be graded by the independent testing service which will provide each applicant with a score report, following examination. If the examination is passed, the score report must be forwarded to the insurance commissioner with a completed insurance license application, two finger print cards, appointment form(s) for each insurer represented, the appropriate license ((~~fee~~)), appointment and filing fees.

AMENDATORY SECTION (Amending Order R 90-1, filed 2/2/90, effective 3/5/90)

WAC 284-17-121 Qualifications of agents of insurers authorized to transact more than one line of insurance—Exceptions. (1) Except as provided in subsection (2) of this section, ((~~and except where the commissioner otherwise permits after good cause is shown therefor in writing,~~)) applicants for agents' licenses must take and pass a qualifying examination for all those lines of insurance which the appointing insurer is authorized to transact in the state of Washington.

(2) Insurers authorized to write lines of insurance in addition to vehicle insurance or surety insurance may appoint agents to write vehicle insurance or surety insurance only, and such appointees may take a qualifying examination for vehicle insurance or surety insurance only: *Provided, however,* That the appointing insurers shall file with this office a written statement in which they agree to accept from such appointees only vehicle or surety insurance, as the case may be, until such time as these appointees have qualified to write additional lines of insurance and the insurers have verified such qualification.

(3) Insurers making appointments limited to vehicle insurance or surety insurance only must indicate such limitation clearly on each appointment form. In the event persons holding a license for vehicle or surety insurance only subsequently qualify for the additional lines of insurance authorized to be written by their appointing insurers, these insurers must file a new appointment form for each such agent and pay the regular appointment fee for each.

(4) This section does not apply to or affect the "limited licenses" permitted by RCW 48.17.190.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

WAC 284-17-220 Continuing education requirement. (1) ((~~Twelve~~)) Twenty-four credit hours of approved continuing education must be presented as a prerequisite to each license renewal or reinstatement.

((~~(a) New licensees who have been licensed for less than six months at the time of renewal are not required to complete the continuing education; however, anyone licensed~~

~~six months or more at time of renewal must have earned the entire twelve credit hours.~~

~~(b)~~)) (2) Effective July 1, 1996, the number of required continuing education credit hours will be increased from twenty-four to thirty-six hours for each two-year licensing period.

Each course credit applied toward satisfaction of the continuing education requirement must have been completed within the twenty-four month period immediately preceding the licensee's assigned license renewal date and the credit may not have been used previously to comply with the continuing education requirement.

((~~(2)~~)) (3) The course participated in and for which credit is received shall be reported to the commissioner as part of the application for license renewal and shall be subject to verification by audit.

((~~(3)~~)) (4) Repeating an approved course for which the licensee has previously claimed credit will not satisfy the continuing education requirement.

((~~(4)~~)) (5) The licensee must retain the certificate of completion for three years from the date on the certificate and must present the original of such certificate upon request of or audit by the commissioner.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

WAC 284-17-250 Courses conducted by self-certifying organizations. (1) Insurance companies, insurance trade associations and state-wide associations of agents or brokers that have an existing formal, and demonstrable, training program may become self-certifying organizations. Upon request to and approval by the commissioner, such self-certifying organizations are authorized to develop course content and conduct approved courses on the subjects that are the organization's focus, without the requirement for prior individual course review and approval by the commissioner.

(2) Local chapters of each self-certifying state-wide association of agents or brokers may submit proposed courses to the state-wide organization and, upon a determination by the state-wide organization that the local chapter's course meets the standards of the organization and complies with this continuing education regulation, such local chapter's course shall be considered to be a course of the state-wide association of agents or brokers and shall be presumed to be approved by the commissioner.

(3) Requests for training program review, and authority to develop course content and to conduct courses without prior individual course approval, must include the following information:

(a) The name of the organization.

(b) A description of the existing training program of the organization including:

(i) The titles and descriptions of courses taught during the previous year.

(ii) The number of licensees taught, by course, during the previous year.

(iii) The name of the person in charge of the training program and a description of her or his experience, including years of full-time training experience and years with past and present organizations.

(iv) Budget of the training program for the current year.

(c) A description of the manner in which courses will be developed to comply with the continuing education regulation and reviewed prior to course conduct.

(d) A statement by the responsible employee or officer of the organization agreeing to comply with regulations in developing courses and attributing credit hours to those courses.

(e) An agreement to provide a certificate of completion, showing credit hours earned, to each successful student.

(f) An agreement to maintain records of licensees' course completions for three years.

(g) Any catalogue, brochure, or other similar publication applying to the continuing education requirement.

(4) The grant of authority to an organization to develop course content and conduct courses without prior individual course approval shall be for a period of time not to exceed ((~~one~~)) two years. Approvals may be renewed ((~~each year,~~)) by the commissioner, upon the request of any self-certifying organization that has complied with statutes and regulations governing insurance education. The actual conduct and performance of the training program shall be subject to review by the commissioner.

(5) Organizations that have been authorized to develop course content and conduct courses without prior individual course approval shall file, within ten calendar days of the date any course is first presented, a course outline for each course with the commissioner. The course outline shall include:

(a) A description of the subject matter to be taught.

(b) The method of teaching or presentation.

(c) The number of classroom contact hours.

(d) An explanation of the criteria to be applied in determining whether the course is satisfactorily completed.

(e) The number of continuing education credit hours assigned to each course.

(f) Other relevant information.

(6) The self-certifying organization shall apply to the commissioner for a certification number for the course; such number shall appear on each certificate of completion issued to each licensee who successfully completes the course.

(7) Assignment of continuing education credit hours to courses, by self-certifying organizations, shall be subject to review and revision by the commissioner as necessary to ensure consistency in the number of credit hours assigned to comparable courses.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

WAC 284-17-260 Courses individually approved. Organizations or individuals not included in WAC 284-17-240 or 284-17-250 wanting to offer approved continuing education courses may submit their request(s) for individual course approval to the commissioner.

(1) Such requests for course approval must be submitted on forms prescribed by the commissioner.

(2) The request for course approval shall include:

(a) A copy of the course material that is requested to be approved((~~: *Provided, However,* That the commissioner may waive the submission of materials that have been approved within the previous twelve months~~)).

(b) An explanation of the method of teaching or presentation.

(c) The number of classroom contract hours.

(d) An explanation of the criteria to be applied in determining whether the course is satisfactorily completed.

(e) The number of continuing education credit hours for which approval is requested; and an estimate of the number of times the proposed course is to be offered.

(f) An agreement to provide a certificate of completion showing credits earned, to each successful licensee; and to retain, for a minimum period of three years, records of all certificates issued.

(g) An agreement by the responsible official to comply with regulations in conducting courses.

(3) A specific determination of course approval and assignment of credit hours will be made by the commissioner in accordance with the terms of WAC 284-17-230. No course for which individual course approval is required may be represented as being approved prior to actual approval. Approval of an individual course is valid for a maximum period of ((~~twelve~~)) twenty-four months from the original approval date.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

WAC 284-17-290 Waiver of continuing education requirement. (1) Any licensee who believes that good cause exists, may request a waiver of the continuing education requirement. Requests shall be in writing, received prior to the expiration of the licensee's existing license and specify in substantive detail the reason or reasons why the licensee believes a waiver of the continuing education requirement for the current license renewal is merited.

(2) Any request for a waiver which is based upon the licensee's retirement shall be accompanied by a statement attesting that the licensee:

(a) Is at least sixty-five years of age;

(b) Is retired from active selling of insurance products; and

(c) No longer represents any insurer.

(3) If the conditions upon which a waiver was granted change, the licensee shall notify the commissioner in writing within fifteen days, and may be required to satisfy the continuing education credit hours which would have been prerequisite to license renewal had the waiver not been granted. Violation of the conditions of this waiver may result in assessment of a fine, revocation of license, or both.

(4) Any request for a waiver which is based upon medical considerations shall be accompanied by a physician's statement of the applicant's illness or injury.

(5) No waiver shall be valid for a period in excess of ((~~one~~)) two years from the applicant's regular license renewal date.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

WAC 284-17-320 License renewal requested—Continuing education requirement not satisfied. In the event that a licensee ((~~who is required by this chapter to earn twelve credit hours,~~)) requests license renewal and fails to present evidence of completion of the continuing education requirement, the licensee shall be notified in writing of the deficiency and provided with fifteen calendar days from the renewal date or the date of notification, whichever is later, to show compliance. If the information necessary to renew the license is not received within the fifteen-day time period, the license shall lapse and become invalid. Application for renewal after that date, must be made according to the procedures of RCW 48.17.150 and 48.17.500.

AMENDATORY SECTION (Amending Order R 84-3, filed 9/12/84)

WAC 284-17-400 Renewal dates for agents, brokers, solicitors and adjusters. ((~~New licenses will be valid for a period ending with the licensee's first birthday anniversary after the initial issue date in the case of individuals, and for a period ending with the first renewal date after the initial issue date in the case of firms or corporations. Thereafter, such licenses will be renewed for a period of one year.~~)) New individual licenses, issued on or after July 1, 1994, will be valid for a period ending with the licensee's first birthday anniversary after the initial issue date, plus one year.

New firm or corporation licenses, issued on or after July 1, 1994, will be valid for a period of two years from the initial issue date.

Thereafter, such licenses will be renewed for a period of two years.

AMENDATORY SECTION (Amending Order R 84-3, filed 9/12/84)

WAC 284-17-410 Appointment renewal and termination procedures for insurance agents. (1) Appointments shall be valid for a period ending with the insurer's first renewal date after the initial issue date. Such renewal date is assigned by the office of the insurance commissioner. Thereafter, all appointments will be renewed for a period of ((~~one~~)) two years.

(2) Revocations of agents' appointments by the insurer are governed by RCW 48.17.160(4).

(3) Termination of an appointment by the agent may be accomplished by the agent giving advance written notice to the insurer with a copy mailed to the insurance commissioner that, as of a date stated in such notice, the agent renounces the appointment and will no longer represent the insurer as its agent.

AMENDATORY SECTION (Amending Order R 84-3, filed 9/12/84)

WAC 284-17-420 Appointment, affiliation and renewal procedures for licensed persons empowered to exercise the authority conferred to a corporate or firm licensee. (1) Each firm or corporation licensed as an insurance agent must be appointed by an insurer or insurers as required by RCW 48.17.160 as a prerequisite to the sale of insurance: *Provided,* That individual licensees who are empowered to exercise the authority conferred by the corporate or firm license need not be individually appointed by insurers.

(2) All firms or corporations licensed as an agent, adjuster or broker shall notify the office of the insurance commissioner of all persons who are empowered to exercise

the authority conferred by the firm or corporate license. For purposes of this section, such persons shall be defined as "affiliated" with the licensed firm or corporation.

(3) An affiliation by a licensed firm or corporation which is not revoked or renounced shall be valid until the firm's or corporation's first renewal date after the notice. Thereafter, each affiliation may be renewed for a period of ((~~one~~)) two years, subject to the firm or corporation paying the annual affiliation renewal fee which shall be the same as the agent appointment renewal fee.

(4) When the appointment of an affiliated person is revoked by a firm or corporation, written notice of such revocation shall be given to the affiliated person and a copy of the notice of revocation shall be mailed to the commissioner.

(5) Termination of an appointment by an affiliated person may be accomplished by such person giving advance written notice to the firm or corporation with a copy mailed to the insurance commissioner that, as of a date stated in such notice, the affiliated person renounces the appointment and will no longer act on behalf of the firm or corporation.

AMENDATORY SECTION (Amending Order R 91-7, filed 11/13/91, effective 1/1/92)

WAC 284-12-090 When general agent may accept applications from nonappointed agents. (1) If so empowered, in writing, by an authorized insurer, its general agent licensed pursuant to RCW 48.05.310 may accept applications for insurance from licensed agents who are not appointed by such insurer but who are licensed for the kind of insurance involved, where the risk involved is placed in a nonstandard or specialty market of such insurer. Nothing in this section restricts the right of brokers to submit applications to general agents.

(2) A nonstandard or specialty market is one for other than life or disability insurance which provides coverage for risks which are not ordinarily insured by a majority of insurers authorized to write such risks and which are of such type that an agent licensed for the kind of insurance involved will have such infrequent demands to obtain the coverage that appointment of the agent to represent the insurer is not justified.

(3) Before accepting an application from a nonappointed agent, the general agent shall furnish the nonappointed agent with written instructions setting forth the agent's authority, emphasizing the limited nature thereof, and specifically stating that the agent has no authority to bind an insurance risk on behalf of the insurer for which the general agent is acting. The instructions shall set forth the procedures to be followed by the agent, and identify the nonstandard or specialty business as to which the agent may take applications, the application forms which are to be used, and the material which may be used to write the business, which may include underwriting criteria and rates. The instructions shall be signed by the general agent and the nonappointed agent shall sign the instructions to acknowledge their receipt and acceptance. Both the general agent and nonappointed agent shall retain copies of such instructions and make copies available to the commissioner upon request.

(4)(a) Unless otherwise instructed by the general agent, in writing, the nonappointed agent shall submit only an applicant's check, draft, or money order endorsed or payable to the insurer or its general agent, in payment of premium, and shall forward it with the application to the general agent. If the general agent permits the nonappointed agent to receive cash or other payment of premium from the applicant, it shall be deposited in a separate premium account of the nonappointed agent, and be maintained and disbursed, in the same manner as with other premiums received by the agent.

(b) The nonappointed agent shall promptly provide a receipt to the applicant for any payment received which shall be dated, identify the agent and the agent's address, identify the person by or for whom payment is made, state the amount received, identify the applicable insurer by its full legal name, identify the coverage for which application is made, include or be accompanied with a disclaimer of binding authority, and briefly explain that an application for insurance is being made by the agent to the general agent (who shall be identified) to assist the applicant or prospective insured to obtain insurance coverage. The receipt need not be an independent document. The information required in the receipt may be incorporated in an application and serve in lieu of a separate receipt, if a copy of such application is given to the applicant or prospective insured when payment is received by the nonappointed agent.

(5) By permitting its general agent to accept business from a nonappointed agent pursuant to RCW 48.05.310 and this section, the nonappointed agent becomes the representative of the insurer to the extent that the services of the nonappointed agent are utilized in the transaction of insurance for which application is made or is to be made to the insurer. In accord therewith, it is the intent of this subsection that:

(a) The insurer will be deemed to have received any premiums paid by the applicant or insured to the nonappointed agent.

(b) Return premiums or claim payments delivered by the insurer or general agent to the nonappointed agent shall not be deemed to have been paid to the insured or claimant until such payments are received by the insured or claimant.

(6) Such business as is permitted by this section shall not be bound by the nonappointed agent. The application shall have printed thereon or have attached thereto a prominent notice advising the applicant that the agent has no authority to bind coverage and shall include a statement informing the applicant as to when and how the coverage applied for will be bound. Applicants shall sign or initial such notice to indicate that it has been brought to their attention, and shall be given a copy of such application with such notice. The name, address, and telephone number of the general agent shall be set forth in the application.

(7) Except as provided in subsection (8) of this section, a nonappointed agent's activities with respect to the insurance obtained under this section shall be limited to its procurement through the submission of the application as herein provided. When coverage is bound, the insured shall be notified by the insurer or its general agent of the person or entity with whom the insured should deal relative to future transactions, such as requesting policy changes, paying premiums, renewing the policy, or reporting claims.

(8) If the insurer elects to utilize the services of the nonappointed agent relative to transactions pertaining to the

policy which occur after its procurement, including receipt of premiums from the insured, its general agent may file notice with the commissioner that the nonappointed agent is granted a limited appointment permitting such agent to act on behalf of the insurer with respect to insurance placed through the general agent pursuant to RCW 48.05.310(3) and this section.

(a) Such notice shall identify the insurer, the general agent, and the agent, including the agent's "PIC code" license identification number used by the commissioner, and specifically state that such agent is authorized to act for the insurer with respect to nonstandard or specialty insurance placed through the general agent pursuant to RCW 48.05.310 and this section.

(b) Such limited appointment or authorization shall continue in force, dependent upon the agent continuing to have an agent's license for the kind of insurance involved, until the commissioner receives written notice from the insurer, the general agent or the nonappointed agent that it is terminated.

(c) Under current statutes, the cost for filing the notice with respect to each nonappointed agent will be a one-time fee of five dollars. Upon receipt of the filing, the commissioner will enter the information into the licensing records pertaining to the agent and the general agent. It is anticipated that a list of the nonappointed agents having limited authorization to represent an insurer will be sent to the appropriate general agent ((~~on an annual basis~~)) biennially to assist in maintaining an accurate and current list.

(d) It is the responsibility of the insurer and its general agent to keep insureds informed in a timely manner with respect to the persons authorized to act on behalf of the insurer. A nonappointed agent, with or without the limited authority permitted by this section, shall not be considered a broker or representative of the insured. By using such agent, the insurer accepts, as a general rule, that the agent's acts are those of the insurer and that the knowledge such agent obtains is imputed to the insurer. A notice relative to the insurance given to such agent is not notice to the insured.

(9) Records of each transaction resulting from the operation of this section shall be maintained by the nonappointed agent and by the general agent, and shall specifically include all of the following:

(a) Identification of the insured or prospective insured, insurer, general agent, and nonappointed agent, whether or not insurance is actually procured, and including, in the case of the nonappointed agent's records, identity of any applicant or prospective insured who pays premium to such agent in expectation of obtaining insurance from an insurer which has not appointed the agent, whether or not an application is submitted.

(b) A brief description of the subject of the insurance, the policy number, date coverage commences, and the amount of premium paid or to be paid.

(c) Copies of the documents utilized by the licensee in each transaction.

(10) For purposes of this section an "insurance transaction" or the "transaction of insurance" or "transacting insurance," or similar forms of those words includes any:

(a) Solicitation.

(b) Negotiations preliminary to execution.

(c) Execution of an insurance contract.

(d) Transaction of matters subsequent to execution of the contract and arising out of it.

(e) Insuring.

(11) A failure to comply with this section shall be an unfair or deceptive act or practice and an unfair method of competition in the conduct of the business of insurance, pursuant to RCW 48.30.010, and a violation of a regulation pursuant to RCW 48.05.140 and 48.17.530.

AMENDATORY SECTION (Amending Order R 93-13, filed 9/1/93, effective 10/2/93)

WAC 284-12-270 Expiration and renewal of appointments. Appointments of managing general agents shall be for ((~~one~~)) two years. They expire unless timely renewed. They expire on the same date that agent appointments for the same insurer expire under WAC 284-17-410.

WSR 94-11-101
PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Filed May 17, 1994, 3:57 p.m.]

Original Notice.

Title of Rule: Amends WAC 480-149-120, deleting language relating to notice requirements for rail carriers. The proposal also seeks to amend the notice for solid waste collection company filed rate increases. Docket No. T-940147.

Purpose: This proposal would amend existing WAC 480-149-120 by deleting language relating to notice requirements for rail carriers. The commission no longer sets rates for rail carriers, thus the language is extraneous. The proposal would further amend the rule by deleting from paragraph (4) language requiring carriers to make a specific statement on the cover page of their filed tariffs when the commission had accepted the tariff on less than statutory notice. The commission recommends this change to reduce paperwork burden for carriers filing tariffs, and the information required by the current rule is irrelevant. The proposal also seeks to amend the notice requirements for solid waste collection company filed rate increases. Current language limits the comment period for those customers affected by proposed rate increases to 14 days. The commission believes this is too restrictive. Current language also limits comments accepted to those persons opposing proposed increases. The proposed amendment allows comments from all affected customers. The commission seeks these amendments to encourage the public to participate in the regulatory process by filing written comments.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and

Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

This rule deletes certain requirements and will have no economic impact.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on June 22, 1994, at 9:00 a.m.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by June 10, 1994.

Date of Intended Adoption: June 22, 1994.

May 12, 1994
Steve McLellan
Secretary

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-149-120 Notice required—Less than statutory notice. (1) Unless more copies are specifically requested by the commission, one copy of every tariff, supplement or revised page must be filed with the commission and notice must be given to the public by posting copies in a conspicuous place at each station affected thirty days before the effective date thereof except as provided for in the following sections of this rule or unless specifically authorized by the commission. Filings received on Saturdays, Sundays or holidays will be considered as being received on the following office day.

(2) The following tariffs may be filed on one day's notice to the commission and to the public:

(a) Providing for the opening or closing of navigation or traffic on rivers, harbors, lakes, highways or roads of the state.

(b) Providing for the movement of circuses.

(c) Providing rates for new lines or extensions of lines or service not heretofore covered by any similar form of transportation or service or not competitive with any similar form of transportation or service.

If the new line, extension or service is covered by any form of transportation or service, and/or is competitive therewith, the tariff or supplement so filed, must provide the same rates or fares as those of the existing company unless full statutory notice is given prior to the beginning of operations.

(d) Adoption, suspension or vacating supplements as provided for in WAC 480-149-110.

(3) ((~~In the case of a change proposed by a rail carrier, a change resulting in increased rates or decreased value of service shall not become effective for twenty days after the notice is filed with the commission, and a change resulting in decreased rates or increased value of service, or changes which result in neither increases nor reductions, shall not become effective for ten days after the notice is filed with the commission.~~

~~(4)~~)) In cases of actual emergency, or when real merit is shown, the commission may, in its discretion, permit tariffs to become effective on less than the notice and the publication time periods specified in the statute or this section L.S.N. Application for such authority must be on a form supplied by the commission.

Note: The commission will not accept a tariff for L.S.N. action unless the cover letter under which the tariff is submitted or the form on which it is submitted clearly and prominently specifies that the tariff is submitted to become effective on less than statutory notice.

((~~On every tariff or supplement that is issued on less than statutory notice by order or regulation of the commission, notation must be made that it is issued under L.S.N. order of the Washington utilities and transportation commission, number . . . . of ___(date)___, or by authority of Rule . . . . W.U.T.C. Tariff Circular No. 6, or by authority of decision of the commission in Cause No. . . . . .~~

~~(5)~~)) (4) Whenever a carrier files a tariff on not less than forty-five days' notice, containing increased rates and charges for collection and disposal of solid waste, the carrier shall notify affected customers no later than the date of filing that a tariff of increased rates and charges is being filed with the Washington utilities and transportation commission, Olympia, Washington, proposed to become effective on the date stated in the filing and that the carrier has asked that it become effective on the date requested. The amount of increased charges must also be indicated. Notice shall be in writing and sent to customers by United States mail. The notice shall state that the proposed rates shall not become effective until reviewed by the commission. The notice shall also include a statement that affected customers ((~~who oppose the increase~~)) may express ((~~that opposition~~)) their opinions regarding the filing in writing to ((~~reach~~)) the Washington utilities and transportation commission ((~~not later than fourteen days from the date of the notice~~)) and shall state the mailing address of the commission headquarters office. A copy of the notice shall also be mailed or delivered to at least one newspaper of general circulation in the area. The tariff filed with the commission must be accompanied by a letter of transmittal fully setting forth the reasons justifying the proposed increased charges. The letter shall also state that notice has been given in the manner outlined above.

WSR 94-11-102
PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Filed May 17, 1994, 4:00 p.m.]

Original Notice.

Title of Rule: Amends WAC 480-70-055, adopting the May 16, 1994, version of the "North American Uniform Out-of-Service Criteria" and the April 1, 1994, version of Title 49 Code of Federal Regulations (CFR) in place of outdated versions currently referenced by the rule and amends WAC 480-70-400, deleting the language that

excluded sections of 396.17 through 396.25 of Title 49 CFR. Docket No. TG-940456.

Purpose: This proposal would amend existing WAC 480-70-055 by adopting the May 16, 1994, version of the "North American Uniform Out-of-Service Criteria" and the April 1, 1994, version of the Title 49 Code of Federal Regulations (CFR) in place of the outdated versions currently referenced by the rule. The commission is a member of the commercial vehicle safety alliance (CVSA), and its enforcement officers are certified to enforce the out-of-service criteria. The new version contains updates which will become effective May 15, 1994. Copies of the amendments are available for inspection by interested parties at any of the commission's offices. To remain in conformance with federal safety standards, the commission must adopt the most current version of Title 49 CFR. This proposal would amend existing WAC 480-70-400 by deleting the language that excluded sections 396.17 through 396.25 of Title 49 CFR. By deleting the exemption, solid waste collection companies would be required to comply with federal regulations related to periodic equipment inspection and certification of company-employed inspectors. The proposal would also adopt Part 382 of Title 49 CFR and all of Part 391 of Title 49 CFR, including subpart H. By adopting these two parts, solid waste collection companies would be required to comply with federally mandated rules related to controlled substance use and alcohol use testing. These changes are required to comply with federal safety standards for commercial vehicles and their operators.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

Rule is adopted for conformity with federal regulations.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on June 22, 1994, at 9:00 a.m.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by June 10, 1994.

Date of Intended Adoption: June 22, 1994.

May 17, 1994
Steve McLellan
Secretary

AMENDATORY SECTION (Amending Order R-392, Docket No. T-921165, filed 7/13/93, effective 8/13/93)

WAC 480-70-055 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on ((~~February 15, 1993~~)) May 16, 1994.

(2) "Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on ((~~May 1, 1993~~)) April 1, 1994.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-356, Docket No. TG-900482, filed 12/31/91, effective 1/31/92)

WAC 480-70-400 Driver qualifications, hazardous materials transportation, and equipment safety. (1) All motor vehicles operated under authority of chapter 81.77 RCW, as amended, shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives, inspection stations, or the state patrol, who shall have power to order out of service any vehicle which in their judgment is unsafe or not being operated in compliance with the state laws in regard to equipment or method.

(2) Failure of any certificate holder to obey and comply with all motor vehicle safety laws of the state of Washington shall be grounds for cancellation of certificate.

(3) In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.77 RCW shall comply with the following:

(a) The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2; part 393; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found((~~, and excluding sections 396.17 through 396.25~~)); and part 397 are adopted and prescribed by the commission to be observed by all solid waste collection companies operating under chapter 81.77 RCW.

(b) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 170-189 are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule

shall be observed by all solid waste collection companies operating under chapter 81.77 RCW.

(c) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every solid waste collection company operating under chapter 81.77 RCW who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

(d) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 382, part 383, part ((~~391.1 through part 391.71,~~)) 391 excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b) are adopted and prescribed by the commission to be observed by all solid waste collection companies operating under chapter 81.77 RCW except:

(i) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(ii) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(iii) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(iv) Section 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(v) Carriers operating exclusively in intrastate commerce operating vehicles with a manufacturer's gross vehicle weight rating (GVWR) of less than ten thousand pounds shall not be subject to the provisions of Part 391 unless the vehicle is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

(e) Whenever the designations "director, office of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

WSR 94-11-103
PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Filed May 17, 1994, 4:02 p.m.]

Original Notice.

Title of Rule: Amends WAC 480-12-083 (relating to motor carriers), WAC 480-30-015 (relating to auto transportation companies), and WAC 480-40-015 (relating to charter and excursion bus companies), by adopting the May 16, 1994, version of the "North American Uniform Out-of-Service Criteria" and the April 1, 1994, versions of the Title 49 Code of Federal Regulations (CFR) in place of outdated versions currently referenced by the rules. Docket No. T-940457.

Purpose: This proposal would amend existing WAC 480-12-083 (relating to motor carriers), WAC 480-30-015 (relating to auto transportation companies) and WAC 480-40-015 (relating to charter and excursion bus companies) by adopting the May 16, 1994, version of the "North American Uniform Out-of-Service Criteria" and the April 1, 1994, version of Title 49 Code of Federal Regulations (CFR) in place of the outdated versions currently referenced by the rules. The commission is a member of the commercial vehicle safety alliance (CVSA), and its enforcement officers are certified to enforce the out-of-service criteria. The new version contains updates which will become effective May 15, 1994. Copies of the amendments are available for inspection by interested parties at any of the commission's offices. To remain in conformance with federal safety standards, the commission must adopt the most current version of Title 49 CFR.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

Rule is being adopted for conformity with federal regulations.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on June 22, 1994, at 9:00 a.m.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by June 10, 1994.

Date of Intended Adoption: June 22, 1994.

May 12, 1994
Steve McLellan
Secretary

AMENDATORY SECTION (Amending Order R-392, Docket No. T-921165, filed 7/13/93, effective 8/13/93)

WAC 480-12-083 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on ((~~February 15, 1993~~)) May 16, 1994.

(2) "Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on ((~~May 1, 1993~~)) April 1, 1994.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-392, Docket No. T-921165, filed 7/13/93, effective 8/13/93)

WAC 480-30-015 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on ((~~February 15, 1993~~)) May 16, 1994.

(2) "Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on ((~~May 1, 1993~~)) April 1, 1994.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-392, Docket No. T-921165, filed 7/13/93, effective 8/13/93)

WAC 480-40-015 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on ((~~February 15, 1993~~)) May 16, 1994.

(2) "Rules and regulations adopted by the United States Department of Transportation in Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on ((~~May 1, 1993~~)) April 1, 1994.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

WSR 94-11-104
PROPOSED RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Filed May 17, 1994, 4:05 p.m.]

Original Notice.

Title of Rule: Amends WAC 480-30-100 and 480-12-180, to adopt by reference Title 49 Code of Federal Regulations (CFR), Part 382 relating to alcohol use testing, and by adopting all of 49 CFR, Part 391 (relating to driver's qualifications, including controlled substance testing). Docket No. T-940589.

Purpose: This proposal would amend existing WAC 480-30-100 by amending paragraph (2) to adopt by reference Title 49 Code of Federal Regulations (CFR), Part 382 relating to alcohol use testing, and by adopting all of 49 CFR, Part 391 (relating to driver's qualifications, including controlled substance testing). This amendment is necessary to conform Washington regulations to those of the federal government. Under federal rules, the states will be preempted if they fail to adopt these rules. Amends paragraph (3) to correct grammar for the sake of clarity. Amends paragraph (6) by removing language allowing refusal of service to persons suffering from contagious disease. Determining whether or not passengers may have contagious diseases is not a duty which should be necessary of operators of motor vehicles. The language is vague and unenforceable. Further amending paragraph (6) by taking out language which makes it incumbent upon a motor vehicle operator to be responsible for the peace of mind of passengers. This language, to, is vague and unenforceable. The proposal clarifies that the operator is responsible for the comfort and safety of passengers. This proposal would amend existing WAC 480-12-180 by adopting by reference, Title 49 Code of Federal Regulation (CFR), Part 382 and all of Part 391, including subpart H which is currently exempted from being adopted. Adoption of these parts adopts by reference federal rules related to alcohol use and controlled substance use testing. By adding private and registered exempt carriers to the motor freight operators who would be subject to the provisions of Title 49 CFR regulations adopted, by reference, by this rule. It would further modify the section by adopting, by reference, in its entirety, Part 396 of Title 49 CFR. This would require all motor carriers to comply with federal regulations related to periodic vehicle inspection and certification of carrier-employed inspectors. These amendments are required to conform to federally-mandated safety requirements.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and

Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

The rule is adopted for conformance with federal regulation and to delete certain vague and unenforceable requirements.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on June 22, 1994, at 9:00 a.m.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by June 10, 1994.

Date of Intended Adoption: June 22, 1994.

May 12, 1994
Steve McLellan
Secretary

AMENDATORY SECTION (Amending Order R-357, Docket No. TC-900481, filed 12/31/91, effective 1/31/92)

WAC 480-30-100 Operation of motor vehicles. (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 382, part 383((~~,~~)) and part ((~~391.1 through part 391.71~~)) 391, excluding ((~~paragraphs (a) and (b) of~~))section 391.2, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW except ((~~relating to those~~)) carriers operating exclusively in intrastate commerce:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle ((~~during the time he is~~)) while driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 395, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW.

(6) No driver or operator of any motor vehicle used in the transportation of passengers shall refuse to carry any person offering himself or herself at a regular stopping place for carriage and who tenders the regular fare to any stopping place on the route of said motor vehicle, or between the termini thereof, if allowed to carry passengers to such point under the certificate for such route: *Provided, however,* That the driver or operator of such motor vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself or herself in a boisterous or disorderly manner or is using profane language, ((~~who is suffering from a contagious disease,~~)) or whose condition is such as to be obnoxious to passengers on such motor vehicle. A driver is responsible for the comfort((~~,~~)) and safety ((~~and peace of mind of his or her~~)) of passengers ((~~to the extent that he or she~~)) and should be constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(7) No auto transportation company operating any motor vehicle used in the transportation of persons, shall permit smoking on said vehicle either by passengers or other persons while present in said motor vehicle.

Auto transportation companies shall place suitable signs in buses, of sufficient size and number to adequately inform passengers that smoking is not permitted in the motor vehicle.

(8) No motor vehicle used in the transportation of persons shall carry more than one hundred fifty percent of its rated carrying capacity. No passenger shall be permitted to stand unless the vehicle is equipped with devices designed and permanently installed to provide stability and safety for standing passengers. Even if the vehicle is so equipped, no passenger shall be permitted to stand for a distance in excess of thirty-five miles.

(9) The front seat of all passenger carrying vehicles, if connected with the driver's seat, shall be considered as an emergency seat and no passenger will be allowed to occupy the same unless all of the other seats of such vehicle are fully occupied. In no case shall more than one passenger be allowed to occupy the front seat of any motor vehicle unless such seat is forty-eight or more inches in width in the clear. No passenger shall be allowed to sit in the front seat to the left of the driver.

(10) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.

(11) Accidents occurring in this state arising from or in connection with the operations of any auto transportation company operating under chapter 81.68 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-586-1119. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(12) Auto transportation companies transporting passengers shall be responsible for the comfort of its patrons.

(13) Out-of-service criteria. All drivers operating motor vehicles under chapter 81.68 RCW shall do so in compliance with the safety rules and regulations defined therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for conditions under which a driver may be ordered out-of-service are those defined in the *North American Uniform Out-Of-Service Criteria.* Copies of this document are available from the commission upon request.

(14) Whenever the designations "director, office of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

AMENDATORY SECTION (Amending Order R-355, Docket No. TV-900483, filed 12/18/91, effective 1/18/92)

WAC 480-12-180 Equipment—Drivers—Safety. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392; part 393; part 396; part 397; as well as and including all appendices and amendments thereto are adopted and prescribed by the commission to be observed by all common, contract, private, registered, and registered exempt carriers operating under chapter 81.80 RCW. Exceptions: Carriers operating exclusively in intrastate commerce are not subject to provisions of 49 C.F.R., part((~~s~~)) 392.2((~~, 396.17, 396.19, 396.21, 396.23, 396.25,~~)) and with respect to 49 C.F.R., part 396.11, no driver vehicle inspection report need be filed if no defects are found.

(2) Whenever the designations "director, office of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) **Safety chains or other load fastening devices.** Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes:

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a)(iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

(i) Excessively worn links on chains;

(ii) Deformed or stretched chain links;

(iii) Cracked chain links;

(iv) Frayed, stranded, knotted, or otherwise defective wire rope.

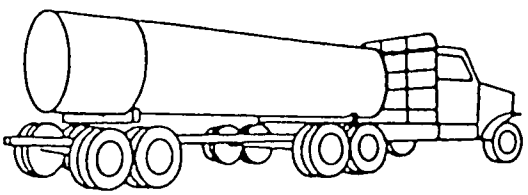
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

Note: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

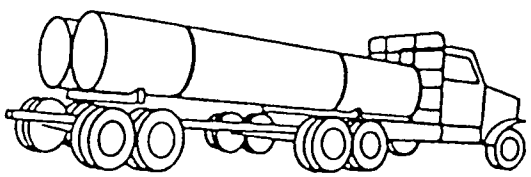
PLACEMENT AND NUMBER OF WRAPPERS

One log load



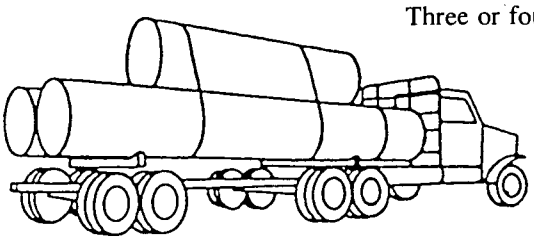
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



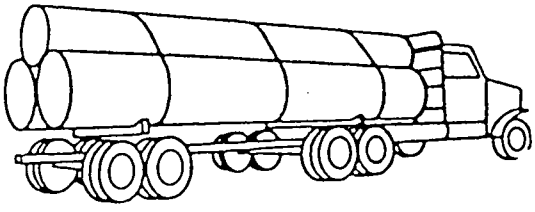
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



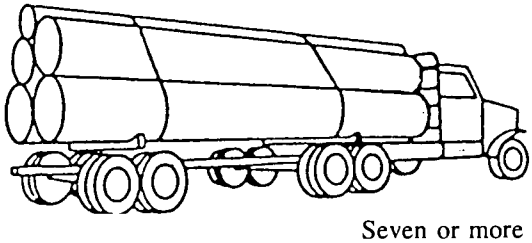
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



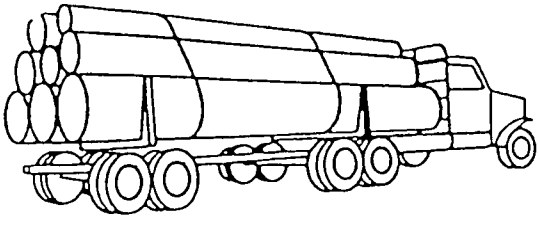
A minimum of three wrappers required.

Five or six log load all logs seventeen feet or less



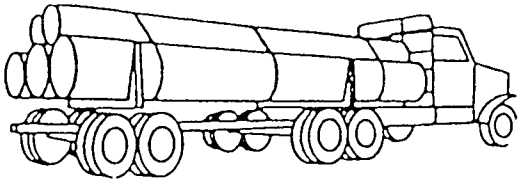
A minimum of two wrappers required.

Seven or more log load all logs seventeen feet or less



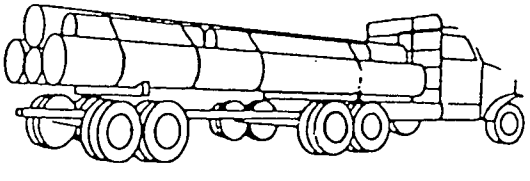
A minimum of two wrappers required.

Five or more log load if any logs are more than seventeen feet



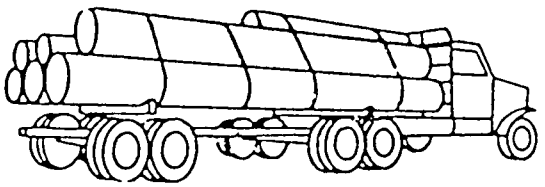
A minimum of three wrappers required.

Outside logs or top logs



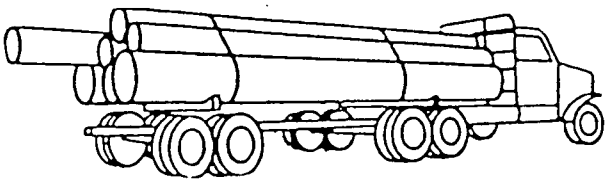
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk

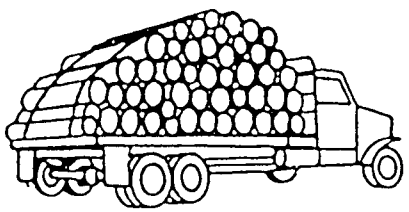


Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.



Short logs loaded crosswise

A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) **Approved load fastening devices.** The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this section, provided that they meet a breaking strength of at least fifteen thousand pounds:

(a) Three-eighths inch high-test steel chain;

(b) One-half inch diameter steel cable; and

(c) Steel strapping not less than two inches by fifty one-thousandths inches in dimension.

(5) **Anti-spray devices.** Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) **Qualifications of drivers.** Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 382, part 383 and part ((~~391.1 through 391.71,~~)) 391, as well as and including all appendices and amendments thereto, are adopted and prescribed by the commission to be observed by all common, contract, private, registered, and registered exempt carriers operating under chapter 81.80 RCW except ((~~for~~)) carriers operating exclusively in intrastate commerce:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.

(d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver private carrier, or to a single vehicle owner driver common or contract carrier when operating under its own permit.

(e) Section 391.49 shall not apply when a driver has obtained from the department of licensing the proper drivers license endorsement and restrictions (if any) for the operation of the motor vehicle the person is driving.

(f) The provisions of paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b) shall not apply.

(g) Carriers operating vehicles with a manufacturer's gross vehicle weight rating (GVWR) of less than ten thousand pounds shall not be subject to the provisions of part 391 unless the vehicle is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

(7) Out-of-service criteria. All drivers operating motor vehicles under chapter 81.80 RCW shall do so in compliance with the safety rules and regulations defined therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for

conditions under which a driver may be ordered out-of-service are those defined in the *North American Uniform Out-Of-Service Criteria.* Copies of this document are available from the commission upon request.

(8) Whenever the designation "director, office of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities and transportation commission," located in Olympia, Washington.

WSR 94-11-109
PREPROPOSAL COMMENTS
HEALTH SERVICES COMMISSION
[Filed May 18, 1994, 8:59 a.m.]

Subject of Possible Rule Making: Pursuant to RCW 43.72.040(21), the Washington Health Services Commission is considering including in the draft certified health plan standards to be submitted to the legislature provisions for existing health coverage to convert to the uniform benefits package at the community rate on the anniversary date of the coverage, beginning July 1, 1995, and continuing for a short period of time. The commission is seeking comments from employers, plans, consumers, providers, and others about how best to implement the transition from existing coverage to the uniform benefits package at the community rate.

Persons may comment on this subject in writing to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, by Friday, June 17, 1994.

May 18, 1994
PREPROPOSAL COMMENTS
WASHINGTON HEALTH SERVICES COMMISSION

Your comments will assist the commission in understanding the impacts and practical consequences of implementing the law as follows:

(1) Beginning July 1, 1995, all health insurance coverage available in the state of Washington must include a uniform benefits package currently being developed by the Health Services Commission. Coverage must be provided through certified health plans which have been specifically approved by the Office of the Insurance Commissioner to offer the package. Plans must offer the package on a community-rated basis, which means they cannot charge a different rate for the benefits based on the size of a group or the health of individuals.

(2) All insured coverage available to employers as of July 1, 1995 must include the uniform benefits package regardless of the number of employees in the group. While the requirement that employers pay at least fifty percent of the lowest-priced plan for employees and their dependents is phased in between 1995 and 1999, employers of any size who buy health insurance cannot offer less than the uniform benefits package after July 1, 1995.

(3) Self-insured plans and federal programs such as Medicare, Medicaid, CHAMPUS, and federal employee benefits plans are exempt from these provisions until the federal government allows these programs to come under the Washington Health Services Act of 1993. Existing and new health plans may service these programs.

The commission wants to ensure that the transition from existing health coverage to the uniform benefits package at a community rate occurs in a way that allows employers and consumers a reasonable time to adjust to the changes and understand the choices available to them after July 1, 1995. While Washington's health care reform will result in improved access, lower costs, and broad choices for Washington residents, it is important these changes occur in a way that is understandable and fair to employers and consumers.

To this end, the commission is considering provisions for existing health coverage to convert to the uniform benefits package at the community rate on the anniversary date of the coverage, beginning July 1, 1995, and continuing for a short period of time. This might be accomplished by including the provisions in the draft certified health plan standards to be submitted to the legislature.

May 17, 1994
Bernadine Dochnahl
Commission Chair

WSR 94-11-110
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 18, 1994, 9:24 a.m.]

Original Notice.

Title of Rule: WAC 388-14-385 Conference board.

Purpose: Clarifies the remedies available to parents through the conference board process. The revisions spell out grounds for relief and expand the authority of the conference board chair to grant relief tailored to the needs of the family involved. Also clarifies several administrative aspects of the conference board process. For example, the revision requires support enforcement division to provide conference board applicants with a brochure describing the process.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Clarifies and expands the circumstances under which the conference board can grant relief to an aggrieved party. Expands the kinds of relief available in the conference board process. Allows the board to structure relief in ways that promote payment of support and family unity.

Reasons Supporting Proposal: Support enforcement division is initiating this rule-making in response to a petition for rule-making filed by Evergreen Legal Services. In the petition, Evergreen Legal Services sought to expand both the kinds of relief offered by the conference board, and the grounds for relief.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William B. Kellington, Support Enforcement Division, 586-3426.

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 June 21, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by June 7, 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 June 14, 1994.

Date of Intended Adoption: July 15, 1994.

May 18, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-14-385 Conference board. (1) A conference board may inquire into, determine facts of, and attempt to resolve matters in which a responsible parent, residential parent, payee under a court order, or other person feels aggrieved by an action taken by the office ((~~of support enforcement~~)) under:

(a) Chapters 26.23, 74.20, 74.20A RCW; or

(b) Title IV-D of the Social Security Act (Title 42 U.S.C.).

(2) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances.

(3)(a) The director, ((~~revenue division~~)) or director's designee may assemble a conference board on application of an aggrieved person or on the director's own motion. The conference board shall dissolve upon issuance of a decision on the matter for which it was appointed.

(b) An applicant for a conference board shall have made a reasonable attempt and have failed to resolve the grievance before a conference board may act to attempt to resolve the issue.

(4) The conference board's jurisdiction shall include, but shall not be limited to, the following areas:

(a) A complaint as to the conduct of an individual staff ((~~members~~)) member while acting within the scope of ((~~their~~)) the staff member's duties. The board shall send a copy of the decision ((~~of the board shall be directed~~)) to the staff member's first line supervisor for action as appropriate;

(b) Review of a denial of an application for or termination of nonassistance support enforcement services;

(c) Review of an allegation of error as to the distribution of support moneys;

(d) Review of a denial to collect support arrears in nonassistance cases under RCW 74.20.040;

(e) Resolution of the amount of arrears claimed due and rate of repayment;

(f) A request to release or refund money taken under RCW ((~~74.20A.080 or~~)) 26.23.060 or 74.20A.080 to provide for the reasonable necessities of a responsible parent and minor children in the responsible parent's home;

(g) A request for deferral of support enforcement action;

(h) A request for partial or total charge-off of support arrears under RCW 74.20A.220;

(i) A request to waive interest ((~~under RCW 74.20A.190~~));

(j) A request to waive or defer the nonassistance support enforcement fee under RCW 74.20.040;

(k) Review of a determination that a support obligation has been satisfied or is no longer legally enforceable;

(l) A specific request for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations;

(m) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case; and

(n) ((~~OSE's~~)) The office's action in reporting a support debt to a consumer reporting agency.

(5) When a person states a grievance or requests a conference board, office staff shall provide a copy of the conference board information form.

(6) When a person requests a conference board, the director or the director's designee may take such action, as deemed appropriate, and may exercise any of the authority provided for in this regulation, when the:

((~~(a)~~)) (i) Grievance does not involve a factual dispute; or

((~~(b)~~)) (ii) Disputed fact or facts even if resolved in favor of the person would not provide a basis upon which relief could be granted to the person by a conference board.

((~~(6)~~)) (7) When a person requests a conference board and the grievance involves an apparent factual dispute:

(a) The director or director's designee shall assemble a conference board composed of the director or director's designee, who shall serve as chair and two staff members, if deemed necessary;

(b) The chair shall mail a notice of conference board to the applicant, the applicant's representative, and any other person or agency who is a party in interest to the proceeding. The notice of conference board shall state that a conference board has been scheduled and inform the parties of the time and place of the conference board;

(c) Where the department is not providing public assistance to the payee under a court order, and the responsible parent timely requests a conference board to contest the debt stated in a notice of support debt, the conference board shall be scheduled for a date at least thirty days after the notice of conference board is issued, and the notice shall ((~~state~~)) include statements that:

(i) The payee has twenty days from the date the notice of conference board was given to request that the grievance be addressed in an adjudicative proceeding under WAC 388-14-435;

(ii) If the payee does not timely request an adjudicative proceeding, the department will deem that the payee has elected to have the grievance heard in a conference board and the:

(A) Conference board decision will become the final agency position on the debt claimed under the notice of support debt; and

(B) A payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application; ((~~and~~))

(iii) If the payee does not appear at either a conference board or an adjudicative proceeding, the ((~~resulting~~)) presiding officer's or the board's decision may be adverse to the payee's interest including, but not limited to, a reduction in the support debt stated in the notice of support debt.

(d) If the payee requests an adjudicative proceeding under WAC 388-14-435, ((~~OSE~~)) the office shall inform the:

(i) Responsible parent that the parent's request for conference board is declined, and the responsible parent must appear at the adjudicative proceeding requested by the payee to raise objections to the notice of support debt; and

(ii) Payee that the conference board previously scheduled has been declined due to the payee's application for an adjudicative proceeding.

((~~(7)~~)) (8) The conference board chair ((~~is authorized to~~)) may issue subpoenas under RCW 74.04.290 and ((~~to~~)) administer oaths, take testimony, and compel the production of such papers, books, records, and documents deemed relevant to the resolution of the grievance under consideration. The conference board chair may take additional evidence by affidavit or other written submission when necessary or practicable together with written or oral argument. The chair may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board.

((~~(8)~~)) (9) The conference board chair shall make a written decision stating the facts found, policies applied, and the board's decision.

(a) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department rules and regulations, published office ((~~of support enforcement~~)) manuals, support enforcement policy bulletins, and the exercise of reasonable administrative discretion.

(b) The board shall base a decision under RCW 74.20A.220 to grant partial or total charge-off of arrears owed to the department under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) on the following considerations:

(i) Error in law or bona fide legal defects that materially diminish chances of collection; or

(ii) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support ((~~which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued~~)); or

(iii) Costs of collection action in the future that are greater than the amount to be charged off; or

(iv) Settlement from lump-sum cash payment that is beneficial to the state considering future costs of collection and likelihood of collection.

(c) If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand ((~~them~~)) the application for issuance of a new decision in compliance with the standards.

((~~(9)~~)) (10) In making a determination of substantial hardship under subsection (9) of this section, the board shall measure the net income and all available assets and resources of the responsible parent against the needs standard for public assistance for the appropriate family size, as stated in WAC 388-250-1250. The board shall consider the necessity to apportion the responsible parent's income and resources on an equitable basis with the child for whom the arrears accrued. When reviewing a claim of substantial hardship, the board may consider the following information including, but not limited to:

(a) The child on whose behalf support is owed is reunited with the responsible parent because the:

(i) Formerly separated parents have reconciled; or

(ii) Child has returned to the responsible parent from foster care, the care of a relative, or the care of a nonrelative custodian.

(b) The responsible parent is aged, blind, or disabled and receiving Supplemental Security Income, Social Security, or other similar benefits;

(c) The mother of the child is seeking charge off of debt accrued on behalf of a child who was conceived as a result of incest or rape, and presents evidence of rape or incest, acceptable under 45 CFR 232.43(c);

(d) Payment on the arrears obligation interferes with the responsible parent's payment of current support to a child living outside the home;

(e) The responsible parent has limited earning potential due to:

(i) Dependence on seasonal employment that is not considered in the child support order;

(ii) Illiteracy;

(iii) Limited English proficiency; or

(iv) Other similar factors limiting employability or earning capacity.

(f) The responsible parent's past efforts to pay support and the extent of the parent's participation in the child's parenting; and

(g) The size of the responsible parent's debt and the prospects for increased income and resources.

(11) The board may find that substantial hardship exists for a responsible parent, without finding hardship to a dependent child.

(a) In making a determination of substantial hardship to an individual without a dependent child, the board shall measure the applicant's income, assets, and resources against the needs standard. In combination with the income test, the board may consider the following factors when reviewing a claim of substantial hardship:

(i) The responsible parent is aged, blind, or disabled and receiving Supplemental Security Income, Social Security, or other similar benefits;

(ii) The mother of a child is seeking relief from debt accrued on behalf of a child who was conceived as a result of incest or rape, and presents evidence of rape or incest, acceptable under 45 CFR 232.43(c); or

(iii) The responsible parent has limited earning potential due to:

(A) Dependence on seasonal employment that is not considered in the child support order;

(B) Illiteracy;

(C) Limited English proficiency; or

(D) Other similar factors limiting employability or earning capacity.

(b) The board may agree to a reduced payment on the support debt, or a conditional reduced payment on the support debt, when there is substantial hardship to the responsible parent but not a hardship to a dependent child. The other remedies for substantial hardship under this section are not available when there is no showing of hardship to a dependent child.

(12) The board may:

(a) Reduce collection on the responsible parent's support debt to an amount that alleviates the hardship without altering the amount of the support to address situations in which substantial hardship exists, but the circumstances creating the hardship are temporary. Temporary hardship situations may include the factors listed under subsection (10) of this section and the applicant's receipt of public assistance on:

(i) Applicant's behalf; or

(ii) Behalf of a child in the applicant's home.

(b) Create incentives to promote payment or family unity by agreeing to a conditional:

(i) Total or partial charge off, if charge off is available under subsection (9) of this section; or

(ii) Reduced payment on the support debt.

(c) Condition reduced payment, or total or partial charge off on:

(i) Continued payment according to a payment schedule imposed by the board; or

(ii) Continued reconciliation; or

(iii) A family remaining off of AFDC.

(13) When creating incentives or providing conditional relief under subsection (12) of this section, the board shall:

(a) Not create a conditional charge off without specifying a period of performance after which the charge off is irrevocable;

(b) Not create a charge off conditioned on the parties remaining reconciled unless the parties have been reconciled for at least six months at the time of the conference board;

(c) Consider whether the conditions would create:

(i) Incentives for abuse or intimidation of the other party to the order;

(ii) Incentives for fraud; or

(iii) Unreasonable reluctance to obtain financial or medical assistance necessary for the health and best interests of the children.

(14) When the responsible parent violates the terms of the conditional charge off or reduced repayment rate imposed by a conference board decision under subsection (12) of this section:

(a) Any amount charged off by the board under the decision prior to the violation shall remain uncollectible;

(b) SED may collect any further amount that would have been charged off under the decision after the date of violation with no further notice to the responsible parent; and

(c) The responsible parent may not reinstate terms of the decision by renewed compliance with the terms of the decision, unless the department agrees in writing to reinstate the conditional charge off or repayment rate.

(15) The board shall distribute a copy of the decision to the applicant, the applicant's representative, other parties in interest, the appropriate ((~~office of support enforcement~~)) field office for action consistent with the decision of the board, and the director.

((~~(10)~~)) (16) A conference board is not an adjudicative proceeding subject to review by the superior court and is not a substitute for any constitutionally or statutorily required hearing. An aggrieved ((~~parties~~)) party may be represented before the board by a person of ((~~their~~)) the party's choice. The department shall not pay any costs incurred by the aggrieved person in connection with the conference board.

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

WSR 94-11-111
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 18, 1994, 9:26 a.m.]

Original Notice.

Title of Rule: WAC 388-150-005 Authority, 388-150-020 Scope of licensing, 388-150-090 License denial, suspension, or revocation, 388-150-460 Program records, 388-155-005 Authority, 388-155-020 Scope of licensing, 388-155-090 Licensing denial, suspension, or revocation, and 388-155-460 Home records.

Purpose: Amending these licensing standards will eliminate the necessity for Department of Social and Health Services to have contracts with over 800 licensed child day care centers.

Statutory Authority for Adoption: RCW 74.12.340.

Statute Being Implemented: RCW 74.12.340.

Summary: Permits the elimination of contracts with day care centers and specifies that they must simply meet licensing standards and billing procedures.

Reasons Supporting Proposal: The day care centers will meet licensing standards and billing procedures only.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Monica Ellis and Barry Fibel, Division of Children and Family Services, 586-0252, 753-0204.

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 June 21, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by June 7, 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 June 14, 1994.

Date of Intended Adoption: June 22, 1994.

May 18, 1994, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3151, filed 3/12/91, effective 4/12/91)

WAC 388-150-005 Authority. The following rules are adopted under chapters 74.12 and 74.15 Revised Code of Washington (RCW).

AMENDATORY SECTION (Amending Order 3623, filed 8/18/93, effective 9/18/93)

WAC 388-150-020 Scope of licensing. (1) The person or organization operating a child day care center shall be subject to licensing by authority under chapter 74.15 RCW, unless specifically exempted by RCW 74.15.020(4).

(2) The person or organization operating a child day care center and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person or organization claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) RCW 74.15.020 (4)(c) exempts from licensing facilities where parents on a mutually cooperative basis exchange care of one another's children. To qualify for this cooperative exemption:

(a) At least one parent or guardian of each child attending the facility regularly shall be involved in the direct care of children at the facility((~~,~~));

(b) Parents or guardians shall be involved in the direct care of children on a relatively equal basis((~~,~~)); and

(c) ((~~No~~)) A person other than a parent or guardian of a child at the facility ((~~may~~)) shall not be involved in the care of children or in the operation of the facility.

(4) The department shall not license the center legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the center as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(5) The department may certify a day care center for payment without further investigation if the center is:

(a) Licensed by an Indian tribe;

(b) Certified by the Federal Department of Defense; or

(c) Approved by the superintendent of public instruction's office. The center must be licensed, certified, or approved in accordance with national or state standards or standards approved by the department and be operated on the premises over which the entity operating the center has jurisdiction.

(6) The department shall not license the department employee or the member of the department employee's household when such person is involved directly, or in an administrative or supervisory capacity, in the:

(a) Licensing or certification process;

(b) Placement of a child in a licensed or certified center; or

(c) Authorization of payment for the child in care.

(7)(a) The department may license the center located in a private family residence when the portion of the residence accessible to the child is:

(i) Used exclusively for the child during the center's operating hours or while the child is in care; or

(ii) Separate from the family living quarters.

(b) A child care facility in a separate building on the same premises as a private family residence is a child day care center.

(8) The person or organization desiring to serve state-paid children shall:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in Child Day Care Subsidies, A Booklet for Providers, DSHS 22-877(X); and

(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.

AMENDATORY SECTION (Amending Order 3103, filed 11/20/90, effective 12/21/90)

WAC 388-150-090 License denial, suspension, or revocation. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider ((~~their~~)) the persons' qualifications separately and jointly((~~,~~)); and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, state auditor's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department ((~~or~~)), the department of health, or state auditor's

office access to records related to operation of the center or to interview staff or a child in care((;)).

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to((:)):

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing((;)) is governed under RCW 43.20A.205.

AMENDATORY SECTION (Amending Order 3623, filed 8/18/93, effective 9/18/93)

WAC 388-150-460 Program records. The licensee shall maintain the following documentation on the premises:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, shall sign in the child on arrival and shall sign out the child at departure, using a full, legal signature; and

(b) When the child leaves the center to attend school or participate in off-site activities as authorized by the parent, the staff person shall sign out the child, and sign in the child on return to the center.

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) Copies of meal and snack menus for a minimum of six months;

(4) The twelve-month record indicating the date and time the licensee conducted the required monthly fire evacuation drills;

(5) A written plan for staff development((;)) specifying the content, frequency, and manner of planned training;

(6) Activity program plan records;

(7) Nursing consultation records, if applicable, including:

(a) A copy of the written agreement with the nurse; and

(b) A summary of the nurse's on-site consultation activities.

(8) A record of:

(a) Accidents;

(b) Injuries; and

(c) Incidents requiring restraint.

(9) Attendance records and invoices for state-paid children for at least five years.

AMENDATORY SECTION (Amending Order 3136, filed 2/1/91, effective 3/4/91)

WAC 388-155-005 Authority. The following rules are adopted under chapters 74.12 and 74.15 Revised Code of Washington (RCW).

AMENDATORY SECTION (Amending Order 3205, filed 7/23/91, effective 8/23/91)

WAC 388-155-020 Scope of licensing. (1) The person operating a family child care home shall be subject to licensing by authority under chapter 74.15 RCW, unless exempted by RCW 74.15.020(4).

(2) The person operating a family child care home and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) The department shall not license the home legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the home as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(4) The department may certify a family day care home for payment without further investigation if the home is:

(a) Licensed by an Indian tribe; or

(b) Certified by the Federal Department of Defense. The home must be licensed or certified in accordance with national or state standards or standards approved by the department and be operated on the premises over which the entity licensing or certifying the home has jurisdiction.

(5) The person or organization desiring to serve state-paid children shall:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in Child Day Care Subsidies, A Booklet for Providers, DSHS 22-877(X); and

(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.

AMENDATORY SECTION (Amending Order 3136, filed 2/1/91, effective 3/4/91)

WAC 388-155-090 License denial, suspension, or revocation. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly((;)); and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, ((~~or~~)) department of health, or state auditor's office to inspect the premises; or

(g) Refuses to permit an authorized representative of the department ((~~or~~)), the department of health, or the state auditor's office access to records related to operation of the home or to interview an assistant or a child in care((;)).

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the home is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the home is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the home;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the home in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing((;)) shall be governed under RCW 43.20A.205.

AMENDATORY SECTION (Amending Order 3136, filed 2/1/91, effective 3/4/91)

WAC 388-155-460 Home records. The licensee shall maintain the following documentation on the premises:

(1) The attendance records, completed daily, including arrival and departure times;

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) The twelve-month record indicating the date and time the licensee conducted the required monthly fire evacuation drills; ((~~and~~))

(4) The twelve-month record indicating the date the licensee tested the battery-powered smoke detector monthly; and

(5) Attendance records and invoices for state-paid children for at least five years.

WSR 94-11-112
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 18, 1994, 9:27 a.m.]

Original Notice.

Title of Rule: WAC 388-14-205 Responsibilities of the office of support enforcement, 388-14-300 Nonassistance support enforcement services—Persons eligible for services, 388-14-310 Nonassistance support enforcement application, and 388-14-390 Adjudicative proceeding when collection action is initiated against a bank account—Exemptions—Burden of proof.

Purpose: Amendments state a former custodian of a child may apply to support enforcement division (SED) for the collection of child support arrears, and clarifies that an arrears judgement is not a requirement of eligibility for support enforcement division services, as result of the citation 45 CFR 303.106.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: WAC 388-14-205, 388-14-300, and 388-14-310 clarify that a former custodian may apply for services for collection of a support debt without obtaining a judgement for arrears. WAC 388-14-390 clarifies who may request an adjudicative proceeding when support enforcement division attaches a bank account.

Reasons Supporting Proposal: Clarifies that a former custodian of a child may apply to support enforcement division for the collection of child support arrears, and clarifies that an arrears judgement is not a requirement of eligibility for support enforcement division services. This revision brings support enforcement division into compliance with federal regulations on provision of support enforcement services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Kellington, Support Enforcement Division, 586-3426.

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

Rule is necessary because of federal law, 45 CFR 303.106.

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 June 21, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by June 7, 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 June 14, 1994.

Date of Intended Adoption: July 15, 1994.

May 18, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-14-205 Responsibilities of the office ((~~of support enforcement~~)). (1) The office shall provide services, until such services are terminated under this chapter, when:

(a) The department pays public assistance or provides foster care services;

(b) A former recipient of public assistance is eligible for services under WAC 388-14-300 (2)(((~~(d)~~))) (c);

(c) An applicant/custodian requests nonassistance support enforcement services under RCW 74.20.040 and WAC 388-14-300;

(d) A support order or wage assignment order under chapter 26.18 RCW directs that the responsible parent make support payments through the Washington state support registry;

(e) A support order under which there is a current support obligation for the dependent children((~~,~~)) is submitted to the Washington state support registry;

(f) A former custodial parent requests services to collect a support debt ((~~that has been reduced to a sum certain judgment by the court or agency of competent jurisdiction~~)) accrued under a court or administrative support order while the parent had physical custody of the child; or

(g) A child support enforcement agency in another state or foreign country under reciprocal agreement requests support enforcement services.

(2) When possible and appropriate, the office shall take action under chapters 26.23 and 74.20A RCW to establish, enforce, and collect the child support obligation. The office may refer appropriate cases to the county prosecuting attorney or attorney general's office when judicial action is required.

(3) Except to the extent allowed by WAC ((~~388-24-111~~)) 388-215-1490(3), in any case for which ((~~OSE~~)) the office has received notice that the CSO has made a finding of good cause under WAC ((~~388-24-111~~)) 388-215-1490, the office shall not act to:

(a) Establish paternity on its own initiative or at the request of a putative father applying for services under WAC 388-14-300 (((~~(1)(h)~~))) (2)(e); or

(b) Secure child support.

(4) The office shall suspend all activities under Title IV-D to establish paternity or secure child support((~~,~~)) to the extent required by WAC ((~~388-24-111~~)) 388-215-1490, until the CSO notifies the office of its final determination regarding an applicant or recipient who has claimed good cause. Any agency acting under a cooperative agreement who fails or refuses to comply with a request from ((~~OSE~~)) the office to suspend activities shall not be entitled to financial participation under the Title IV-D cooperative agreement as to said case or cases upon which the request is made.

(5) A child support obligation shall:

(a) Continue while enforcement ((~~and/or~~)) or collection action is suspended pending a final determination of good cause; and

(b) Be subject to collection when a decision is made that good cause for refusal to cooperate no longer exists.

(6) The office shall:

(a) Review and comment on the findings and basis for the proposed determination by the CSO; and

(b) Be a party to any hearing requested as a result of an applicant's or recipient's appeal of any agency action under WAC ((~~388-24-111~~)) 388-215-1410.

(7) The office shall:

(a) Establish, maintain, retain, and dispose of case records in accordance with the department's records management and retention policies and procedures adopted under chapter 40.14 RCW.

(b) Establish, maintain, and monitor support payment records; and

(c) Receive, account for, and distribute child support payments required under superior court and administrative orders for support.

(8) When the office determines that a support obligation, established by order of a superior court of this state, has been satisfied or is no longer legally enforceable, the office shall send a notice of its intent to file a satisfaction of

judgment to the last known address of the payee under the order and to the responsible parent. The department shall include the following provisions in the notice:

(a) A statement of the facts the office relied on in making the determination; and

(b) A statement that payee has twenty days from the date of the notice, to:

(i) Object and request a conference board under WAC 388-14-385; or

(ii) Initiate an action to obtain a judgment from the court that entered the order.

(9) If the conference board or the court determines the support obligation or a support debt still exists, the office shall withdraw the notice and shall make reasonable efforts to enforce and collect the remaining support debt. When the conference board or court determines that a debt does not exist, the office shall file a satisfaction of judgment with the clerk of superior court in which the order was entered.

(10) The office shall determine that a support obligation is satisfied or no longer legally enforceable when the obligation to pay current and future support terminates under the order, and:

(a) The responsible parent has paid the support debt owed under the order ((~~has been paid~~)) in full;

(b) The support debt is no longer enforceable due to the operation of the statute of limitations; ((~~or~~))

(c) The office determines the responsible parent has a valid defense to payment of the debt under Washington law; or

(d) Under RCW 74.20A.220, the office determines the debt is uncollectible, grants a total or partial charge-off, or accepts an offer to compromise a disputed debt.

(11) WAC ((~~sections~~)) 388-14-300 and 388-14-310 govern the level of services provided by the department under subsections (1)(b) through (g) of this section.

AMENDATORY SECTION (Amending Order 3403, filed 6/9/92, effective 7/10/92)

WAC 388-14-300 Nonassistance support enforcement services—Persons eligible for services. (1) As authorized by RCW 26.23.045 and 74.20.040, the ((~~department's office of support enforcement (OSE)~~)) office shall provide payment processing and records maintenance services to parties to a court order who are not receiving a public assistance grant when:

(a) A Washington superior court order, administrative order, or wage assignment order under chapter 26.18 RCW directs payments through ((~~OSE~~)) the office or the Washington state support registry (WSSR);

(b) The physical custodian of a dependent child or a responsible parent requests payment services only, provided that:

(i) A responsible parent's request for payment services only shall not cause a reduction of service from the level of service provided under subsection (2) of this section, or WAC 388-14-200, 388-14-203, or 388-14-205; and

(ii) The support obligation is set by a Washington superior court, administrative, or wage assignment order, directing payment to ((~~OSE~~)) the office or WSSR.

(2) ((~~OSE~~)) The office shall provide full IV-D support enforcement services to physical custodians or responsible parents who are not receiving a public assistance grant when:

(a) The physical custodian or former physical custodian of a ((~~dependent~~)) child requests support enforcement services;

(b) ((~~A former custodial parent requests services to collect a support debt reduced to a sum certain judgment by the court;~~

~~(c)~~)) A responsible parent submits a support order for inclusion in or support payment to the Washington state support registry, together with an application for support enforcement services;

((~~(d)~~)) (c) A public assistance recipient stops receiving a cash grant under the aid to families with dependent children ((~~or family independence programs~~));

((~~(e)~~)) (d) The department provides Medicaid-only benefits to the physical custodian on behalf of a dependent child, unless the recipient of Medicaid-only benefits declines support enforcement services not related to paternity establishment, medical support establishment or medical support enforcement; or

((~~(f)~~)) (e) A man requests paternity establishment services alleging he is the dependent child's father.

(3) ((~~OSE~~)) The office shall provide payment processing, records maintenance, paternity establishment, medical support establishment, and medical support enforcement services when a recipient of Medicaid-only benefits declines support enforcement services.

AMENDATORY SECTION (Amending Order 3403, filed 6/9/92, effective 7/10/92)

WAC 388-14-310 Nonassistance support enforcement application. (1) To qualify for services((~~,~~)) a person desiring nonassistance services shall:

(a) Submit a written application for support enforcement services except as provided under subsection (2) of this section; and

(b) Have or have had physical custody of the ((~~dependent~~)) child for whom support is sought, or for whom a support debt has accrued except as provided under WAC 388-14-300 (2)(b), ((~~(e), and (f)~~)) and (e).

(2) The office ((~~of support enforcement (OSE)~~)) shall:

(a) Provide only records maintenance and payment processing services if the payee under a support order fails to submit an application for support enforcement services and the:

(i) Order directs support payments to ((~~OSE~~)) the office or the Washington state support registry; or

(ii) Clerk submitted the order under RCW 26.23.050.

(b) Continue to provide services((~~,~~)) after a:

(i) Public assistance recipient stops receiving a cash grant, under the same conditions regarding the physical custodian's obligation to cooperate with ((~~OSE~~)) the office, as are in effect at the time public assistance terminates, without requiring an application;

(ii) Recipient of Medicaid-only benefits becomes ineligible for Medicaid-only benefits, under the same conditions regarding the physical custodian's obligation to cooperate with ((~~OSE~~)) the office, as are in effect at the time

the recipient became ineligible, without an application, unless the recipient((,)):

(A) Declines support enforcement services while receiving or after termination of Medicaid-only benefits; or

(B) Requests additional services.

(3) The applicant shall:

(a) Give consent to ((~~OSE~~)) the office to take an assignment of earnings from the person owing support;

(b) Agree to remit support money received directly from the person owing support to ((~~OSE~~)) the office within eight days of receipt;

(c) Agree to direct a payor or forwarding agent to remit support money directly to ((~~OSE~~)) the office;

(d) Agree not to hire an attorney or collection agency, or apply to any other states' IV-D agency, to collect the support obligation or support debt without notifying ((~~OSE~~)) the office;

(e) Complete, sign, date, and submit to ((~~OSE~~)) the office the application form and other required documents;

(f) Supply copies of divorce and dissolution decrees, support orders((,)) and modifications thereof, and any allied or related documents reflecting the marital and support status;

(g) Provide a statement of the amount of the support debt owed by the responsible parent; and

(h) Include or attach a list, by date, of the support payments received from the responsible parent during the period the support debt accrued.

(4) If a person other than the applicant has legal custody of the dependent child by order of a court, the applicant shall affirm the legal custodian:

(a) Was not wrongfully deprived of custody by the applicant; and

(b) Is not excused from making support payments under WAC 388-11-065(10).

(5) If ((~~the~~)) an applicant is not a resident of this state:

(a) ((~~OSE~~)) The office may decline the application if:

(i) ((~~OSE~~)) The office has an open case for the applicant, opened at the request of another state; or

(ii) Neither the applicant nor the responsible parent have any contacts with the state of Washington;

(b) The applicant shall state, under oath, that ((~~they do~~)) the applicant does not have an open IV-D case in another state.

(6) ((~~OSE~~)) The office may deny an application which is incomplete, contains unclear or inconsistent statements, or is not supported by necessary documents.

(7) Upon denying an application, ((~~OSE~~)) the office shall send the applicant a written notice of denial by regular mail and shall include a statement:

(a) Of the reasons for the denial; and

(b) The applicant may request an adjudicative proceeding to contest the denial.

AMENDATORY SECTION (Amending Order 3005, filed 2/5/90, effective 3/1/90)

WAC 388-14-390 Adjudicative proceeding when collection action is initiated against a bank account—Exemptions—Burden of proof. (1) If the department initiates collection action against a bank account, safety deposit box, or other property held by a bank, credit union or savings and loan, the responsible parent or the joint owner of record of the bank account, safety deposit box or other property may contest the action in an adjudicative proceeding.

(2) The responsible parent or the joint owner shall file the application ((~~shall be filed~~)) at the office ((~~of support enforcement (OSE)~~)) by registered or certified mail or personally within twenty days of the date the office mailed a copy of the order to withhold and deliver ((~~was either mailed to or served upon the responsible parent pursuant to RCW 74.20A.080 or a written notice of the collection action was mailed by certified mail to the last known address of the joint owner of record of the account~~)) to the:

(a) Responsible parent; or

(b) Last known address of the joint owner of record of the account, by certified mail.

(3) The ((~~application~~)) responsible parent or joint owner of record shall state in the application the facts supporting the allegation by the responsible parent or the joint owner that the funds ((~~in the account~~)) or property, or a portion of ((~~those~~)) the funds or property, are exempt from satisfaction of the child support obligation of the responsible parent.

(4) On the application of the responsible parent, the joint owner of record, or ((~~OSE~~)) the office, ((~~a hearing shall be scheduled~~)) the department shall schedule an adjudicative proceeding solely for the purpose of determining whether or not one of the following exemptions applies to the funds in the bank account, or to the other property attached by the order to withhold and deliver:

(((~~(1)~~))) (a) Pursuant to RCW 26.16.200 and 74.20A.120, the property or funds in the community bank account, joint bank account, or safety deposit box, or a portion of ((~~those~~)) the property or funds which can be identified as the earnings of the spouse not owing a support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

(((~~(2)~~))) (b) The funds in a bank account, or a portion of those funds which can be identified as AFDC funds, SSI monies, or other kinds of funds having been legally exempted from collection action, are exempt from satisfaction of the child support obligation of the responsible parent((,)); or

(((~~(3)~~))) (c) The funds ((~~in a bank account~~)) or property attached by the order to withhold and deliver which can be identified as being solely owned by the joint owner of record of the bank account or safety deposit box not owing a child support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

(5) The responsible parent or joint owner of record shall have the burden of tracing the funds and proving the property or funds in the bank account are exempt from satisfaction of the child support obligation of the responsible parent ((~~is on the responsible parent or the joint owner of record~~)).

((~~If an application is filed, the department shall serve the notice of hearing on the appellant or the appellant's representative by certified mail or another method showing proof of receipt.~~))

(6) The office shall hold moneys or property withheld as a result of collection action initiated against a bank account or safety deposit box and delivered to the ((~~office of support enforcement (OSE)~~)) the office at the time of the

granting of an application ((~~shall be held by the office of support enforcement~~)) pending the final adjudicative order or during the pendency of any appeal to the courts.

(7) If the final decision of the department or courts on appeal is that the department has caused ((~~funds in a bank account~~)) money or property that ((~~are~~)) is exempt from satisfaction of the child support obligation of the responsible parent to be withheld by the bank or delivered to the department, the office ((~~of support enforcement~~)) shall:

(a) Promptly release the order to withhold and deliver; or

(b) Refund the proportionate share of the funds having been identified as being so exempt. ((~~No interest shall accrue or be payable by the department~~)) The department shall not be liable for any interest accrued on any moneys withheld pursuant to RCW 74.20A.080.

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 94-11-120
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed May 18, 1994, 10:30 a.m.]

Original Notice.

Title of Rule: Chapter 392-196 WAC, School personnel—Teacher assistance program.

Purpose: To set forth policies and procedures for a teacher assistance program.

Statutory Authority for Adoption: RCW 28A.415.250 and 28A.415.010.

Statute Being Implemented: RCW 28A.415.250 and 28A.415.010.

Summary: These amendments, new sections and repealers reduce the rules governing the teacher assistance program to only the rules required by RCW 28A.415.250 and 28A.415.010.

Reasons Supporting Proposal: This will allow for more regional flexibility in the program.

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, public.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

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

Hearing Location: Old Capitol Building, Wanamaker Conference Room, 2nd Floor, 600 South Washington Street, Olympia, WA 98504, on June 28, 1994, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-7200, by June 27, 1994.

Date of Intended Adoption: June 30, 1994.

May 18, 1994
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-196-011 Definition—Teacher. As used in this chapter the term "teacher" means any school employee possessing any one of the certificates issued by the superintendent of public instruction under RCW 28A.410.010((~~: *Provided*, That such employees who hold administrator credentials and are employed as administrators shall not be included for purposes of this chapter~~)).

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-196-020 Definition—((~~Mentor~~)) Teacher stipend. As used in this chapter, the term "((~~mentor~~)) teacher stipend" shall mean an amount paid by a school district to a ((~~mentor~~)) teacher for ((~~services as a mentor teacher including three days attendance at the required workshops or training sessions. Such stipend, including the amount and conditions applicable, shall be set forth in a supplemental contract in accordance with and subject to the provisions of RCW 28A.405.240~~)) participation in a teacher assistance program.

AMENDATORY SECTION (Amending Order 17, filed 10/20/89, effective 11/20/89)

WAC 392-196-055 Mentor teacher—Qualifications for nomination. In order to be nominated to serve as a mentor teacher ((~~pursuant to WAC 392-196-035~~)), the teacher shall meet the following minimum qualifications:

(1) ((~~Be employed full time primarily as a teacher.~~

~~(2) Have been employed primarily as a teacher for one school year within the district and two additional school years within any public or private school in any grade, preschool through twelve.~~

~~(3)~~)) The individual shall be a superior teacher based on his or her evaluations.

(2) The individual shall hold a valid continuing or standard certificate issued pursuant to chapter 180-79 WAC ((~~or be eligible for conversion to such certificate pursuant to WAC 180-79-045~~)).

AMENDATORY SECTION (Amending Order 17, filed 10/20/89, effective 11/20/89)

WAC 392-196-060 Mentor teacher—Selection process. Mentor teachers shall be selected by the district and may serve as mentors up to and including full time. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the

bargaining unit shall participate in the mentor teacher selection process.

NEW SECTION

WAC 392-196-077 Conditions of the program. Each teacher assistance program shall meet the following conditions:

(1) The program shall provide for:

(a) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers who are having difficulties, or both, in and outside the classroom.

(b) Stipends for mentor, beginning and experienced teachers, which shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200.

(c) Workshops for the training of mentor and beginning teachers.

(d) The use of substitutes to give mentor, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor teachers opportunities to observe and assist beginning and experienced teachers in the classroom.

(2) Mentor teachers shall not be involved in evaluations of their beginning and experienced teachers conducted pursuant to RCW 28A.405.100.

(3) Mentor teachers shall periodically inform their principals respecting the contents of training sessions and other program activities.

NEW SECTION

WAC 392-196-086 Coordination. Each ESD shall coordinate the teacher assistance program within its region, pursuant to RCW 28A.415.010.

NEW SECTION

WAC 392-196-089 Program accountability. (1) The superintendent of each school district shall supply the educational service district, at times specified by the educational service district, such information as requested regarding the teacher assistance program, including program design and evaluations.

(2) Each educational service district shall submit to the superintendent of public instruction, at times specified by the superintendent of public instruction, information as requested regarding the teacher assistance program, including demographic data.

AMENDATORY SECTION (Amending Order 92-02, filed 2/18/92, effective 3/20/92)

WAC 392-196-100 Distribution of state moneys for the teacher assistance program. The superintendent of public instruction shall issue grant awards to the educational service districts ((~~which in turn shall reimburse school districts according to the dollar amount per team established pursuant to WAC 392-196-095~~)). The ESD shall, in turn, provide funds to the school districts which participate in the program.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-196-015	Definition—Mentor teacher.
WAC 392-196-025	Definition—Beginning teacher.
WAC 392-196-030	Definition—Beginning teacher stipend.
WAC 392-196-035	Definition—Experienced teacher.
WAC 392-196-037	Experienced teacher participation.
WAC 392-196-040	Definition—Educational service district sponsored workshop.
WAC 392-196-045	Definition—School district workshops.
WAC 392-196-050	Mentor teacher stipend—Minimum amount.
WAC 392-196-066	Beginning teacher stipend—Minimum amount.
WAC 392-196-080	School district application to ESD for participation in the teacher assistance program.
WAC 392-196-085	Selection process.
WAC 392-196-095	Annual amount for distribution to participating school districts.
WAC 392-196-105	Carryover prohibition.

WSR 94-11-122
PROPOSED RULES
OFFICE OF THE INSURANCE COMMISSIONER
[Filed May 18, 1994, 11:23 a.m.]

Original Notice.

Title of Rule: Amending coordination of benefits regulation.

Purpose: To implement the short-term health insurance reforms enacted by the legislature during the 1993 session in the Washington Health Services Act of 1993 (chapter 492, Laws of 1993) to allow health carriers to reduce benefits based on the existence of other health coverage to a greater extent than previously allowed. This regulation shall remain in place during the transition to a fully reformed health services system.

Other Identifying: Insurance Commissioner Matter No. R 94-15.

Statutory Authority for Adoption: RCW 48.01.200, 48.21.200, 48.01.030, 48.02.060 (3)(a).

Statute Being Implemented: RCW 48.21.200.

Summary: The Washington Health Services Act of 1993, (chapter 492, section 282, Laws of 1993) provides that health carriers may reduce benefits in individual contracts based on the existence of other health coverage; health carriers may reduce benefits in individual and group contracts based on the existence of other coverage to a greater extent than previously allowed. This regulation shall remain in place during the transition to a fully reformed health services system.

Reasons Supporting Proposal: To comply with the mandate of RCW 48.21.200 as amended by chapter 492, section 282, Laws of 1993.

Name of Agency Personnel Responsible for Drafting: Patricia Petersen, Insurance Building, Olympia, WA, (206) 664-8768; Implementation and Enforcement: Office of the Insurance Commissioner.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Washington Health Services Act of 1993 (chapter 492, section 282, Laws of 1993) provides that health carriers may reduce benefits in individual contracts based on the existence of other health coverage; and health carriers may reduce benefits in individual and group contracts based on the existence of other coverage to a greater extent than previously allowed. This proposed regulation amends chapter 284-21 WAC to achieve this purpose and, pursuant to legislative mandate, establishes which benefits may be subject to this reduction of benefits. This rule is discretionary, however: Carriers are not required to reduce their benefits by if they do then such reduction must be consistent either with this proposed amendment, with the rule as it exists now or provide more coverage than either of these methods of reducing benefits allows.

Proposal Changes the Following Existing Rules: Currently, under chapter 284-52 WAC, carriers are prohibited from reducing benefits under individual contracts even where another health contract covers the same costs or service. This proposed amendment allows reduction of benefits in individual as well as group contracts. This proposed amendment allows for pays a significant reduction in the benefits which must be provided under a contract which pays secondary to other coverage to the extent such benefits are not for preventive care, but only to the extent the consumer's out-of-pocket costs are less than $250 plus deductible per year. After that amount, benefits must be paid to 100% of allowable expense for all covered costs and services.

Small Business Economic Impact Statement: This proposed amendment provides an option for health carriers to reduce their benefits in individual and group health care contracts in some situations, thereby incurring additional savings. If a health carrier chooses to take advantage of this proposed amendment, it will incur negligible to possible significant expense in changing and refiling all or part of their contracts to include language specifying that they will be reducing their benefits in accordance with this proposed amendment and in training staff to properly implement this new method of reduction of benefits. Carriers who choose not to implement this proposed amendment in their contracts can retain their existing contract language and administration and incur no expense. Finally, all or most health carriers have over 50 employees and so would not be classed as "small businesses." Generally only entities who work for health carriers would be "small businesses" which might experience the impact described in this paragraph.

Hearing Location: John L. O'Brien Building, Hearing Room C, State Capitol Campus, Olympia, Washington, on June 27, 1994, at 9:00.

Submit Written Comments to: Insurance Commissioner, Attention: Arlo Manley, P.O. Box 40255, Olympia, WA, 98504-0255, by June 24, 1994.

Date of Intended Adoption: October 3, 1994.

May 18, 1994
Patricia Petersen
Deputy Commissioner
for Deborah Senn
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-010 Purpose and scope. (1) This regulation, WAC 284-51-010 through 284-51-180, is adopted pursuant to RCW 48.21.200 to establish standard coordination of benefit provisions, and uniform guidelines for their interpretation and administration, for group and individual disability insurance policies (as defined in RCW 48.20.002 and 48.21.010), group and individual health care service ((~~contractor group agreements~~)) contracts and group and individual health maintenance organization ((~~group~~)) agreements (all of which are hereinafter referred to as "((~~group~~)) health contracts"), whose hospital, medical, or surgical benefits may be reduced because of other existing coverages. This regulation applies to individual and group contracts delivered or issued for delivery in Washington state. Except where the context otherwise requires, the definitions given in the Washington Insurance Code, Title 48 RCW, govern the construction of this regulation.

(2) This regulation does not require the use of coordination of benefit provisions in ((~~group~~)) health contracts((~~,~~)); however, if a ((~~group~~)) health contract contains any provision for the reduction of benefits otherwise payable because of other insurance, it shall be consistent with and no less favorable than the requirements of this regulation, except that a plan of coverage designed to be supplementary over the policyholder's underlying basic plan of coverage may provide that its coverage shall be excess to that specific policyholder's plan of basic coverage from whatever source provided.

(3) For purposes of this regulation, the word "insurer" includes health care service contractors and health maintenance organizations.

(4) ((~~Pursuant to RCW 48.21.200(1) and WAC 284-44-040(9), no group disability insurance policy which provides benefits for hospital, medical or surgical expenses and no group health care service contract may contain any provision permitting a reduction or refusal to pay benefits otherwise payable thereunder solely on account of the existence of similar benefits provided under any individual disability insurance policy (including "franchise plan" insurance) or any individual health care service contract.~~

~~(5)~~)) For purposes of this regulation, the words "medical benefits" shall be broadly construed and shall include, but not be limited to dental, optical, prescription drug and audio benefits.

NEW SECTION

WAC 284-51-015 Amount of reduction allowed. (1) As to benefits for preventive care, no health contract which is allowed to reduce or refuse to pay its benefits hereunder and which contains a provision for the reduction of benefits otherwise payable or available thereunder on the basis of other existing coverages shall provide that such reduction will operate to reduce total benefits payable below an amount equal to one hundred percent of total allowable expenses.

(2) As to benefits which are not for preventive care, no contract which is allowed to reduce or refuse to pay its benefits hereunder and which contains a provision for the reduction of benefits otherwise payable or available thereunder on the basis of other existing coverages shall provide that such reduction will operate to reduce total benefits payable below an amount equal to one hundred percent of total allowable expenses exclusive of copayments, deductibles, and other similar cost-sharing arrangements. When out-of-pocket costs to the consumer reach two-hundred-fifty-dollars in a given calendar year over that carrier's deductible amount, if any, then coordination of benefits which are not for preventive care shall be done, if at all, in the manner prescribed in subsection (1) of this section.

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-020 Required provisions for coordination of benefits. (1) A ((~~group~~)) health contract which provides for coordination of hospital, medical, or surgical benefits shall contain the required contractual provisions set forth in WAC 284-51-030 through 284-51-140, and 284-51-180, or provisions which are not less favorable to the insured or the insured's beneficiary. Such provisions shall be preceded individually by the caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve. Such provisions collectively constitute the "coordination of benefits provision," which is referred to therein as "this provision."

(2) A blanket disability insurance policy, as defined in RCW 48.21.040, is not within the scope of this regulation, thus it may include an "excess" or "nonduplication of benefits" provision.

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-030 Benefits subject to coordination. (1) A ((~~group~~)) health contract which provides for coordination of all benefits thereunder shall contain a provision as follows: "**Benefits subject to this provision**: All of the benefits provided under this policy are subject to this provision."

(2) If one or more of the ((~~policy~~)) health contract benefits are to be exempt from reduction under the coordination provision, appropriate changes shall be made in the wording set forth in subsection (1). For example: "Only the major medical expense benefits provided under this policy are subject to this provision."

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-040 "Plan" defined. (1) A ((~~group~~)) health contract which provides for coordination of benefits shall contain a provision stating what benefits from that ((~~policy~~)) health contract and other sources are to be recognized under the coordination provision. Each such source shall be defined as a "Plan."

(2) The definition of a "Plan" may include such sources of benefits or services as:

(a) Group, individual or blanket disability insurance policies and health care service contractor and health maintenance organization group or individual agreements, issued by insurers, health care service contractors and health maintenance organizations;

(b) Labor-management trusteed plans, labor organization plans, employer organization plans or employee benefit organization plans;

(c) Governmental programs; and

(d) Coverage required or provided by any statute.

(3) This provision shall include the following wording or its equivalent: "The term 'plan' shall be construed separately with respect to each ((~~policy, agreement~~)) health contract or other arrangement for benefits or services, and separately with respect to the respective portions of any such ((~~policy, agreement~~)) health contract or other arrangement which do and which do not reserve the right to take the benefits or services of other ((~~policies, agreements~~)) health contract or other arrangements into consideration in determining its benefits."

(4) If not all of the ((~~group~~)) health contract's benefits are subject to coordination, this provision shall include the following wording or its equivalent: "'This Plan' means that portion of this ((~~policy~~)) health contract which provides the benefits that are subject to this provision." Any benefits provided under the ((~~group contract~~)) health contract that are not subject to this provision constitute another Plan.

(5) ((~~The definition of a "Plan" may not include individual or family disability insurance policies permitted by chapter 48.20 RCW; nongroup health care service contractor agreements permitted under chapter 48.44 RCW; nongroup health maintenance organization agreements permitted under chapter 48.46 RCW.~~

~~(6)~~)) The definition of a "Plan" may not include group hospital indemnity benefits (that is, benefits paid on other than an expense incurred basis) of $200 per day or less. It may, however, include reimbursement-type benefits where the insured has the right to elect indemnity-type benefits in lieu of the reimbursement benefits at the time of claim. The amount of group hospital indemnity benefits which exceeds $200 per day may be included in the definition of "Plan."

((~~(7)~~)) (6) The definition of a "Plan" may not include coverage on preschool, grammar school, high school and college students for accidents only, including athletic injuries, either on a 24-hour basis or a "to and from school" basis.

((~~(8)~~)) (7) The definition of a "Plan" may include automobile insurance policies required by statute to provide medical benefits.

NEW SECTION

WAC 284-51-045 "Preventive care" defined. For purposes of this chapter, "preventive care" means "examinations, well baby care and other outpatient services specifically provided to monitor and maintain the patient's health and/or to prevent illness."

AMENDATORY SECTION (Amending Order R 91-6, filed 8/23/91, effective 9/23/91)

WAC 284-51-050 Allowable expense. (1) A ((~~group~~)) health contract which provides for coordination of benefits ("COB") shall contain a provision stating what expenses are to be recognized under the coordination provision as an allowable expense.

(a) Each such ((~~group~~)) health contract shall include the following definition: "Allowable expense means the (usual, customary and reasonable) charge for any necessary health care service or supply when the service or supply is covered at least in part under any of the plans involved. When a plan provides benefits in the form of services or supplies rather than cash payments, the reasonable cash value of each service rendered or supply provided shall be considered an allowable expense. The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense under the above definition unless the covered person's stay in a private hospital room is considered medically necessary under at least one of the plans involved."

(b) Notwithstanding the above definition, health care services or supplies under plans which are limited to providing coverages such as dental care, vision care, prescription drugs or hearing aids may ((~~be excluded from~~)) limit the definition of allowable expense. A plan which provides benefits only for any such health care services or supplies may limit its definition of allowable expense to like services or supplies.

(c) When COB is restricted in its use to specific benefits in a health contract (for example, major medical or dental benefits, only), the definition of allowable expense must include the corresponding services and supplies to which COB applies.

(2) A plan is not required to include language in its ((~~group~~)) health contracts which is substantially similar to subsections (3) through (8) of this section. However, it may not include language which conflicts with subsections (3) through (8) of this section. COB adjudication practices must reflect subsections (3) or (4) or (5), and (6) and (7) and (8) of this section.

(3) When a plan provides benefits in the form of cash payments rather than services or supplies, the allowable expense may be the lesser of either the provider's charge for a health care service or supply, or the "usual, customary and reasonable" charge for that particular health care service or supply. In lieu of "usual, customary and reasonable," a plan may substitute the terms "usual and prevailing," or "reasonable and customary," or other terms which are commonly understood to be similar in meaning. A plan may only limit allowable expense to the "usual, customary and reasonable" charge if:

(a) That term is reasonably defined in that insurer's ((~~group~~)) health contract. Prior to limiting an allowable expense to a "usual, customary and reasonable" charge, the insurer must be able to support that such a limitation is based upon the application of statistically reliable comparative statistical measures, and is regularly reevaluated based on data which is current within twelve months of the date the service or supply was provided. When a secondary plan's "usual, customary and reasonable" charge for a particular health care service or supply is less than the primary plan's "usual, customary and reasonable" charge for that same health care service or supply, the secondary plan must coordinate benefits based on no less than the primary plan's "usual, customary and reasonable" charge for that health care service or supply; or

(b) The health care service or supply is a covered benefit under the primary plan and the primary plan limits its allowable expense to the "usual, customary and reasonable" charge in accordance with (a) of this subsection: *And provided further,* That the secondary plan excludes that service or supply in the absence of COB. In such case, the secondary plan may coordinate benefits for that service or supply based on the primary plan's "usual, customary and reasonable" charge.

(4)(a) A plan may provide benefits in the form of services or supplies rather than cash payments. Services or supplies may be provided directly by the insurer, or they may be provided through various contractual arrangements between providers and the insurer which involve the payment of negotiated amounts based on fee schedules, percentage discounts off of a provider's usual charge, per diem payments, case price payments, or other substantially similar types of negotiated arrangements.

(b) For the purposes of this subsection (4) of this section, when services or supplies are provided through a contractual arrangement between the provider and the insurer in exchange for payment of a negotiated amount to the provider, the "negotiated amount" shall mean the amount set forth in the contractual arrangement in effect at the time of service. Such contractual arrangements must specify that the provider agrees to accept such amount as payment in full for a covered health care service or supply provided to a person enrolled under a group contract issued by that insurer.

(c) If the provider agrees to accept the negotiated amount as payment in full, whether that amount is paid in whole or in part by the covered person, or by that insurer, or by any combination of payors including other insurers which pay before that insurer in the order of benefit determination, then and only then may the insurer which is a party to that contractual arrangement with the provider consider the negotiated amount as the allowable expense. An insurer may not consider amounts negotiated in a contractual arrangement to which it is not a party to be the allowable expense.

(i) When the covered person is not responsible for paying any portion of the negotiated amount, and the insurer pays the entire negotiated amount to the provider, then that insurer may consider the negotiated amount as both an allowable expense and a benefit paid.

(ii) When any portion of the negotiated amount is paid by the covered person in accordance with the ((~~group~~)) health contract issued by the insurer, or is paid by any other person including any other insurer, then the negotiated amount may be considered the allowable expense. The negotiated amount less any amounts payable by other

persons, including the covered person, shall be considered the benefit paid.

(5) When services or supplies are provided directly by the insurer, the reasonable cash value of the health care service or supply shall be considered the allowable expense. When the covered person is not responsible for paying any portion of the allowable expense, that insurer may consider the reasonable cash value of the health care service or supply as both an allowable expense and a benefit paid. When the covered person is responsible for paying any portion of the allowable expense in accordance with the insurer's group contract covering the enrolled person, the reasonable cash value may be considered the allowable expense but the reasonable cash value less any amounts payable by other persons including the covered person shall be considered the benefit paid.

(6) The inclusion of Medicare or similar governmental benefits in the definition of a plan will not require the definition of allowable expense to recognize governmental benefits other than hospital, medical and surgical benefits.

(7) "Total allowable expenses" shall mean the sum of all allowable expenses for a particular covered person for a particular claim determination period. A secondary plan may reduce its benefits so that the total benefits paid or total services and supplies provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced (that plan's COB savings) shall be used by the secondary plan to pay allowable expenses, not otherwise paid, which were incurred during the claim determination period by the covered person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay or provide for allowable expenses based on all claims which were submitted up to that point in time during the claim determination period.

(8) When a secondary plan provides a benefit in the form of services or supplies through a contractual arrangement between the provider and the insurer rather than in the form of a cash payment, and that plan's allowable expense is less than the amount of the payment provided by any primary plan for that service or supply, the secondary plan shall not consider the primary plan's benefit to be more than the secondary plan's allowable expense for that service or supply for the purpose of determining total allowable expenses. In no event should a deficit amount be credited to the total allowable expenses because the primary plan's benefit payment exceeded the secondary plan's allowable expense.

(9) In the case where coverage is provided through internal maximums in the contract, the secondary carrier must coordinate benefits in such a manner to allow coverage for the internal maximums provided for in both the primary contract and the secondary contract. If internal maximums are provided for by a specified maximum dollar amount then the secondary carrier must coordinate benefits as secondary carrier until benefits under the primary contract are exhausted then pay its own contract benefits (up to its internal maximum dollar amount) until its own benefits are exhausted. If internal maximums are provided for by a specified maximum number of visits then the secondary carrier must coordinate benefits as secondary carrier until benefits under the primary contract are exhausted then pay its own contract benefits (up to its own maximum) until its own benefits are exhausted.

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-060 Claim determination period. A ((~~group~~)) health contract which provides for coordination of benefits shall contain a provision stating the period to be used in applying the coordination provision, as follows: "**Claim determination period**: 'Claim determination period' means calendar year."

AMENDATORY SECTION (Amending Order R 86-6, filed 11/4/86, effective 1/1/87)

WAC 284-51-075 Order of benefit determination. (1) When a claim under a plan with a coordination of benefits provision involves another plan which also has a coordination of benefits provision, the following rules will be applied by the insurers involved to decide the order in which the benefits payable under the respective plans will be determined:

(a) The benefits of a plan which covers the person on whose expenses claim is based other than as a dependent, shall be determined before the benefits of a plan which covers such person as a dependent.

(b) Except for cases of a person for whom claim is made as a dependent child whose parents are separated or divorced, the benefits of a plan which covers the person on whose expenses claim is based as a dependent of a person whose date of birth, excluding year of birth, occurs earlier in a calendar year, shall be determined before the benefits of a plan which covers such person as a dependent of a person whose date of birth, excluding year of birth, occurs later in a calendar year. If either plan does not have the provisions of this subsection regarding dependents, which results either in each plan determining its benefits before the other or in each plan determining its benefits after the other, the provisions of this subsection shall not apply, and the rule set forth in the plan which does not have the provisions of this subsection shall determine the order of benefits. In the case of a person for whom claim is made as a dependent child, however,

(i) When the parents are separated or divorced and the parent with custody of the child has not remarried, the benefits of a plan which covers the child as a dependent of the parent with custody of the child will be determined before the benefits of a plan which covers the child as a dependent of the parent without custody; or

(ii) When parents are divorced and the parent with custody of the child has remarried, the benefits of a plan which covers the child as a dependent of the parent with custody shall be determined before the benefits of a plan which covers that child as a dependent of the stepparent, and the benefits of a plan which covers that child as a dependent of the stepparent will be determined before the benefits of a plan which covers that child as a dependent of the parent without custody; or

(iii) Notwithstanding items (i) and (ii) of this subdivision, if there is a court decree which would otherwise establish financial responsibility for the medical, dental or other health care expenses with respect to the child, the

benefits of a plan which covers the child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other plan which covers the child as a dependent child.

(c) When (a) and (b) of this subsection do not establish an order of benefit determination, the benefits of a plan which has covered the person on whose expenses claim is based for the longer period of time shall be determined before the benefits of a plan which has covered such person the shorter period of time, provided that:

(i) The benefits of a plan covering the person on whose expenses claim is based as a laid off or retired employee, or dependent of such person, shall be determined after the benefits of any other plan covering such person as an employee, other than a laid off or retired employee, or dependent of such person;

(ii) If either plan does not have a provision regarding laid off or retired employees, which results in each plan determining its benefits after the other, then the provisions of (i) of this subsection shall not apply.

(d) If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter time.

(2) If the ((~~policy~~)) health contract provides more than one benefit, the ((~~policy~~)) health contract shall contain a provision stating how the reduction in benefits by the coordination provision affects each benefit under the ((~~policy~~)) health contract. Suggested language for such provision is included in Appendix B, WAC 284-51-185.

(3) A group contract which provides for coordination of benefits shall contain a provision entitled *"Effect on Benefits,"* stating the manner in which benefits are reduced by coordination, which provision shall be substantially as set forth in Appendix B, WAC 284-51-185.

(4) This section takes effect on January 1, 1987. The provisions of this section shall apply to all policy and contract forms subject to this section that are issued on or after this effective date, and all policy and contract forms that were issued prior to said effective date shall be brought into compliance with the requirements of this section by the later of the next anniversary date or renewal date of the group policy or contract, or the expiration of any applicable collectively bargained contract pursuant to which they are written.

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-120 Facility of payment. A ((~~group~~)) health contract which provides for coordination of benefits shall contain a provision substantially as follows: "**Facility of payment**: Whenever payments which should have been made under this Plan in accordance with this provision have been made under any other Plan, the insurer shall have the right, exercisable alone and in its sole discretion, to pay over to any Plan making such other payments any amounts it shall determine to be warranted in order to satisfy the intent of this provision, and amounts so paid shall be considered benefits paid under this Plan and, to the extent of such payments, the insurer shall be fully discharged from liability under this Plan."

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-130 Right of recovery. A ((~~group~~)) health contract which provides for coordination of benefits shall contain a provision substantially as follows: "**Right of recovery**: Whenever payments have been made by the insurer with respect to allowable expenses in total amount, at any time, in excess of the maximum amount of payment necessary at that time to satisfy the intent of this provision, the insurer shall have the right to recover such payments, to the extent of such excess, from one or more of the following, as the insurer shall determine: Any persons to or for or with respect to whom such payments were made, any other insurers, any service plans or any other organizations or other Plans."

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-140 Right to receive and release necessary information. A ((~~group~~)) health contract which provides for coordination of benefits may contain a provision substantially as follows: "**Right to receive and release necessary information**: For the purpose of determining the applicability of and implementing this provision and any provision of similar purpose in any other Plan, the insurer may, with such consent of the insured person as may be necessary, release to or obtain from any other insurer, organization or person any information, with respect to any person, which the insurer considers necessary for such purpose. Any person claiming benefits under this Plan shall furnish to the insurer the information necessary for such purpose."

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-150 Disclosure of coordination. (1) Each certificate of coverage under a ((~~group~~)) health contract which provides for coordination of benefits must contain, at least in summary form, a description of the coordination provision.

(2) Each certificate of coverage shall contain a statement substantially as follows: "If you have other coverage besides ours, we recommend that you submit your claim to us and to each other insurer at the same time. In that way, the proper coordinated benefits may be most quickly determined and paid."

(3) In addition, each insurer shall urge its group clients to take reasonable steps so that those insured by the group policy are exposed to reasonably concise explanations, with as little technical terminology as is consistent with accuracy, of the purpose and operation of the coordination of benefits provision. Such educational effort may, for example, take the form of articles in company magazines or newspapers, speeches before labor organizations or other employee groups, brochures in pay envelopes, notices on bulletin boards and materials used by employers in counseling employees.

AMENDATORY SECTION (Amending Order R 81-2, filed 6/18/81, effective 1/1/82)

WAC 284-51-170 Effective date. This regulation, WAC 284-51-010 through 284-51-180, shall take effect January 1, ((~~1982~~)) 1995.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-51-070	Order of benefit determination.
WAC 284-51-160	Conformity of contracts.

WSR 94-11-123
PREPROPOSAL COMMENTS
COUNTY ROAD ADMINISTRATION BOARD
[Filed May 18, 1994, 11:30 a.m.]

Subject of Possible Rule Making: The County Road Administration Board (CRAB) is proposing to amend portions of the rural arterial program (RAP) rules (chapter 136-100 through 136-250 WAC) changing the advance project programming and selection period from one to two bienniums, setting up a process and criteria for increasing RATA allocations to new projects, setting forth a maximum time period in which a project must proceed without loss of RATA allocation, and various housekeeping items related to clarity and intent.

Persons May Comment on this Subject by Letter to: County Road Administration Board, 2404 Chandler Court SW, Suite 240, Olympia, WA 98504-0913. Attn: Karen Pendleton, Rules Coordinator. Comments may be submitted in person at the above address. All preproposal comments need to be received by June 10, 1994.

Other Information or Comments by Agency at this Time, if any: New and revised WAC text is presently being drafted in preparation for hearing on July 29, 1994. The nature and direction of the proposed amendments is the result of some two year's review and consultation with county engineers throughout the state.

May 16, 1994
Eric A. Berger
Deputy Director

WSR 94-11-124
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed May 18, 1994, 11:33 a.m.]

Original Notice.

Title of Rule: Chapter 296-45 WAC, Safety standard—Electrical workers, chapter 296-54 WAC, Safety standard—Logging operations, chapter 296-59 WAC, Safety standards for ski area facilities and operations, chapter 296-62 WAC, General occupational health standards, chapter 296-155 WAC, Safety standards for construction work, and, chapter 296-305 WAC, Safety standards for firefighters.

Purpose: Chapter 296-45 WAC, Safety standard—Electrical workers, state-initiated proposed amendments to chapter 296-45 WAC are made to correct references necessitated by the federal-initiated change to chapter 296-62 WAC, Part C, Hazard communication. The proposed amendments will not establish any additional compliance requirements; chapter 296-54 WAC, Safety standard—Logging operations, state-initiated proposed amendments to chapter 296-54 WAC are made to correct references necessitated by the federal-initiated change to chapter 296-62 WAC, Part C, Hazard communication. The proposed amendments will not establish any additional compliance requirements; chapter 296-59 WAC, Safety standards for ski area facilities and operations, state-initiated proposed amendments to chapter 296-59 WAC are made to correct references necessitated by the federal-initiated change to chapter 296-62 WAC, Part C, Hazard communication. The proposed amendments will not establish any additional compliance requirements; chapter 296-62 WAC, General occupational health standards, federal-initiated proposed amendments to chapter 296-62 WAC are made for clarification. These changes are minor changes and technical amendments to further clarify labeling requirements; duties of distributors, manufacturers, and importers to provide material safety data sheets to employees; clarifies MSDS provisions; and removes DOT reference. State-initiated proposed amendments to chapter 296-62 WAC are made to correct references from section to part and to indicate that translation of documents by the department will be made with available resources. The proposed amendments will not establish any additional compliance requirements; chapter 296-155 WAC, Safety standards for construction work, state-initiated proposed amendments to chapter 296-155 WAC are made to correct references necessitated by the federal-initiated change to chapter 296-62 WAC, Part C, Hazard communication and to change the title for Part B-2. The proposed amendments will not establish any additional compliance requirements; chapter 296-305 WAC, Safety standards for firefighters, state-initiated proposed amendments to chapter 296-305 WAC are made to correct references necessitated by the federal-initiated change to chapter 296-62 WAC, Part C, Hazard communication. The proposed amendments will not establish any additional compliance requirements.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Marcia Holt, 7273 Linderson Way, Tumwater, WA, (206) 956-5530; Implementation and Enforcement: Suzanne L. Mager, 7273 Linderson Way, Tumwater, WA, (206) 956-5495.

Name of Proponent: Department of Labor and Industries.

Rule is necessary because of Federal Law, FR Volume 59 Number 27, dated February 9, 1994.

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

Name of Proponent: Department of Labor and Industries, governmental.

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.

A small business economic impact statement is not required as federal and state-initiated proposed changes to chapters 296-45, 296-54, 296-59, 296-62, 296-155, and 296-305 WAC are made solely to comply with federal regulations or are changes necessitated by the federal change to chapter 296-62 WAC, Part C, Hazard communication and will not require any additional compliance requirements.

Hearing Location: Department of Labor and Industries Building, First Floor Auditorium, 7273 Linderson Way, Tumwater, WA 98504-4620, on June 21, 1994, at 9:30 a.m.

Submit Written Comments to: Suzanne L. Mager, Assistant Director, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by June 28, 1994. In addition to written comments, the department will accept comments submitted to the following voice mail number and telefacsimile machine number: Voice mail (206) 965-5525 or FAX (206) 956-5529. Comments submitted by FAX must be 10 pages or less.

Date of Intended Adoption: August 3, 1994.

May 18, 1994
Mark O. Brown
Director

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-45-65009 Employer's responsibility. (1) The employer shall provide and maintain the necessary protective devices specified in these rules and require the employees to use them properly.

(2) The employer shall develop and maintain a hazard communication program as required by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) There shall be installed and maintained in every fixed establishment employing eight or more persons a safety bulletin board of a size to display and post safety bulletins, newsletters, posters, accident statistics and other safety educational material. It is recommended that safety bulletin boards be painted green and white.

(4) The employer shall require the ((~~foremen~~)) crew leader to observe and enforce all safety rules and shall furnish a copy of the electrical workers' safety rules to each employee who is covered by these rules.

(5) The employer shall appoint only competent workers to supervise other employees and those appointed shall be responsible for the safety of the employees under their supervision.

(6) The employer shall hold safety meetings at least once a month, which meetings shall be held at a reasonable time and place as selected by the employer. The employer shall require all employees subject to provisions of this chapter to attend said meetings: *Provided,* That employees whose presence is otherwise required by reason of an emergency or whose function is such that they cannot leave their station or cease their work without serious detriment to the service provided, such as dispatcher, may be excused from such meeting under those circumstances.

Minutes shall be kept of each safety meeting and retained for a period of one year.

(7) The employer or a representative(s) designated by him/her shall investigate all accidents or injuries of a serious nature and, where possible, take the proper remedial steps to prevent the occurrence of similar accidents.

(8) The employer shall furnish instructions stating the proper procedure in event of an emergency, which shall include the names of those individuals to be notified and methods of contacting them.

(9) The employer shall provide and make available to all employees accident report and safety suggestion forms.

(10) In the case of fatal accident, immediate notice shall be given by the employer or his/her authorized representative either by telephone or telegraph (collect) to the department of labor and industries, ((~~division of industrial safety and health, Olympia, Washington, or any of its branch offices~~)). All such notices shall include time, place, and date of the accident and the employer's name.

(11) Nothing contained within this chapter shall prohibit an employer or his/her authorized representative from disciplining employees for failure to comply with the provisions of this or any other safety code.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-54-507 Management's responsibility. In addition to observance of the general safety and health standards:

(1) The employer shall assume the responsibility of safety training for new employees.

(2) The employer shall develop and maintain a hazard communication program as required by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) The employer shall assume the responsibility of work assignments so that no employee shall be allowed to work in a position or location so isolated that he/she is not within ordinary calling distance of another employee who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties is carried on, there shall be a minimum of two employees who shall work as a team and shall be in visual or hearing contact with one another to allow prompt awareness of injury or cessation of work activity of one employee by the other. No employee shall be left alone for a period of time to exceed fifteen minutes without visual or hearing contact. In addition, there shall be some system of back-up communication in the near proximity to enable an employee to call for assistance in case of emergency.

Note: This does not apply to operators of motor vehicles, ((~~watchmen~~)) watchpersons or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

(4) The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his/her

crew being accounted for. This standard also includes operators of all movable equipment.

(5) Prior to the commencement of logging operations in a new area or setting, a safety meeting shall be held and a plan shall be developed and implemented whereby management shall ascertain by direct supervision that the work is being carried out with special emphasis on safety and safe work practices.

(6) When extreme weather or other extreme conditions are such that additional hazards arise, additional precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume.

(7) Danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees shall not be exposed to hazards involved.

(8) Management shall ensure that intoxicating beverages and narcotics are not permitted or used by employees on or in the vicinity of the work site. Management shall cause employees under the influence of alcohol or narcotics to be removed from the work site. This requirement does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-59-005 Incorporation of other standards. (1) Lifts and tows shall be designed, installed, operated, and maintained in accordance with American National Standard Institute (ANSI) B77.1-1982, Standards for Passenger Tramways—Aerial Tramways and Lifts, Surface Lifts, and Tows—Safety Requirements.

(2) Future revised editions of ANSI B77.1-1982 may be used for new installations or major modifications of existing installations, as recommended or approved by the equipment manufacturer or a qualified design engineer, except that, where specific provisions exist, variances shall be requested from the department.

(3) Commercial explosives shall be transported, stored, and used in compliance with chapter 296-52 WAC, Safety standards for the possession and handling of explosives, and chapter 70.74 RCW, Washington State Explosives Act, except that avalanche control blasting shall comply with the special provisions of this chapter.

(4) The use of military type weapons for avalanche control shall comply with all requirements of the United States government and/or the military branch having jurisdiction. Compliance shall include qualification of employees, security requirements, and storage and handling of ammunition.

(5) The employer shall develop and maintain a hazard communication program as required by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(6) When employees perform activities such as construction work or logging, the WAC chapter governing the specific activity shall apply, e.g., chapter 296-155 or 296-54 WAC, et seq.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05403 Scope and application. (1) This ((~~section~~)) part requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program ((~~which includes;~~)), labels and other forms of warning, material safety data sheets, and information and training. In addition, this ((~~section~~)) part requires distributors to transmit the required information to employers.

Employers who do not produce or import chemicals need only focus on those parts of this rule that deal with establishing a workplace program and communicating information to their workers. Appendix E of this section is a general guide for such employers to help them determine their compliance obligations under the rule.

Employers within Washington state are required to use the permissible exposure limits (PELs) established in Washington state as listed in the general occupational health standard, WAC 296-62-075, for evaluation of employee exposures and training even though the Occupational Safety and Health Administration (OSHA) PELs or American Conference of Governmental Industrial Hygienists (ACGIH) threshold limit values (TLVs) may be printed on a material safety data sheet (MSDS).

(2) This ((~~section~~)) part applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

(3) This ((~~section~~)) part applies to laboratories only as follows:

(a) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

(b) Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible to laboratory employees when they are in their work areas; ((~~and,~~))

(c) Employers shall ensure that laboratory employees are ((~~apprised of the hazards of the chemicals in their workplaces in accordance with WAC 296-62-05415.~~)) provided information and training in accordance with WAC 296-62-05415, except for the location and availability of the written hazard communication program under WAC 296-62-05415 (1)(c); and

Note: Laboratories are not required to have a written hazard communication program, but they may be required to have a written chemical hygiene plan under WAC 296-62-400.

(d) Laboratory employers that ship hazardous chemicals are considered to be either a chemical manufacturer or a distributor under this rule, and thus must ensure that any containers of hazardous chemicals leaving the laboratory are labeled in accordance with WAC 296-62-05411, and that a material safety data sheet is provided to distributors and other employers in accordance with WAC 296-62-05413.

(4) In work operations where employees only handle chemicals in sealed containers which are not opened under normal conditions of use (such as are found in marine cargo handling, warehousing, or retail sales), this ((~~section~~)) part applies to these operations only as follows:

(a) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

(b) Employers shall maintain copies of any material safety data sheets that are received with incoming shipments of the sealed containers of hazardous chemicals, shall obtain a material safety data sheet as soon as possible for sealed containers of hazardous chemicals received without a material safety data sheet if an employee requests the material safety data sheet, and shall ensure that the material safety data sheets are readily accessible during each work shift to employees when they are in their work area(s); and

(c) Employers shall ensure that employees are provided with information and training in accordance with WAC 296-62-05415 (except for the location and availability of the written hazard communication program under WAC 296-62-05415 (1)(c)) to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container.

(5) This ((~~section~~)) part does not require labeling of the following chemicals:

(a) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when subject to the labeling requirements of that act and labeling regulations issued under that act by the Environmental Protection Agency;

(b) Any chemical substance or mixture as such terms are defined in the Toxic Substance Control Act (15 U.S.C. 2601 et seq.), when subject to the labeling requirements of that act and labeling requirements issued under that act by the Environmental Protection Agency;

(c) Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device or product, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Virus-Serum Toxin Act of 1913 (21 U.S.C. 151 et seq.) and regulations issued under ((~~that act~~)) those acts, when they are subject to the labeling requirements ((~~of that act and labeling regulations issued~~)) under ((~~that act~~)) those acts by either the Food and Drug Administration or the department of agriculture;

((~~(c)~~)) (d) Any distilled spirits (beverage alcohols), wine, or malt beverage((~~s~~)) intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under that act, when subject to the labeling requirements of that act and labeling regulations issued under that act by the Bureau of Alcohol, Tobacco, and Firearms; ((~~and,~~

~~(d)~~)) (e) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those acts, or regulations issued under those acts by the Consumer Product Safety Commission; and

(f) Agricultural or vegetable seed treated with pesticides and labeled in accordance with the Federal Seed Act (7 U.S.C. 1551 et seq.) and the labeling requirements issued under that act by the department of agriculture.

(6) This ((~~section~~)) part does not apply to:

(a) Any hazardous waste as such term is defined by the Hazardous Waste Management Act chapter 70.105 RCW, when subject to regulations issued under that act by the department of ecology which describes specific safety, labeling, personnel training and other standards for the accumulation, handling and management of hazardous waste;

(b) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that act by the Environmental Protection Agency;

(c) Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 et seq.), when subject to regulations issued under that act by the Environmental Protection Agency;

(d) Tobacco or tobacco products;

((~~(e) Wood or wood products;~~

~~(d) Articles;~~

~~(e) Foods, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers;~~

~~(f) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace;~~

~~(g) Any transportation of a hazardous chemical or substance, provided such transportation is subject to regulations issued by the United States department of transportation or the Washington utilities and transportation commission;~~

~~(h) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers; and~~

~~(i) Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (i.e., tablets or pills.)~~)) (e) Wood or wood products, including lumber which will not be processed, where the chemical manufacturer or importer can establish that the only hazard they pose to the employees is the potential for flammability or combustibility (wood or wood products which have been treated with hazardous chemicals covered by this standard, and wood which may be subsequently sawed or cut, generating dust, are not exempted);

(f) Articles (as that term is defined in WAC 296-62-05405(1));

(g) Food or alcoholic beverages which are sold, used, or prepared in a retail establishment (such as grocery store, restaurant, or drinking place), and foods intended for personal consumption by employees while in the workplace;

(h) Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the

PROPOSED

patient (e.g., tablets or pills); drugs which are packaged by the chemical manufacturer for sale to consumers in a retail establishment (e.g., over-the-counter drugs); and drugs intended for personal consumption by employees while in the workplace (e.g., first aid supplies);

(i) Cosmetics which are packaged for sale to consumers in a retail establishment, and cosmetics intended for personal consumption by employees while in the workplace;

(j) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substance Act (15 U.S.C. 1261 et seq.) respectively, where the employer can show that it is used in the workplace for the purpose intended by the chemical manufacturer or importer of the product, and the use results in a duration and frequency of exposure which is not greater than the range of exposures that could reasonably be experienced by consumers when used for the purpose intended;

(k) Ionizing and nonionizing radiation; and

(l) Biological hazards.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05405 Definitions applicable to this ((~~section~~)) part. (1) Article means a manufactured item other than a fluid or particle:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(c) ((~~Which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.~~)) Which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under WAC 296-62-05407), and does not pose a physical hazard or health risk to employees.

(2) Chemical means any element, chemical compound or mixture of elements and/or compounds.

(3) Chemical manufacturer means an employer with a workplace where chemical(s) are produced for use or distribution.

(4) Chemical name means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(5) Combustible liquid means any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which make up ninety-nine percent or more of the total volume of the mixture.

(6) Commercial account means an arrangement whereby a retail distributor sells hazardous chemical(s) to an employer, generally in large quantities over time and/or at costs that are below the regular retail price.

(7) Common name means any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

((~~(7)~~)) (8) Compressed gas means:

(a) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C); or

(b) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D-323-72.

((~~(8)~~)) (9) Container means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this ((~~section~~)) part, pipes or piping systems are not considered to be containers.

((~~(9)~~)) (10) Designated representative means any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

((~~(10)~~)) (11) Director means the director of the department of labor and industries or his/her designee.

((~~(11)~~)) (12) Distributor means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to employers.

((~~(12)~~)) (13) Employee means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise. However, for the purposes of this ((~~section~~)) part, employee shall not mean immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity or officers of any closely held corporation engaged in agricultural production of crops or livestock. This part applies to employees who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies.

((~~(13)~~)) (14) Employer means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any business, industry, profession, or activity in this state and employs one or more employees or who contract with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations. This part applies to employers engaged in a business where chemicals are either used, distributed, or are produced for use or distribution, including a contractor or subcontractor.

((~~(14)~~)) (15) Explosive means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

((~~(15)~~)) (16) Exposure or exposed means that an employee is/was subjected to a hazardous chemical in the course of employment through any route of entry (inhalation,

ingestion, skin contact or absorption, etc.), and includes potential (e.g., accidental or possible) exposure.

((~~(16)~~)) (17) Flammable means a chemical that falls into one of the following categories:

(a) Aerosol flammable((~~:~~)) means an aerosol that, when tested by the method described in 16 CFR 1500.45 yields a flame projection exceeding eighteen inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(b) Gas, flammable((~~:~~)) means:

(i) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen percent by volume or less; or

(ii) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve percent by volume, regardless of the lower limit;

(c) Liquid, flammable((~~:~~)) means any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up ninety-nine percent or more of the total volume of the mixture((~~:~~)).

(d) Solid, flammable((~~:~~)) means a solid, other than a blasting agent or explosive as defined in WAC 296-52-030 or 29 CFR 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

((~~(17)~~)) (18) Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(a) Tagliabue closed tester: (See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(b) Pensky-Martens closed tester: (See American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(c) Setaflash closed tester: (See American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Note: Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified ((~~in (a), (b), or (c) of this subsection~~)) above.

((~~(18)~~)) (19) Foreseeable emergency means any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

((~~(19)~~)) (20) Hazardous chemical means any chemical which is a physical hazard or a health hazard.

((~~(20)~~)) (21) Hazard warning means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the ((~~hazard(s) of the chemical(s) in the container(s).~~)) specific physical or health hazard(s), including target organ effects, of the chemical(s) in the container(s). (See definition for "physical hazard" and "health hazard" to determine the hazards which must be covered.)

((~~(21)~~)) (22) Health hazard means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this ((~~section~~)) part, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

((~~(22)~~)) (23) Identity means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

((~~(23)~~)) (24) Immediate use means that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

((~~(24)~~)) (25) Importer means the first business within ((~~Washington~~)) the Customs Territory of the United States which receives hazardous chemicals produced in other ((~~states or~~)) countries, for the purpose of supplying them to distributors or ((~~purchasers within Washington~~)) employers within the United States.

((~~(25)~~)) (26) Label means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

((~~(26)~~)) (27) Material safety data sheet (MSDS) means written or printed material concerning a hazardous chemical which is prepared in accordance with WAC 296-62-05413.

((~~(27)~~)) (28) Mixture means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

((~~(28)~~)) (29) Organic peroxide means an organic compound that contains the bivalent-0-0-structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

((~~(29)~~)) (30) Oxidizer means a chemical other than a blasting agent or explosive as defined in WAC 296-52-417 or CFR 1910.109(a), that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.

((~~(30)~~)) (31) Permissible exposure limits (PELs) refer to airborne concentrations of substances without regard to the use of respiratory protection and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. The

permissible exposure limits (PELs) shall include the following four categories:

(a) Permissible exposure limits - Time-weighted average (PEL-TWA) is the time weighted average airborne exposure to any 8-hour work shift of a 40-work week which shall not be exceeded.

(b) Permissible exposure limits - Short-term exposure limit (PEL-STEL) is the employee's 15-minute time weighted average exposure which shall not be exceeded at any time during a work day unless another time limit is specified in a parenthetical notation below the limit. If another time period is specified, the time weighted average exposure over that time period shall not be exceeded at any time during the working day.

(c) Permissible exposure limits - Ceiling (PEL-C) is the employee's exposure which shall not be exceeded during any part of the work day. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time over a working day.

(d) "Skin" notation is the potential contribution to the overall employee exposure by the cutaneous route including mucous membranes and eye, either by airborne, or more particularly, by direct contact with the substance. These substances are identified as having a "skin" notation in the OSHA and WISHA PEL tables (29 CFR Part 1910 Subpart Z and WAC 296-62-075, respectively).

(32) Physical hazard means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

((~~(31)~~)) (33) Produce means to manufacture, process, formulate, blend, extract, generate, emit, or repackage.

((~~(32)~~)) (34) Purchaser means an employer with a workplace who purchases a hazardous chemical for use within that workplace.

((~~(33)~~)) (35) Pyrophoric means a chemical that will ignite spontaneously in air at a temperature of 130°F (54.4°C) or below.

((~~(34)~~)) (36) Responsible party means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

((~~(35)~~)) (37) Specific chemical identity means the chemical name, Chemical Abstracts Service (CAS) registry number, or any other information that reveals the precise chemical designation of the substance.

((~~(36)~~)) (38) Threshold limit values (TLVs) refer to airborne concentrations of substances without regard to the use of respiratory protection and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. The TLV includes the TLV-Time weighted average (TLV-TWA), TLV-Short term exposure limit (TLV-STEL), TLV-Ceiling (TLV-Ceiling) and "skin" notation as stated in the most recent edition of the *'Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices'* from the American Conference of Governmental Industrial Hygienists (ACGIH).

(39) Trade secret means any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. WAC 296-62-05427, Appendix D, provides a legal definition of trade secret and WAC 296-62-05417 sets out the criteria to be used in evaluating trade secrets.

((~~(37)~~)) (40) Unstable (reactive) means a chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

((~~(38)~~)) (41) Use means to package, handle, react, emit, extract, generate as a by-product, or transfer.

((~~(39)~~)) (42) Water-reactive means a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

((~~(40)~~)) (43) Work area means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

((~~(41)~~)) (44) Workplace means an establishment, job site, or project, at one geographical location containing one or more work areas.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05407 Hazard determination. (1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(2) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning physical and health hazards. For health hazards, evidence which is statistically significant and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this ((~~section~~)) part. WAC 296-62-05421, Appendix A, shall be consulted for the scope of health hazards covered, and WAC 296-62-05423, Appendix B, shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

(3) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

(a) Chapter 296-62 WAC, General occupational health standard((~~s - Safety standards for carcinogens~~)); ((~~or,~~))

(b) 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or

(c) *Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment,* American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).

Note: The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with ((~~the~~)) this requirement((~~s~~)) of the standard.

(4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

(a) National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);

(b) International Agency for Research on Cancer (IARC) Monographs (latest editions); ((~~or~~))

(c) ((~~Chapter 296-62 WAC, Occupational health standards—Safety standards for carcinogens—Part F—Carcinogens.~~)) Chapter 296-62 WAC, General occupational health standards; or

(d) 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

Note: The *Registry of Toxic Effects of Chemical Substances* published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be a potential carcinogen.

(5) The chemical manufacturer, importer or employer shall determine the hazards of mixtures of chemicals as follows:

(a) If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

(b) If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under WAC 296-62-05407(4);

(c) If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and((~~,~~))

(d) If the chemical manufacturer, importer, or employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established WISHA or OSHA permissible exposure limit or ACGIH threshold limit value, or could present a health ((~~hazard~~)) risk to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(6) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the director or his/her designee and the National Institute of Occupational Safety and Health (NIOSH). The written description may be incorporated into the written hazard communication program required under WAC 296-62-05409.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05409 Written hazard communication program. (1) Employers shall develop, implement, and maintain at the workplace a written hazard communication program for their workplaces which at least describes how the criteria specified in WAC 296-62-05411, 296-62-05413 and 296-62-05415, for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following:

(a) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and

(b) The methods the employer will use to inform employees of the hazards of nonroutine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

(2) Multi-employer workplaces. Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employer(s) may be exposed (for example, employees of a construction contractor working on site) shall additionally ensure that the hazard communication programs developed and implemented under this ((~~section~~)) part include the following:

(a) The methods the employer will use to provide the other employer(s) with a copy of the material safety data sheet, or to make it available at a central location ((~~in the workplace~~)) on the worksite, for each hazardous chemical the other employer(s)' employees may be exposed to while working;

(b) The methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and

(c) The methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.

(3) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this ((~~section~~)) part.

(4) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, ((~~and~~)) the director or his/her designee and the National Institute of Occupational Safety and Health (NIOSH), in accordance with the requirements of WAC 296-62-05209.

(5) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the written hazard communication program may be kept at the primary workplace facility.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05411 Labels and other forms of warning. (1) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous

chemicals leaving the workplace is labeled, tagged or marked with the following information:

(a) Identity of the hazardous chemical(s);

(b) Appropriate hazard warnings; and

(c) Name and address of the chemical manufacturer, importer, or other responsible party.

(2)(a) For solid metal (such as a steel beam or a metal casting) ((~~that is~~)), solid wood, or plastic items that are not exempted as ((~~an~~)) articles due to ((~~its~~)) their downstream use, or shipments of whole grain, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes((~~,~~));

(b) The label may be transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided prior to or at the time of the first shipment((~~,~~)); and

(c) This exception to requiring labels on every container of hazardous chemicals is only for the solid ((~~metal~~)) material itself and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the ((~~metal~~)) material and to which employees handling the ((~~metal~~)) items in transit may be exposed (for example, cutting fluids or ((~~lubricants.~~)) pesticides in grain).

(3) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this ((~~section~~)) part in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (((~~18~~)) 49 U.S.C. 1801 et seq.) and regulations issued under that act by the department of transportation.

(4) If the hazardous chemical is regulated by WISHA or OSHA in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(5) Except as provided in subsection (6) and (7) of this section, the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with the following information:

(a) Identity of the hazardous chemical(s) contained therein; and

(b) Appropriate hazard warnings, or alternatively, words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide the employees with the specific information regarding the physical and health hazards of the hazardous chemical.

(6) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by subsection (5) of this section to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

(7) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer. For purposes of this part, drugs which are dispensed by a pharmacy to a health care provider for direct administration to a patient are exempted from labeling.

(8) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

(9) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

(10) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this ((~~section~~)) part if existing labels already convey the required information.

(11) Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical shall revise the labels for the chemical within three months of becoming aware of the new information. Labels on containers of hazardous chemicals shipped after that time shall contain the new information. If the chemical is not currently produced or imported, the chemical manufacturer, importers, distributor, or employer shall add the information to the label before the chemical is shipped or introduced into the workplace again.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05413 Material safety data sheets. (1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet (MSDS) for each hazardous chemical they produce or import. Employers shall have a material safety data sheet for each hazardous chemical which they use.

(2) Each material safety data sheet shall be in English (although the employer may maintain copies in other languages as one way to provide employees with effective information and training as required by WAC 296-62-05415) and shall contain at least the following information:

(a) The identity used on the label, and, except as provided for in WAC 296-62-05417 on trade secrets:

(i) If the hazardous chemical is a single substance, its chemical and common name(s);

(ii) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or((~~,~~))

(iii) If the hazardous chemical is a mixture which has not been tested as a whole:

(A) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except

that chemicals identified as carcinogens under WAC 296-62-05407(4) shall be listed if the concentrations are 0.1% or greater; and((,))

(B) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than one percent (0.1% for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established WISHA or OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health ((~~hazard~~)) risk to employees; and((,))

(C) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

(b) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

(c) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(d) The acute and chronic health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(e) The primary route(s) of entry;

(f) The WISHA or OSHA permissible exposure limit, ACGIH threshold limit value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet (the PELs and TLVs include the 8-hour TWA, STEL, ceiling value and skin notation defined in WAC 296-62-05405), where available;

(g) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by WISHA or OSHA;

(h) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(i) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(j) Emergency and first aid procedures;

(k) The date of preparation of the material safety data sheet or the last change to it; and((,))

(l) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(6)(a) Chemical manufacturers or importers shall ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated((.));

(b) The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment((.));

(c) If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer shall obtain one from the chemical manufacturer((~~, importer, or distributor~~)) or importer as soon as possible; and

(d) The chemical manufacturer or importer shall also provide distributors or employers with a material safety data sheet upon request.

(7) ((~~Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and employers. Retail distributors which sell hazardous chemicals to commercial customers shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available. Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors which have informed them that the retail distributor does not sell the product to commercial customers or open the sealed container to use it in their own workplaces.~~

~~(8) The employer shall maintain copies of the required material safety data sheets for each hazardous chemical in the workplace, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s).~~)) (a) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated;

(b) The distributor shall either provide material safety data sheets with the shipped containers, or send them to the other distributor or employer prior to or at the time of the shipment;

(c) Retail distributors selling hazardous chemicals to employers having a commercial account shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available;

(d) Wholesale distributors selling hazardous chemicals to employers over-the-counter may also, as an alternative to keeping a file of material safety data sheets for all hazardous chemicals they sell, provide material safety data sheets upon the request of the employer at the time of the over-the-counter purchase, and shall post a sign or otherwise inform such employers that a material safety data sheet is available;

(e) If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have material safety data sheets on file (i.e., the retail distributor does not have a commercial account and does not use the materials), the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained;

(f) Wholesale distributors shall also provide material safety data sheets to employers or other distributors upon request; and

(g) Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors that have informed them that the retail distributor does not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

(8) The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

(9) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the material safety data sheets may be kept at a central location at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

(10) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(11) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the director or his/her designee in accordance with the requirements of WAC 296-62-05209. NIOSH shall also be given access to material safety data sheets in the same manner.

(12) If a purchaser has not received a material safety data sheet within thirty calendar days after making a written request to the chemical manufacturer, importer, or distributor in accordance with WAC 296-62-05413(6), he/she may make a written request for assistance to the Department of Labor and Industries, Right-to-Know Program, ((~~Industrial Hygiene Section,~~)) P.O. Box ((~~207~~)) 44610, Olympia, Washington 98504-4610. Such written request shall include:

(a) A copy of the purchaser's written request to the chemical manufacturer, importer, or distributor;

(b) The name of the product suspected of containing a hazardous chemical;

(c) The identification number of the product if available;

(d) A copy of the product label if available; and

(e) The name and address of the chemical manufacturer, importer, or distributor from whom the product was obtained.

Upon receipt of a written request for material safety data sheet, the department shall attempt to procure the material safety data sheet from the chemical manufacturer, importer or distributor and upon procurement, shall forward a copy of the material safety data sheet at no cost to the purchaser. In providing this service priority will be given to small employers.

AMENDATORY SECTION (Amending Order 86-22, filed 5/22/86)

WAC 296-62-05415 Employee information and training. (1) Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new ((~~hazard~~)) physical or health hazard the employees have not previously been trained about is introduced into their work area. Such information and training shall be tailored to the types of hazards to which the employees will be exposed. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and material safety data sheets.

Note: See Appendix E for guidelines.

((~~(1)~~)) (2) Information. Employees shall be informed of:

(a) The requirements of this ((~~section~~)) part;

(b) Any operations in their work area where hazardous chemicals are present; and((~~,~~))

(c) The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by this ((~~section~~)) part.

Note: Laboratories are not required to have a written hazard communication program, but it is recommended.

((~~(2)~~)) (3) Training. Employee training shall include at least:

(a) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);

(b) The physical and health hazards of the chemicals in the work area including the likely physical symptoms or effects of overexposure;

(c) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and((,))

(d) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

(((~~(3)~~))) (4) Upon receipt of a written or verbal request, the department shall prepare and make available (within available resources) to employers or the public a translation in Cambodian, Chinese, Korean, Spanish, or Vietnamese any of the following:

(a) An employer's written hazard communication program;

(b) A material safety data sheet; or

(c) Written materials prepared by the department to inform employees of their rights relating to hazard communication, WAC 296-62-054 through ((~~296-62-05427~~)) 296-62-05429.

Note: Written requests should be directed to the Department of Labor and Industries, Right-to-know Program, P.O. Box 44610, Olympia, Washington 98504-4610.

(((~~(4)~~))) (5) An employer employing employees who have trouble communicating in English shall make reasonable efforts to post notices in the employees' native languages as provided by the department.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05417 Trade secrets. (1) The chemical manufacturer, importer, or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

(c) The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and((,))

(d) The specific chemical identity is made available to health professionals, employees, and designated representatives, in accordance with the applicable provisions of this section.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (3) and (4) of this section, as soon as circumstances permit.

(3) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (1) of this section, to a health professional (i.e. physician, registered nurse, industrial hygienist, toxicologist, ((~~or~~)) epidemiologist or occupational health nurse) providing medical or other occupational health services to exposed employee(s), and to employees or designated representatives, if:

(a) The request is in writing;

(b) The request describes with reasonable detail one or more of the following occupational health needs for the information:

(i) To assess the hazards of the chemicals to which employees will be exposed;

(ii) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(iii) To conduct preassignment or periodic medical surveillance of exposed employees;

(iv) To provide medical treatment to exposed employees;

(v) To select or assess appropriate personal protective equipment for exposed employees;

(vi) To design or assess engineering controls or other protective measures for exposed employees; and((,))

(vii) To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information to the health professional, employee, or designated representatives, would not satisfy the purposes described in (b) of this subsection:

(i) The properties and effects of the chemical;

(ii) Measures for controlling workers' exposure to the chemical;

(iii) Methods of monitoring and analyzing worker exposure to the chemical; and((,))

(iv) Methods of diagnosing and treating harmful exposures to the chemical;

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and((,))

(e) The health professional, and the employer or contractor of the services of the health professional (i.e., downstream employer, labor organization, or individual employee), employee, or designated representative, agree in a written confidentiality agreement that the health professional employee, or designated representative, will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to the department, as provided in subsection (6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

(4) The confidentiality agreement authorized by subsection (3)(e) of this section:

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable preestimate of likely damages; and((~~,~~))

(c) May not include requirements for the posting of a penalty bond.

(5) Nothing in this ((~~section~~)) part is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(6) If the health professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to the department, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional, employee, or designated representative prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional, employee, or designated representative, within thirty days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and((~~,~~))

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional, employee, or designated representative, whose request for information is denied under subsection (3) of this section may refer the request and the written denial of the request to the department for consideration.

(9) When a health professional, employee, or designated representative refers the denial to the department under subsection (8) of this section, the director or his/her designee shall consider the evidence to determine if:

(a) The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional, employee, or designated representative, has supported the claim that there is a medical or occupational health need for the information; and((~~,~~))

(c) The health professional, employee, or designated representative, has demonstrated adequate means to protect the confidentiality.

(10) If the director or his/her designee determines that the specific chemical identity requested under subsection (3) of this section is not a bona fide trade secret, or that it is a trade secret but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by the department.

(11) If a chemical manufacturer, importer, or employer demonstrates to the department that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the director or his/her designee may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

(12) If, following the issuance of a citation and any protective orders, the chemical manufacturer, importer, or employer continues to withhold the information, further action may be taken by the department in accordance with chapter 49.17 RCW.

(13) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the director or his/her designee any information which this section requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the director or his/her designee so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(14) Nothing in this section shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is a trade secret.

AMENDATORY SECTION (Amending Order 84-14, filed 6/7/84)

WAC 296-62-05419 Effective dates. ((~~Employers shall be in compliance with this section within the following time periods:~~

~~(1) Chemical manufacturers and importers shall label containers of hazardous chemicals leaving their workplaces, and provide material safety data sheets with initial shipments by November 25, 1985.~~

~~(2) Distributors shall be in compliance with all provisions of this section applicable to them by November 25, 1985.~~

~~(3) Employers shall be in compliance with all provisions of this section by May 25, 1986, including initial training for all current employees.~~)) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05421 Appendix A—Health hazard definitions (mandatory). Although safety hazards related to the physical characteristics of a chemical can be objectively defined in terms of testing requirements (e.g., flammability), health hazard definitions are less precise and more subjective. Health hazards may cause measurable changes in the body—such as decreased pulmonary function. These changes are generally indicated by the occurrence of signs and symptoms in the exposed employees—such as shortness of breath, a nonmeasurable, subjective feeling. Employees exposed to such hazards must be apprised of both the change in body function and the signs and symptoms that may occur to signal that change.

The determination of occupational health hazards is complicated by the fact that many of the effects or signs and symptoms occur commonly in nonoccupationally exposed populations, so that effects of exposure are difficult to separate from normally occurring illnesses. Occasionally, a

substance causes an effect that is rarely seen in the population at large, such as angiosarcomas caused by vinyl chloride exposure, thus making it easier to ascertain that the occupational exposure was the primary causative factor. More often, however, the effects are common, such as lung cancer. The situation is further complicated by the fact that most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects.

There have been many attempts to categorize effects and to define them in various ways. Generally, the terms "acute" and "chronic" are used to delineate between effects on the basis of severity or duration. "Acute" effects usually occur rapidly as a result of short-term exposures, and are of short duration. "Chronic" effects generally occur as a result of long-term exposure, and are of long duration.

The acute effects referred to most frequently are those defined by the American National Standards Institute (ANSI) standard for Precautionary Labeling of Hazardous Industrial Chemicals (Z129.1-((~~1982~~)) 1988) — irritation, corrosivity, sensitization and lethal dose. Although these are important health effects, they do not adequately cover the considerable range of acute effects which may occur as a result of occupational exposure, such as, for example, narcosis.

Similarly, the term chronic effect is often used to cover only carcinogenicity, teratogenicity, and mutagenicity. These effects are obviously a concern in the workplace, but again, do not adequately cover the area of chronic effects, excluding, for example, blood dyscrasias (such as anemia), chronic bronchitis and liver atrophy.

The goal of defining precisely, in measurable terms, every possible health effect that may occur in the workplace as a result of chemical exposures cannot realistically be accomplished. This does not negate the need for employees to be informed of such effects and protected from them.

Appendix B, which is also mandatory, outlines the principles and procedures of hazard assessment.

For purposes of this ((~~section~~)) part, ((~~health hazards include but are not limited to~~)) any chemicals which meet any of the following definitions, as determined by the criteria set forth in Appendix B are health hazards. However, this is not intended to be an exclusive categorization scheme. If there are available scientific data that involve other animal species or test methods, they must also be evaluated to determine the applicability of the HCS.

(1) Carcinogen((~~,~~)): A chemical is considered to be a carcinogen if:

(a) It has been evaluated by the International Agency for Research on Cancer (IARC), and found to be a carcinogen or potential carcinogen; or

(b) It is listed as a carcinogen or potential carcinogen in the Annual Report on Carcinogens published by the National Toxicology Program (NTP) (latest edition); or((~~,~~))

(c) It is regulated by WISHA as a carcinogen.

(2) Corrosive((~~,~~)): A chemical that causes visible destruction of, or irreversible alterations in, living tissue by chemical action at the site of contact. For example, a chemical is considered to be corrosive if, when tested on the intact skin of albino rabbits by the method described by the U.S. Department of Transportation in Appendix A to 49 CFR Part 173, it destroys or changes irreversibly the structure of the tissue at the site of contact following an exposure period of four hours. This term shall not refer to action on inanimate surfaces.

(3) Highly toxic((~~,~~)): A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD_{50}) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD_{50}) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC_{50}) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

(4) Irritant((~~,~~)): A chemical, which is not corrosive, but which causes a reversible inflammatory effect on living tissue by chemical action at the site of contact. A chemical is a skin irritant if, when tested on the intact skin of albino rabbits by the methods of 16 CFR 1500.41 for four hours exposure or by other appropriate techniques, it results in an empirical score of five or more. A chemical is an eye irritant if so determined under the procedure listed in 16 CFR 1500.42 or other appropriate techniques.

(5) Sensitizer((~~,~~)): A chemical that causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure to the chemical.

(6) Toxic((~~,~~)): A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD_{50}) of more than 50 milligrams per kilogram but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD_{50}) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC_{50}) in air of more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

(7) Target organ effects((~~,~~)): The following is a target organ categorization of effects which may occur, including examples of signs and symptoms and chemicals which have been found to cause such effects. These examples are presented to illustrate the range and diversity of effects and hazards found in the workplace, and the broad scope employers must consider in this area, but are not intended to be all-inclusive.

(a) Hepatotoxins:	Chemicals which produce liver damage.
Signs & symptoms:	Jaundice, liver enlargement.
Chemicals:	Carbon tetrachloride, nitrosamines.
(b) Nephrotoxins:	Chemicals which produce kidney damage.
Signs & symptoms:	Edema; proteinuria.
Chemicals:	Halogenated hydrocarbons; uranium.
(c) Neurotoxins:	Chemicals which produce their primary toxic effects on the nervous system.
Signs & symptoms:	Narcosis; behavioral changes; decrease in motor functions.
Chemicals:	Mercury, carbon disulfide.
(d) Agents which act on the blood or hematopoietic system:	Decrease hemoglobin function; deprive the body of oxygen.
Signs & symptoms:	Cyanosis; loss of consciousness.
Chemicals:	Carbon monoxide; cyanides.
(e) Agents which damage the lung:	Chemicals which irritate or damage the pulmonary tissue.
Signs & symptoms:	Cough; tightness in chest; shortness of breath.
Chemicals:	Silica; asbestos.
(f) Reproductive toxins:	Chemicals which affect the reproductive capabilities including chromosomal damage (mutations) and effects on fetuses (teratogenesis).
Signs & symptoms:	Birth defects; sterility.
Chemicals:	Lead; DBCP.
(g) Cutaneous hazards:	Chemicals which affect the dermal layer of the body.
Signs & symptoms:	Defatting of the skin; rashes; irritation.
Chemicals:	Ketones; chlorinated compounds.
(h) Eye hazards:	Chemicals which affect the eye or visual capacity.
Signs & symptoms:	Conjunctivitis; corneal damage.
Chemicals:	Organic solvents; acids.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05423 Appendix B—Hazard determination (mandatory). The quality of a hazard communication program is largely dependent upon the adequacy and accuracy of the hazard determination. The hazard determination requirement of this standard is performance-oriented. Chemical manufacturers, importers, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, but they must be able to demonstrate that they have adequately ascertained the hazards of the chemicals produced or imported in accordance with the criteria set forth in this appendix.

Hazard evaluation is a process which relies heavily on the professional judgment of the evaluator, particularly in the area of chronic hazards. The performance-orientation of the hazard determination does not diminish the duty of the chemical manufacturer, importer or employer to conduct a thorough evaluation, examining all relevant data and producing a scientifically defensible evaluation. For purposes of this standard, the following criteria shall be used in making hazard determinations that meet the requirements of this standard.

(1) Carcinogenicity((:)): As described in WAC 296-62-05407(4) and Appendix A of this section, a determination by the National Toxicology Program, the International Agency for Research on Cancer, ((or)) WISHA or OSHA that a chemical is a carcinogen or potential carcinogen will be considered conclusive evidence for purposes of this ((section)) part. In addition, however, all available scientific data on carcinogenicity must be evaluated in accordance with the provisions of the appendix and the requirements of this standard.

(2) Human data((:)): Where available, epidemiological studies and case reports of adverse health effects shall be considered in the evaluation.

(3) Animal data((:)): Human evidence of health effects in exposed populations is generally not available for the majority of chemicals produced or used in the workplace. Therefore, the available results of toxicological testing in animal populations shall be used to predict the health effects that may be experienced by exposed workers. In particular, the definitions of certain acute hazards refer to specific animal testing results (see Appendix A).

(4) Adequacy and reporting of data. The results of any studies which are designed and conducted according to established scientific principles, and which report statistically significant conclusions regarding the health effects of a chemical, shall be a sufficient basis for a hazard determination and reported on any material safety data sheet. In vitro studies alone generally do not form the basis for a definitive finding of a hazard under the HCS since they have a positive or negative result rather than a statistically significant finding.

The chemical manufacturer, importer, or employer may also report the results of other scientifically valid studies which tend to refute the findings of hazard.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-05425 Appendix C—Information sources (advisory). The following is a list of available data sources which the chemical manufacturer, importer, or employer may wish to consult to evaluate the hazards of chemicals they produce or import:

(1) Any information in their own company files, such as toxicity testing results or illness experience of company employees.

(2) Any information obtained from the supplier of the chemical, such as material safety data sheets or product safety bulletins.

(3) Any pertinent information obtained from the following source list (latest editions should be used):

Condensed Chemical Dictionary
Van Nostrand Reinhold Co.
135 West 50th Street
New York, NY 10020

The Merck Index: An Encyclopedia of Chemicals and Drugs
Merck and Company, Inc.
126 E. Lincoln Avenue
Rahway, NJ 07065

IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man
Geneva: World Health Organization
International Agency for Research on Cancer, 1972((~~1977~~)) Present (Multivolume work)
Summaries are available in ((~~supplemental~~)) supplement volumes.
49 Sheridan Street
Albany, New York 12210

Industrial Hygiene and Toxicology, by F.A. Patty
John Wiley & Sons, Inc.
New York, NY
(((~~Five volumes~~))) (Multivolume work)

Clinical Toxicology of Commercial Products
Gleason, Gosselin, and Hodge

Casarett and Doull's Toxicology; The Basic Science of Poisons
Doull, Klaassen, and Amdur
Macmillan Publishing Co., Inc.
New York, NY

Industrial Toxicology, by Alice Hamilton and Harriet L. Hardy
Publishing Sciences Group, Inc.
Acton, MA

Toxicology of the Eye, by W. Morton Grant
Charles C. Thomas
301-327 East Lawrence Avenue
Springfield, IL

Recognition of Health Hazards in Industry
William A. Burgess
John Wiley and Sons
605 Third Avenue
New York, NY 10158

Chemical Hazards of the Workplace
Nick H. Proctor and James P. Hughes
J.P. Lipincott Company
6 Winchester Terrace
New York, NY 10022

Handbook of Chemistry and Physics
Chemical Rubber Company
18901 Cranwood Parkway
Cleveland, OH 44128

Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment and Biological Exposure Indices with Intended Changes
American Conference of Governmental Industrial Hygienists (ACGIH)
6500 Glenway Avenue, Bldg. D-5
Cincinnati, OH 45211

Note: Information on the physical hazards of chemicals may be found in publication((~~s~~))s of the National Fire Protection Association, Boston, MA.

National Toxicology Program (NTP) Annual Report on Carcinogens (Latest Edition)
National Technical Information Service (NTIS)
5285 Port Royal Road
Springfield, VA 22101

Note: The following documents may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Occupational Health Guidelines
NIOSH/OSHA (NIOSH Pub. No. 81-123)

NIOSH Pocket Guide to Chemical Hazards
NIOSH Pub. No. ((~~85-14~~)) 90-117

Registry of Toxic Effects of Chemical Substances
((~~NIOSH Pub. No. 80-102~~)) (Latest Edition)

Miscellaneous Documents published by the National Institute for Occupational Safety and Health:

(1) Criteria documents

(2) Special Hazard Reviews

(3) Occupational Hazard Assessment

(4) Current Intelligence Bulletins

(((~~(5) WISHA's Occupational Health standards - Safety standards for carcinogens, chapter 296-62 WAC - Part F - Carcinogens.~~)))

WISHA's General Occupational Health Standards, chapter 296-62 WAC.

OSHA's General Industry Standards (29 CFR Part 1910)

NTP Annual Report on Carcinogens and Summary of the Annual Report on Carcinogens

BIBLIOGRAPHIC DATA BASES

Service Provider	File Name
Bibliographic Retrieval Services (BRS), 1200 Route 7, Latham, NY 12110.	Biosis Previews CA Search Medlars NTIS Hazardline American Chemical Society Journal ((~~Excerpta~~)) Excerpta Medica IRCS Medical Science Journal Pre-Med Intl. Pharmaceutical Abstracts Paper Chem

Lockheed - DIALOG Information Service, Inc., 3460 Hill View Avenue, Palo Alto, CA 94304.	Biosis Prev. Files CA Search Files CAB Abstracts Chemical Exposure Chemname Chemsis Files Chemzero Embase Files Environmental Bibliographies Enviroline Federal Research in Progress IRL Life Science Collection NTIS Occupational Safety and Health (NIOSH) Paper Chem
SDC - Orbit, SDC Information Service, 2500 Colorado Avenue, Santa Monica, CA 90406.	CAS Files Chemdex, 2,3 NTIS
National Library of Medicine, Department of Health and Human Services, Public Health Service, National Institutes of Health, Bethesda, MD 20209.	Hazardous Substances Data Bank (NSDB) Medline Files Toxline Files Cancerlit RTECS Chemline
Pergamon International Information Corp., 1340 Old Chain Bridge, Rd., McLean, VA 22101.	Laboratory Hazard Bulletin
Questel, Inc., 1625 Eye Street, NW. Suite 818, Washington, DC 20006.	CIS/ILO Cancernet
Chemical Information System ICI (ICIS), Bureau of National Affairs, 1133 15th Street, NW. Suite 300, Washington, DC 20005.	Structure and Nomenclature Search System (SANSS) Acute Toxicity (RTECS) Clinical Toxicology of Commercial Products Oil and Hazardous Materials Technical Assistance Data System CCRIS CESARS
Occupational Health Services, 400 Plaza Drive, Secaucus, NJ 07094.	MSDS Hazardline

AMENDATORY SECTION (Amending Order 87-06, filed 4/27/87)

WAC 296-62-05427 Appendix D. Definition of "trade secret" (mandatory)

The following is a reprint of the *Restatement of Torts* section 757, comment *b* (1939):

((")))b. Definition of trade secret. A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business (see § 759 of the *Restatement of Torts* which is not included in this Appendix) in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a process or device for continuous use in the operations of the business. Generally it relates to the production of goods, as, for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

Secrecy. The subject matter of a trade secret must be secret. Matters of public knowledge or of general knowledge in an industry cannot be appropriated by one as his secret. Matters which are completely disclosed by the goods which one markets cannot be his secret. Substantially, a trade secret is known only in the particular business in which it is used. It is not requisite that only the proprietor of the business know it. He may, without losing his protection, communicate it to employees involved in its use. He may likewise communicate it to others pledged to secrecy. Others may also know of it independently, as, for example, when they have discovered the process or formula by independent invention and are keeping it secret. Nevertheless, a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one's trade secret are: (1) The extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Novelty and prior art. A trade secret may be a device or process which is patentable; but it need not be that. It may be a device or process which is clearly anticipated in the prior art or one which is merely a mechanical improvement that a good mechanic can make. Novelty and invention are not requisite for a trade secret as they are for patentability. These requirements are essential to patentability because a patent protects against unlicensed use of the patented device or process even by one who discovers it properly through independent research. The patent monopoly is a reward to the inventor. But such is not the case with

a trade secret. Its protection is not based on a policy of rewarding or otherwise encouraging the development of secret processes or devices. The protection is merely against breach of faith and reprehensible means of learning another's secret. For this limited protection it is not appropriate to require also the kind of novelty and invention which is a requisite of patentability. The nature of the secret is, however, an important factor in determining the kind of relief that is appropriate against one who is subject to liability under the rule stated in this Section. Thus, if the secret consists of a device or process which is a novel invention, one who acquires the secret wrongfully is ordinarily enjoined from further use of it and is required to account for the profits derived from his past use. If, on the other hand, the secret consists of mechanical improvements that a good mechanic can make without resort to the secret, the wrongdoer's liability may be limited to damages, and an injunction against future use of the improvements made with the aid of the secret may be inappropriate.

NEW SECTION

WAC 296-62-05429 Appendix E—Guidelines for employer compliance (advisory). The hazard communication standard (HCS) is based on a simple concept—that employees have both a need and a right to know the hazards and identities of the chemicals they are exposed to when working. They also need to know what protective measures are available to prevent adverse effects from occurring. The HCS is designed to provide employees with the information they need.

Knowledge acquired under the HCS will help employers provide safer workplaces for their employees. When employers have information about the chemicals being used, they can take steps to reduce exposures, substitute less hazardous materials, and establish proper work practices. These efforts will help prevent the occurrence of work-related illnesses and injuries caused by chemicals.

The HCS addresses the issues of evaluating and communicating hazards to workers. Evaluation of chemical hazards involves a number of technical concepts, and is a process that requires the professional judgment of experienced experts. That is why the HCS is designed so that employers who simply use chemicals, rather than produce or import them, are not required to evaluate the hazards of those chemicals. Hazard determination is the responsibility of the producers and importers of the materials. Producers and importers of chemicals are then required to provide the hazard information to employers that purchase their products.

Employers that do not produce or import chemicals need only focus on those parts of the rule that deal with establishing a workplace program and communicating information to their workers. This appendix is a general guide for such employers to help them determine what is required under the rule. It does not supplant or substitute for the regulatory provisions, but rather provides a simplified outline of the steps an average employer would follow to meet those requirements.

1. Becoming Familiar With The Rule.

WISHA has provided a simple summary of the HCS in a pamphlet entitled *"Hazardous Chemicals - Right to Know - Washington Hazard Communication Standard"* WISHA Publication Number P413-014-000. Some employers prefer to begin to become familiar with the rule's requirements by reading this pamphlet. A copy may be obtained from your local WISHA office.

The standard is long, and some parts of it are technical, but the basic concepts are simple. In fact, the requirements reflect what many employers have been doing for years. You may find that you are already largely in compliance with many of the provisions, and will simply have to modify your existing programs somewhat. WISHA is an OSHA-approved state plan state, and you must comply with the state's requirements, which may be different than those of the federal rule.

The HCS requires information to be prepared and transmitted regarding all hazardous chemicals. The HCS covers both physical hazards (such as flammability), and health hazards (such as irritation, lung damage, and cancer). Most chemicals used in the workplace have some hazard potential, and thus will be covered by the rule.

One difference between this rule and many others adopted by WISHA is that this one is performance-oriented. That means that you have the flexibility to adapt the rule to the needs of your workplace, rather than having to follow specific, rigid requirements. It also means that you have to exercise more judgment to implement an appropriate and effective program.

The standard's design is simple. Chemical manufacturers and importers must evaluate the hazards of the chemicals they produce or import. Using that information, they must then prepare labels for containers, and more detailed technical bulletins called material safety data sheets (MSDS).

Chemical manufacturers, importers, and distributors of hazardous chemicals are all required to provide the appropriate labels and material safety data sheets to the employers to which they ship the chemicals. The information is to be provided automatically. Every container of hazardous chemicals you receive must be labeled, tagged, or marked with the required information. Your suppliers must also send you a properly completed material safety data sheet (MSDS) at the time of the first shipment of the chemical, and with the next shipment after the MSDS is updated with new and significant information about the hazards.

You can rely on the information received from your suppliers. You have no independent duty to analyze the chemical or evaluate the hazards of it.

Employers that "use" hazardous chemicals must have a program to ensure the information is provided to exposed employees. "Use" means to package, handle, react, or transfer. This is an intentionally broad scope, and includes any situation where a chemical is present in such a way that employees may be exposed under normal conditions of use or in a foreseeable emergency.

The requirements of the rule that deal specifically with the hazard communication program are found in WAC 296-62-05409, Written hazard communication program; WAC 296-62-05411, Labels and other forms of warning; WAC 296-62-05413, Material safety data sheets; and WAC 296-62-05415, Employee information and training. The requirements of these paragraphs should be the focus of your attention. Concentrate on becoming familiar with them, using WAC 296-62-05403, Scope and application, and WAC

296-62-05405, Definitions applicable to this part, as references when needed to help explain the provisions.

There are two types of work operations where the coverage of the rule is limited. These are laboratories and operations where chemicals are only handled in sealed containers (e.g., a warehouse). The limited provisions for these workplaces can be found in WAC 296-62-05403, Scope and application. Basically, employers having these types of work operations need only keep labels on containers as they are received; maintain material safety data sheets that are received, and give employees access to them; and provide information and training for employees. Employers do not have to have written hazard communication programs and lists of chemicals for these types of operations. Some of these employers may have to comply with other similar standards which have requirements for a written program. For example, laboratories may be required to have a written chemical hygiene plan under WAC 296-62-400, Hazardous chemicals in laboratories.

The limited coverage of laboratories and sealed container operations addresses the obligation of an employer to the workers in the operations involved, and does not affect the employer's duties as a distributor of chemicals. For example, a distributor may have warehouse operations where employees would be protected under the limited sealed container provisions. In this situation, requirements for obtaining and maintaining MSDSs are limited to providing access to those received with containers while the substance is in the workplace, and requesting MSDSs when employees request access for those not received with the containers. However, as a distributor of hazardous chemicals, that employer will still have responsibilities for providing MSDSs to downstream customers at the time of the first shipment and when the MSDS is updated. Therefore, although they may not be required for the employees in the work operation, the distributor may, nevertheless, have to have MSDSs to satisfy other requirements of the rule.

2. Identify Responsible Staff.

Hazard communication is going to be a continuing program in your facility. Compliance with the HCS is not a "one shot deal." In order to have a successful program, it will be necessary to assign responsibility for both the initial and ongoing activities that have to be undertaken to comply with the rule. In some cases, these activities may already be part of current job assignments. For example, site supervisors are frequently responsible for on- the-job training sessions. Early identification of the responsible employees, and involvement of them in the development of your plan of action, will result in a more effective program design. Evaluation of the effectiveness of your program will also be enhanced by involvement of affected employees.

For any safety and health program, success depends on commitment at every level of the organization. This is particularly true for hazard communication, where success requires a change in behavior. This will only occur if employers understand the program, and are committed to its success, and if employees are motivated by the people presenting the information to them.

3. Identify Hazardous Chemicals in the Workplace.

The standard requires a list of hazardous chemicals in the workplace as part of the written hazard communication program. The list will eventually serve as an inventory of everything for which an MSDS must be maintained. At this point, however, preparing the list will help you complete the rest of the program since it will give you some idea of the scope of the program required for compliance in your facility.

The best way to prepare a comprehensive list is to survey the workplace. Purchasing records may also help, and certainly employers should establish procedures to ensure that in the future purchasing procedures result in MSDSs being received before a material is used in the workplace.

The broadest possible perspective should be taken when doing the survey. Sometimes people think of "chemicals" as being only liquids in containers. The HCS covers chemicals in all physical forms—liquids, solids, gases, vapors, fumes, and mists—whether they are "contained" or not. The hazardous nature of the chemical and the potential for exposure are the factors which determine whether a chemical is covered. If it is not hazardous, it is not covered. If there is no potential for exposure (e.g., the chemical is inextricably bound and cannot be released), the rule does not cover the chemical.

Look around. Identify chemicals in containers, including pipes, but also think about chemicals generated in the work operations. For example, welding fumes, dusts, and exhaust fumes are all sources of chemical exposures. Read labels provided by suppliers for hazard information. Make a list of all chemicals in the workplace that are potentially hazardous. For your own information and planning, you may also want to note on the list the location(s) of the products within the workplace, and an indication of the hazards as found on the label. This will help you as you prepare the rest of your program.

WAC 296-62-05403, Scope and application, includes exemptions for various chemicals or workplace situations. After compiling the complete list of chemicals, you should review paragraph (b) of this section to determine if any of the items can be eliminated from the list because they are exempted materials. For example, food, drugs, and cosmetics brought into the workplace for employee consumption are exempt. So rubbing alcohol in the first aid kit would not be covered.

Once you have compiled as complete a list as possible of the potentially hazardous chemicals in the workplace, the next step is to determine if you have received material safety data sheets for all of them. Check your files against the inventory you have just compiled. If any are missing, contact your supplier and request one. It is a good idea to document these requests, either by copy of a letter or a note regarding telephone conversations. If you have MSDSs for chemicals that are not on your list, figure out why. Maybe you do not use the chemical anymore, or maybe you missed it in your survey. Some suppliers do provide MSDSs for products that are not hazardous. These do not have to be maintained by you.

You should not allow employees to use any chemicals for which you have not received an MSDS. The MSDS provides information you need to ensure proper protective measures are implemented prior to exposure.

4. Preparing and Implementing a Hazard Communication Program.

All workplaces where employees are exposed to hazardous chemicals must have a written plan which describes how the standard will be implemented in that facility. Preparation of a plan is not just a paper exercise—all of the elements must be implemented in the workplace in order to be in compliance with the rule. See WAC 296-62-05409 for the specific requirements regarding written hazard communication programs. The only work operations which do not have to comply with the written plan requirements are laboratories and work operations where employees only handle chemicals in sealed containers. See WAC 296-62-05403, Scope and application, for the specific requirements for these two types of workplaces.

The plan does not have to be lengthy or complicated. It is intended to be a blueprint for implementation of your program—an assurance that all aspects of the requirements have been addressed.

Many trade associations and other professional groups have provided sample programs and other assistance materials to affected employers. These have been very helpful to many employers since they tend to be tailored to the particular industry involved. You may wish to investigate whether your industry trade groups have developed such materials.

Although such general guidance may be helpful, you must remember that the written program has to reflect what you are doing in your workplace. Therefore, if you use a generic program it must be adapted to address the facility it covers. For example, the written plan must list the chemicals present at the site, indicate who is to be responsible for the various aspects of the program in your facility, and indicate where written materials will be made available to employees.

If WISHA inspects your workplace for compliance with the HCS, the WISHA compliance officer will ask to see your written plan at the outset of the inspection. In general, the following items will be considered in evaluating your program.

The written program must describe how the requirements for labels and other forms of warning, material safety data sheets, and employee information and training, are going to be met in your facility. The following discussion provides the type of information compliance officers will be looking for to decide whether these elements of the hazard communication program have been properly addressed:

A. Labels and Other Forms of Warning.

In-plant containers of hazardous chemicals must be labeled, tagged, or marked with the identity of the material and appropriate hazard warnings. Chemical manufacturers, importers, and distributors are required to ensure that every container of hazardous chemicals they ship is appropriately labeled with such information and with the name and address of the producer or other responsible party. Employers purchasing chemicals can rely on the labels provided by their suppliers. If the material is subsequently transferred by the employer from a labeled container to another container, the employer will have to label that container unless it is subject to the portable container exemption. See WAC 296-62-05411 for specific labeling requirements.

The primary information to be obtained from a WISHA-required label is an identity for the material, and appropriate hazard warnings. The identity is any term which appears on the label, the MSDS, and the list of chemicals, and thus links these three sources of information. The identity used by the supplier may be a common or trade name ("Black Magic Formula"), or a chemical name (1,1,1,-trichloroethane). The hazard warning is a brief statement of the hazardous effects of the chemical ("flammable," "causes lung damage"). Labels frequently contain other information, such as precautionary measures ("do not use near open flame"), but this information is provided voluntarily and is not required by the rule. Labels must be legible, and prominently displayed. There are no specific requirements for size or color, or any specified text.

With these requirements in mind, the compliance officer will be looking for the following types of information to ensure that labeling will be properly implemented in your facility:

1. Designation of person(s) responsible for ensuring labeling of in-plant containers;

2. Designation of person(s) responsible for ensuring labeling of any shipped containers;

3. Description of labeling system(s) used;

4. Description of written alternatives to labeling of in-plant containers (if used); and

5. Procedures to review and update label information when necessary.

Employers that are purchasing and using hazardous chemicals—rather than producing or distributing them—will primarily be concerned with ensuring that every purchased container is labeled. If materials are transferred into other containers, the employer must ensure that these are labeled as well, unless they fall under the portable container exemption (WAC 296-62-05411(7)). In terms of labeling systems, you can simply choose to use the labels provided by your suppliers on the containers. These will generally be verbal text labels, and do not usually include numerical rating systems or symbols that require special training. The most important thing to remember is that this is a continuing duty—all in-plant containers of hazardous chemicals must always be labeled. Therefore, it is important to designate someone to be responsible for ensuring that the labels are maintained as required on the containers in your facility, and that newly purchased materials are checked for labels prior to use.

B. Material Safety Data Sheets.

Chemical manufacturers and importers are required to obtain or develop a material safety data sheet for each hazardous chemical they produce or import. Distributors are responsible for ensuring that their customers are provided a copy of these MSDSs. Employers must have an MSDS for each hazardous chemical which they use. Employers may rely on the information received from their suppliers. The specific requirements for material safety data sheets are in WAC 296-62-05413.

There is no specified format for the MSDS under the rule, although there are specific information requirements. OSHA has developed a nonmandatory format, OSHA Form 174, which may be used by chemical manufacturers and importers to comply with the rule. The MSDS must be in English (although the employer may maintain copies in other languages as well). You are entitled to receive from your supplier a data sheet which includes all of the information required under the rule. If you do not receive one automatically, you should request one. If you receive one that is obviously inadequate, with, for example, blank spaces that are not completed, you should request an appropriately completed one. If your request for a data sheet or for a corrected data sheet does not produce the information needed, you should contact your local labor and industries field office for assistance in obtaining the MSDS as stated in WAC 296-62-05413(12).

The role of MSDSs under the rule is to provide detailed information on each hazardous chemical, including its potential hazardous effects, its physical and chemical characteristics, and recommendations for appropriate protective measures. This information should be useful to you as the employer responsible for designing protective programs, as well as to the workers. If you are not familiar with material safety data sheets and with chemical terminology, you may need to learn to use them yourself. A glossary of MSDS terms may be helpful in this regard. Generally speaking, most employers using hazardous chemicals will primarily be concerned with MSDS information regarding hazardous effects and recommended protective measures. Focus on the sections of the MSDS that are applicable to your situation.

Because many MSDSs are produced in states other than Washington, there may be a difference between the permissible exposure limit (PEL) listed on the MSDS and the WISHA required PEL. For this reason WISHA will accept the OSHA PEL on the MSDS, but for training and evaluation of employee exposure, within Washington state, the WISHA PEL must be used. Most of the OSHA and WISHA PELs will be identical, but at times some will be different. For example, in April 1994, the OSHA PEL for carbon monoxide was 50 ppm for an 8 hour time-weighted average (TWA) with no short-term exposure limit (STEL) or ceiling value, but the WISHA PEL for carbon monoxide was 35 ppm for an 8 hour TWA, with a ceiling value of 200 ppm and no STEL. The current WISHA PELs are listed in WAC 296-62-075, Air contaminants.

MSDSs must be readily accessible to employees when they are in their work fields during their workshifts. This may be accomplished in many different ways. You must decide what is appropriate for your particular workplace. Some employers keep the MSDSs in a binder in a central location (e.g., in the pickup truck on a construction site). Others, particularly in workplaces with large numbers of chemicals, computerize the information and provide access through terminals. As long as employees can get the information when they need it, any approach may be used. The employees must have access to the MSDSs themselves—simply having a system where the information can be read to them over the phone is only permitted under the mobile worksite provision, WAC 296-62-05413(9) when employees must travel between workplaces during the shift. In this situation, they have access to the MSDSs prior to leaving the primary worksite, and when they return, so the telephone system is simply an emergency arrangement.

In order to ensure that you have a current MSDS for each chemical in the plant as required, and that employee access is provided, the compliance officers will be looking for the following types of information in your written program:

1. Designation of person(s) responsible for obtaining and maintaining the MSDSs;

2. How such sheets are to be maintained in the workplace (e.g., in notebooks in the work area(s) or in a computer with terminal access), and how employees can obtain access to them when they are in their work area during the work shift;

3. Procedures to follow when the MSDS is not received at the time of the first shipment;

4. For producers, procedures to update the MSDS when new and significant health information is found; and

5. Description of alternatives to actual data sheets in the workplace, if used.

For employers using hazardous chemicals, the most important aspect of the written program in terms of MSDSs is to ensure that someone is responsible for obtaining and maintaining the MSDSs for every hazardous chemical in the workplace. The list of hazardous chemicals required to be maintained as part of the written program will serve as an inventory. As new chemicals are purchased, the list should be updated. Many companies have found it convenient to include on their purchase orders the name and address of the person designated in their company to receive MSDSs.

C. Employee Information and Training.

Each employee who may be "exposed" to hazardous chemicals when working must be provided information and trained prior to initial assignment to work with a hazardous chemical, and whenever the hazard changes. "Exposure" or "exposed" under the rule means that "an employee is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.) and includes potential (e.g., accidental or possible) exposure." See WAC 296-62-05415 for specific requirements. Information and training may be done either by individual chemical, or by categories of hazards (such as flammability or carcinogenicity). If there are only a few chemicals in the workplace, then you may want to discuss each one individually. Where there are large numbers of chemicals, or the chemicals change frequently, you will probably want to train generally based on the hazard categories (e.g., flammable liquids, corrosive materials, carcinogens). Employees will have access to the substance-specific information on the labels and MSDSs.

Information and training is a critical part of the hazard communication program. Information regarding hazards and protective measures are provided to workers through written labels and material safety data sheets. However, through effective information and training, workers will learn to read and understand such information, determine how it can be obtained and used in their own workplaces, and understand

the risks of exposure to the chemicals in their workplaces as well as the ways to protect themselves. A properly conducted training program will ensure comprehension and understanding. It is not sufficient to either just read material to the workers, or simply hand them material to read. You want to create a climate where workers feel free to ask questions. This will help you to ensure that the information is understood. You must always remember that the underlying purpose of the HCS is to reduce the incidence of chemical source illnesses and injuries. This will be accomplished by modifying behavior through the provision of hazard information and information about protective measures. If your program works, you and your workers will better understand the chemical hazards within the workplace. The procedures you establish regarding, for example, purchasing, storage, and handling of these chemicals will improve, and thereby reduce the risks posed to employees exposed to the chemical hazards involved. Furthermore, your workers' comprehension will also be increased, and proper work practices will be followed in your workplace.

If you are going to do the training yourself, you will have to understand the material and be prepared to motivate the workers to learn. This is not always an easy task, but the benefits are worth the effort. More information regarding appropriate training can be found in a booklet entitled *"Understanding Right to Know,"* Publication Number P413-012-000. A copy may be obtained from your local labor and industries office.

In reviewing your written program with regard to information and training, the following items need to be considered:

1. Designation of person(s) responsible for conducting training;

2. Format of the program to be used (audiovisuals, classroom instruction, etc.);

3. Elements of the training program (should be consistent with the elements in WAC 296-62-05415; and

4. Procedure to train new employees at the time of their initial assignment to work with a hazardous chemical, and to train employees when a new hazard is introduced into the workplace.

The written program should provide enough details about the employer's plans in this area to assess whether or not a good faith effort is being made to train employees. WISHA does not expect that every worker will be able to recite all of the information about each chemical in the workplace. In general, the most important aspects of training under the HCS are to ensure that employees are aware that they are exposed to hazardous chemicals, that they know how to read and use labels and material safety data sheets, and that, as a consequence of learning this information, they are following the appropriate protective measures established by the employer. WISHA compliance officers will be talking to employees to determine if they have received training, if they know they are exposed to hazardous chemicals, and if they know where to obtain substance-specific information on labels and MSDSs.

The HCS does not require employers to maintain records of employee training, but many employers choose to do so. This may help you monitor your own program to ensure that all employees are appropriately trained. If you already have a training program, you may simply have to supplement it with whatever additional information is required under the HCS.

An employer can provide employees information and training through whatever means are found appropriate and protective. Although there would always have to be some training on-site (such as informing employees of the location and availability of the written program and MSDSs), employee training may be satisfied in part by general training about the requirements of the HCS and about chemical hazards on the job which is provided by, for example, trade associations, unions, colleges, and professional schools. In addition, previous training, education and experience of a worker may relieve the employer of some of the burdens of informing and training that worker. Regardless of the method relied upon, however, the employer is always ultimately responsible for ensuring that employees are adequately trained. If the compliance officer finds that the training is deficient, the employer will be cited for the deficiency regardless of who actually provided the training on behalf of the employer.

D. Other Requirements.

In addition to these specific items, compliance officers will also be asking the following questions in assessing the adequacy of the program:

Does a list of the hazardous chemicals exist in each work area or at a central location?

Are methods the employer will use to inform employees of the hazards of nonroutine tasks outlined?

Are employees informed of the hazards associated with chemicals contained in unlabeled pipes in their work areas?

On multi-employer worksites, has the employer provided other employers with information about labeling systems and precautionary measures where the other employers have employees exposed to the initial employer's chemicals?

Is the written program made available to employees and their designated representatives?

If your program adequately addresses the means of communicating information to employees in your workplace, and provides answers to the basic questions outlined above, it will be found to be in compliance with the rule.

5. Checklist for Compliance.

The following checklist will help to ensure you are in compliance with the rule:

Obtained a copy of the rule.
Read and understood the requirements.
Assigned responsibility for tasks.
Prepared an inventory of chemicals.
Ensured containers are labeled.
Obtained MSDS for each chemical.
Prepared written program.
Made MSDSs available to workers.
Conducted training of workers.
Established procedures to maintain current program.
Established procedures to evaluate effectiveness.

6. Further Assistance.

If you have a question regarding compliance with the HCS, you should contact your local labor and industries field office for assistance. All field offices have industrial hygienists who can answer your questions. Free consultation services are also available to assist employers, and information regarding these services can be obtained through the field offices as well.

The telephone number for the labor and industries office closest to you should be listed in your local telephone directory. If you are not able to obtain this information, you may contact labor and industries, office of information and assistance, 1-800-4BE-SAFE for further assistance in identifying the appropriate contacts.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07706 Communication among employers. On multi-employer worksites, an employer performing asbestos work requiring the establishment of a regulated area shall inform other employers on the site of the nature of the employer's work with asbestos and of the existence of and requirements pertaining to regulated areas.

Note: Notified employers shall ensure their employees are informed and trained as required by the hazard communication standard, ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-62-3020 Site characterization and analysis. (1) General. Hazardous waste sites shall be evaluated in accordance with this section to identify specific site hazards and to determine the appropriate safety and health control procedures needed to protect employees from the identified hazards.

(2) Preliminary evaluation. A preliminary evaluation of a site's characteristics shall be performed prior to site entry by a qualified person in order to aid in the selection of appropriate employee protection methods prior to site entry. Immediately after initial site entry, a more detailed evaluation of the site's specific characteristics shall be performed by a qualified person in order to further identify existing site hazards and to further aid in the selection of the appropriate engineering controls and personal protective equipment for the tasks to be performed.

(3) Hazard identification. All suspected conditions that may pose inhalation or skin absorption hazards that are immediately dangerous to life or health (IDLH), or other conditions that may cause death or serious harm, shall be identified during the preliminary survey and evaluated during the detailed survey. Examples of such hazards include, but are not limited to, confined space entry, potentially explosive or flammable situations, visible vapor clouds, or areas where biological indicators such as dead animals or vegetation are located.

(4) Required information. The following information to the extent available shall be obtained by the employer prior to allowing employees to enter a site:

(a) Location and approximate size of the site.

(b) Description of the response activity and/or the job task to be performed.

(c) Duration of the planned employee activity.

(d) Site topography and accessibility by air and roads.

(e) Safety and health hazards expected at the site.

(f) Pathways for hazardous substance dispersion.

(g) Present status and capabilities of emergency response teams that would provide assistance to hazardous waste clean-up site employees at the time of an emergency.

(h) Hazardous substances and health hazards involved or expected at the site and their chemical and physical properties.

(5) Personal protective equipment. Personal protective equipment (PPE) shall be provided and used during initial site entry in accordance with the following requirements:

(a) Based upon the results of the preliminary site evaluation, an ensemble of PPE shall be selected and used during initial site entry which will provide protection to a level of exposure below established permissible exposure limits and published exposure levels for known or suspected hazardous substances and health hazards, and which will provide protection against other known and suspected hazards identified during the preliminary site evaluation. If there is no permissible exposure limit or published exposure level, the employer may use other published studies and information as a guide to appropriate personal protective equipment. Level A and Level B personal protective equipment is required for the most hazardous actual or potential exposures.

(b) If positive-pressure self-contained breathing apparatus is not used as part of the entry ensemble, and if respiratory protection is warranted by the potential hazards identified during the preliminary site evaluation, an escape self-contained breathing apparatus of at least five minute's duration shall be carried by employees during initial site entry.

(c) If the preliminary site evaluation does not produce sufficient information to identify the hazards or suspected hazards of the site an ensemble providing protection equivalent to Level B PPE shall be provided as minimum protection and direct reading instruments shall be used as appropriate for identifying IDLH conditions. (See WAC 296-62-3170 - Appendix B for a description of Level B hazards and the recommendations for Level B protective equipment.)

(d) Once the hazards of the site have been identified, the appropriate PPE shall be selected and used in accordance with WAC 296-62-3060.

(6) Monitoring. The following monitoring shall be conducted during initial site entry when the site evaluation produces information that shows the potential for ionizing radiation or IDLH conditions, or when the site information is not sufficient to rule out these possible conditions:

(a) Monitoring with direct reading instruments for hazardous levels of ionizing radiation.

(b) Monitoring the air with appropriate direct reading equipment (i.e., combustible gas meters, detector tubes) for IDLH and other conditions that may cause death or serious harm (combustible or explosive atmospheres, oxygen deficiency, toxic substances).

(c) Visually observing for signs of actual or potential IDLH or other dangerous conditions.

(d) An ongoing air monitoring program in accordance with WAC 296-62-3070 shall be implemented after site characterization has determined the site is safe for the start-up of operations.

(7) Risk identification. Once the presence and concentrations of specific hazardous substances and health hazards have been established, the risks associated with these substances shall be identified. Employees who will be working on the site shall be informed of any risks that have been identified. In situations covered by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, training required by those standards need not be duplicated.

Note: Risks to consider include, but are not limited to:
(a) Exposures exceeding the permissible exposure limits and published exposure levels.
(b) IDLH concentrations.
(c) Potential skin absorption and irritation sources.
(d) Potential eye irritation sources.
(e) Explosion sensitivity and flammability ranges.
(f) Oxygen deficiency.

(8) Employee notification. Any information concerning the chemical, physical, and toxicologic properties of each substance known or expected to be present on site that is available to the employer and relevant to the duties an employee is expected to perform shall be made available to all employees prior to the commencement of their work activities. The employer may utilize information developed for the hazard communication standard, chapter 296-62 WAC, Part C, for this purpose.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-3140 Certain operations conducted under the Resource Conservation and Recovery Act of 1976 (RCRA). Employers conducting operations at treatment, storage, and disposal (TSD) facilities specified in WAC 296-62-300 (1)(d) shall provide and implement the programs specified in this section. See the "Notes and Exceptions" of WAC 296-62-300 (2)(c) for employers not covered.

(1) Safety and health program. The employer shall develop and implement a written safety and health program for employees involved in hazardous waste operations that shall be available for inspection by employees, their representatives and WISHA personnel. The program shall be designed to identify, evaluate and control safety and health hazards in their facilities for the purpose of employee protection, to provide for emergency response meeting the requirements of WAC 296-62-3110 and to address as appropriate site analysis, engineering controls, maximum exposure limits, hazardous waste handling procedures and uses of new technologies.

(2) Hazard communication program. The employer shall implement a hazard communication program meeting the requirements of ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, as part of the employer's safety and health program.

Note: The exemption for hazardous waste provided in WAC 296-62-054 is applicable to this section.

(3) Medical surveillance program. The employer shall develop and implement a medical surveillance program meeting the requirements of WAC 296-62-3050.

(4) Decontamination program. The employer shall develop and implement a decontamination procedure meeting the requirements of WAC 296-62-3100.

(5) New technology programs. The employer shall develop and implement procedures meeting the requirements of WAC 296-62-3138 for introducing new and innovative equipment into the workplace.

(6) Material handling program. Where employees will be handling drums or containers, the employer shall develop and implement procedures meeting the requirements of WAC 296-62-3090 (1)(b) through (h) and (k), as well as WAC 296-62-3090 (3) and (8), prior to starting such work.

(7) Training program.

(a) New employees. The employer shall develop and implement a training program, which is part of the employer's safety and health program, for employees exposed to health hazards or hazardous substances at TSD operations to enable the employees to perform their assigned duties and functions in a safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for 24 hours and refresher training shall be for eight hours annually. Employees who have received the initial training required by this section shall be given a written certificate attesting that they have successfully completed the necessary training.

(b) Current employees. Employers who can show by an employee's previous work experience and/or training that the employee has had training equivalent to the initial training required by this section, shall be considered as meeting the initial training requirements of this section as to that employee. Equivalent training includes the training that existing employees might have already received from actual site work experience. Current employees shall receive eight hours of refresher training annually.

(c) Trainers. Trainers who teach initial training shall have satisfactorily completed a training course for teaching the subjects they are expected to teach or they shall have the academic credentials and instruction experience necessary to demonstrate a good command of the subject matter of the courses and competent instructional skills.

(8) Emergency response program.

(a) Emergency response plan. An emergency response plan shall be developed and implemented by all employers. Such plans need not duplicate any of the subjects fully addressed in the employer's contingency planning required by permits, such as those issued by the United States Environmental Protection Agency, provided that the contingency plan is made part of the emergency response plan. The emergency response plan shall be a written portion of the employer's safety and health program required in this section. Employers who will evacuate their employees from the worksite location when an emergency occurs and who do not permit any of their employees to assist in handling the emergency are exempt from the requirements of WAC 296-62-3140(8) if they provide an emergency action plan complying with WAC 296-24-567.

(b) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address, as a minimum, the follow-

ing areas to the extent that they are not addressed in any specific program required in this section:

(i) Preemergency planning and coordination with outside parties.

(ii) Personnel roles, lines of authority, and communication.

(iii) Emergency recognition and prevention.

(iv) Safe distances and places of refuge.

(v) Site security and control.

(vi) Evacuation routes and procedures.

(vii) Decontamination procedures.

(viii) Emergency medical treatment and first aid.

(ix) Emergency alerting and response procedures.

(x) Critique of response and follow-up.

(xi) PPE and emergency equipment.

(c) Training.

(i) Training for emergency response employees shall be completed before they are called upon to perform in real emergencies. Such training shall include the elements of the emergency response plan, standard operating procedures the employer has established for the job, the personal protective equipment to be worn, and procedures for handling emergency incidents.

Exception #1: An employer need not train all employees to the degree specified if the employer divides the workforce in a manner such that a sufficient number of employees who have responsibility to control emergencies have the training specified, and all other employees, who may first respond to an emergency incident, have sufficient awareness training to recognize that an emergency response situation exists and that they are instructed in that case to summon the fully trained employees and not attempt to control activities for which they are not trained.

Exception #2: An employer need not train all employees to the degree specified if arrangements have been made in advance for an outside fully trained emergency response team to respond in a reasonable period and all employees, who may come to the incident first, have sufficient awareness training to recognize that an emergency response situation exists and they have been instructed to call the designated outside fully trained emergency response team for assistance.

(ii) Employee members of TSD facility emergency response organizations shall be trained to a level of competence in the recognition of health and safety hazards to protect themselves and other employees. This would include training in the methods used to minimize the risk from safety and health hazards; in the safe use of control equipment; in the selection and use of appropriate personal protective equipment; in the safe operating procedures to be used at the incident scene; in the techniques of coordination with other employees to minimize risks; in the appropriate response to overexposure from health hazards or injury to themselves and other employees; and in the recognition of subsequent symptoms which may result from overexposures.

(iii) The employer shall certify that each covered employee has attended and successfully completed the training required in this subsection, or shall certify the employee's competency at least yearly. The method used to demonstrate competency for certification of training shall be recorded and maintained by the employer.

(d) Procedures for handling emergency incidents.

(i) In addition to the elements for the emergency response plan required in (b) of this subsection, the following elements shall be included for emergency response plans to the extent that they do not repeat any information already contained in the emergency response plan:

(A) Site topography, layout, and prevailing weather conditions.

(B) Procedures for reporting incidents to local, state, and federal governmental agencies.

(ii) The emergency response plan shall be compatible and integrated with the disaster, fire, and/or emergency response plans of local, state, and federal agencies.

(iii) The emergency response plan shall be rehearsed regularly as part of the overall training program for site operations.

(iv) The site emergency response plan shall be reviewed periodically and, as necessary, be amended to keep it current with new or changing site conditions or information.

(v) An employee alarm system shall be installed in accordance with WAC 296-24-631 to notify employees of an emergency situation; to stop work activities if necessary; to lower background noise in order to speed communication; and to begin emergency procedures.

(vi) Based upon the information available at time of the emergency, the employer shall evaluate the incident and the site response capabilities and proceed with the appropriate steps to implement the site emergency response plan.

PART B-2
((~~ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE~~))
HAZARD COMMUNICATION

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-180 Hazard communication. General. The employer shall develop and maintain a hazard communication program as required by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-305-025 Management's responsibility. (1) It shall be the responsibility of management to establish, supervise, and enforce, in a manner which is effective in practice supervise:

(a) A safe and healthful working environment, as it applies to non combat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(2) The employer shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers or other suitable sources.

(3) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.

(4) Controlled substances shall not be allowed in station houses, with the exception of those used by the profession to be administered to patients or medication prescribed by a physician, unless such prescribed medication would impair the performance of the individual.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health poster (Job safety and health protection, form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The employer shall develop and maintain a hazard communication program as required by ((~~WAC 296-62-054 through 296-62-05427~~)) chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

WSR 94-11-125
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE
[Filed May 18, 1994, 11:38 a.m.]

Original Notice.

Title of Rule: WAC 232-28-61951 1994-95 Washington game fish seasons and catch limits—Hampton (Upper and Lower) lakes, Hen, Dabbler and Marie lakes; Katey Lake; Homestead and Magpie lakes and creeks, Lower Claiche Lake, and Claiche Lake West, Wannacut Lake and Ellen Lake.

Purpose: To implement a fishing closure on the aforementioned lakes which will be subject to rehabilitation during the fall of 1994.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: These waters are proposed for rehabilitation during the fall of 1994. The proposed rule change would allow for unlimited harvest of fish prior to rehabilitation and closure of the season following rehabilitation.

Reasons Supporting Proposal: Those lakes that have a fishing season are proposed to have those seasons extended to allow for additional recreational opportunity prior to rehabilitation. The closures to be implemented following rehabilitation are needed to: Comply with current rotenone label restrictions (the public needs to be discouraged from consuming fish killed during the rehabilitations); and to allow the trout stocked after the treatment to mature to catchable size before harvest.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D. Fisheries Management, Olympia, (206) 902-2325; Enforcement: Dayna Matthews, Chief Enforcement, Olympia, (206) 902-2927.

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed season extensions will allow anglers to harvest fish which will otherwise be killed during rehabilitation. The subsequent closures after rehabilitation assure public protection and an opportunity for stocked fry to reach maturation prior to harvest.

An effective date of July 1, 1994, which is earlier than the 31 days after filing, is necessary because the time requirements would be contrary to the public interest. Waiving catch, size and possession limits effective July 1, 1994, will allow for increased recreational opportunity and harvest prior to rehabilitation.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

Hearing Location: Department of Natural Resources Building, 1111 Washington S.E., Room 630, Olympia, WA 98504, on June 28, 1994, at 12:00 noon.

Submit Written Comments to: Richard J. Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by June 18, 1994.

Date of Intended Adoption: June 28, 1994.

May 18, 1994
Richard J. Poelker
Administrative Regulations Officer

NEW SECTION

WAC 232-28-61951 1994-95 Washington game fish seasons and catch limits—Hampton (Upper and Lower) lakes, Hen, Dabbler and Marie lakes; Katey Lake; Homestead and Magpie lakes and creeks, Lower Caliche Lake, and Caliche Lake West, Wannacut Lake and Ellen Lake. Notwithstanding the provisions of WAC 232-28-619, the following game fish seasons, catch, size and possession limits apply:

Hampton Lake, Lower (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived.

Hampton Lake, Upper (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived.

Hen Lake (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Sept. 1, 1994 - April 16, 1995.

Dabbler Lake (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Sept. 1, 1994 - April 16, 1995.

Marie Lake (Hampton Sloughs) (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived.

Caliche Lake, Lower (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994; catch, size and possession limits on all game fish species are waived.

Caliche Lake, West (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, August 31, 1994;

catch, size and possession limits on all game fish species are waived. CLOSED WATERS Sept. 1, 1994 - April 15, 1995

Katey Lake (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, Sept. 30, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Oct. 1, 1994 - April 15, 1995.

Homestead Lake and Creek (Grant Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, Sept. 30, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Oct. 1, 1994 - April 15, 1995.

Magpie Lake and Creek (Grant Co): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight, Sept. 30, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Oct. 1, 1994 - April 15, 1995.

Wannacut Lake (Okanogan Co.): Effective 12:01 a.m. Aug. 1, 1994 through 12:00 midnight September 30, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Oct. 1, 1994 - April 28, 1995.

Ellen Lake (Ferry Co.): Effective 12:01 a.m. July 1, 1994 through 12:00 midnight October 2, 1994; catch, size and possession limits on all game fish species are waived. CLOSED WATERS Oct. 3, 1994 - April 28, 1995.

All other provisions of WAC 232-28-619 for these waters remain in effect and unchanged.

WSR 94-11-126
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE
[Filed May 18, 1994, 11:45 a.m.]

Original Notice.

Title of Rule: Hydraulics projects rules.

Purpose: Amend provisions relating to hydraulic projects.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: Chapter 75.20 RCW.

Summary:

HYDRAULIC CODE RULES

JUSTIFICATIONS

WAC 220-110-010 PURPOSE.

JUSTIFICATION

Justification: Changes have been incorporated to clearly state the intent of the Hydraulic Code rules, and that it is the intent of the department to work with other regulatory agencies and tribal governments to promote regulatory consistency and minimize regulatory duplication. A description of the basis for the technical provisions is included, as well as allowing for alternative proposals that provide for equal or greater protection for fish life. The modifications to state that the rules "shall" apply have been incorporated to provide greater predictability and certainty for the applicant and agency personnel, although the provisions applicable to a specific project will only be those included as provisions on the HPA. The language in each of the technical provision sections of the proposal has been modified to state that applicable technical provisions "shall" apply to projects of that type. Applicant flexibility is retained and encouraged through a specified modification/ variance procedure identified in WAC 220-110-032. Applicants retain the opportunity to seek approval for an alternate plan that may deviate from the common technical provisions, but that provides equal or greater protection for fish life.

WAC 220-110-020 DEFINITIONS.

JUSTIFICATION

(4) Provides definition of "bio-engineering" which is referenced as the preferred method of bank protection on rivers and streams.
(5) Provides definition of "bulkhead" to clarify types of projects referred to in WAC 220-110-223, -280, and -285.
(7) Changes the name of the department, consistent with House Bill 2055 passed in the 1994 legislative session.
(8) Modification restricts meaning of "dredging" to mechanical removal of bed material. Removal of material by hand or hand held tools is not considered dredging and the provisions listed in WAC 220-110-130 usually would not apply in those situations.
(9) The definition of emergency has been expanded to also include ability to respond to fire situations where normal approval procedures are not possible.
(11) Modification limits definition of "established ford," to include only those fords which existed at the time the ford language was added to RCW 75.20.100 plus those which have been permitted since then. The new language is needed to clarify the intent of the original language change made to RCW 75.20.100 in 1986, which was intended to grandfather certain fords in existence prior to that date.
(13) New language providing consistency with the definition for farm and agricultural land as it is referred to in RCW 75.20.103.
(14) Modification clarifies meaning of "filter blanket."
(15) Modification clarifies that "fish life" includes all fish species, including a substantial number that have not been specifically classified by the legislature.
(21) Modification to provide greater clarity as to what types of Forest Practices, otherwise covered under the Forest Practice Rules and Regulations, qualify as Hydraulic Projects. Reference has also been made to other sections of the rule proposal that address specific types of hydraulic projects.
(23) New language adds "Gold and Fish" and "Irrigation and Fish" pamphlets to definition of hydraulic project approval. Compliance with provisions of these pamphlets serves as a HPA for minor hydraulic activities listed in the pamphlets.
(24) "Impervious surface"is defined to clarify its reference in WAC 220-110-225. The amount of impervious surface associated with a project determines the need to obtain a hydraulic project approval. Stormwater retention and detention facilities have also been excluded form the definition of impervious surface.
(25) New language clarifies meaning of "large woody material" referenced in the WACs, and promotes consistency with the term as used in the Forest Practice Rules and Regulations (NOTE: This material is also referred to as "large woody debris" in the Forest Practice Rules and Regulations.)
(26) New language clarifies meaning of "mean higher high water" referenced in RCW 75.20.100 and the following WACs.
(28) The definition of mitigation has been modified to clarify that mitigation requirements will be incorporated into the HPA to provide proper protection for fish life. It indicates that the elements should be considered in sequence, as there is significantly greater success with avoiding or minimizing the impacts than with restoring or replacing habitat. The latter options should only be

considered when there are no other options. The revisions also indicate that replacement mitigation may be required in advance of impacts from projects with significant impacts.

(30) A definition has been added for "no-net-loss" as it is used throughout the rule proposal to determine the mitigation goal.

(31) Language relating to definition of "ordinary high water line" has been modified to provide more clarity.

(33) New language clarifies meaning of "protection of fish life" as it appears in RCW 75.20.100, 103, and 160 to include not only the protection of the organism, but also protection of the habitat on which the organism is dependent.

(34) The term "river or stream" is used interchangeably with "watercourse" throughout the rule. The definitions have been modified to be consistent.

(36, 43) Substitutes the word "saltwater" for "marine" to provide consistent usage of terms.

(38) New language clarifies meaning of "streambed stabilization" referenced in RCW 75.20.103.

(40) A definition has been provide for "toe of the bank" to clarify its use in bank protection projects.

(41) The terms "watercourse" and "river or stream" are used interchangeably throughout the rule proposal. The definition of is modified to include surface waters which influence the quality of fish habitat. It is not possible to protect fish life without regulating activities which impact influencing waters. If the departments ignore these activities, fish habitat is destroyed and other regulatory actions become meaningless. An example would be the loss of fish life in many urban streams, despite aggressive hydraulic code enforcement and application.

(42) Water rights are administered by the Department of Ecology pursuant to Title 90 RCW. the definition is added to clarify the reference to water right in the WACs.

(43) The terms "waters of the state" and "state waters" are used interchangeably throughout the rule proposal. The definition has been modified to improve clarity in reference to the ordinary high water line.

(44) A new definition for "water type" is provided for clarity in reference to Forest Practices, Consistent with the definition in the Forest Practice Rules and Regulations.

WAC 220-110-030 HYDRAULIC PROJECT APPROVALS -- PROCEDURES.

JUSTIFICATION

(1) The word "obtain" replaces "secure" for clarification.

(2) Modifications clarify that a "complete" application must be submitted per RCW 75.20.100, 103 and 160. Application information requirements are also clarified.

(3) Changes the reference to the department consistent with the agency merger. The designation of lead agency and geographic separation is no longer relevant.

(6) Provides for expedited processing of HPAs for limited instances where it is necessary to address special resource concerns or extreme hardship. This formulates procedures already being utilized by the departments. Issuances of expedited HPAs delay issuance of other HPAs in the normal process.

(8) New language explains procedure for transfer of an HPA to a new permittee. Language proposed is necessary to ensure that permit conditions are enforceable and that new permittee is the responsible party, if a violation were to occur.

(10) New language clarifies need for a "readable" HPA to be present at the work site during construction activity.

(11) Updates language to correspond with new language added to RCW 75.20.103. The new language identifies certain types of HPA's associated with streambank stabilization projects which remain in effect without need for periodic renewal.

(12) New language is mainly housekeeping in nature.

(Deleted 16) Language has been deleted and transferred to WAC 220-110-360 that specifically references penalties.

(Deleted 17) Language has been deleted and transferred to WAC 220-110-035 which references miscellaneous hydraulic project permit requirements.

(Deleted 18, 19) Language has been deleted and transferred to WAC 220-110-190.

(Deleted 20) Deleted language is found in other WACs.

(17) New language primarily housekeeping in nature.

(Deleted 21) Language referencing ford maintenance has been deleted and transferred to WAC 220-110-035. Language referencing maintenance of irrigation structures using hand held tools has been deleted and transferred to WAC 220-110-190.

(Deleted 22, 23, 24) Language has been deleted and transferred to WAC 220-110-035.
(Deleted 25) Language has been deleted and transferred to WAC 220-110-224.

NEW SECTION WAC 220-110-032 MODIFICATION OF COMMON TECHNICAL PROVISIONS

JUSTIFICATION

This section establishes criteria for modifying or deleting technical provisions relevant to the type of project being conducted. The section also reiterates that additional special provisions may be placed on the HPA to address project or site-specific considerations, and that all technical provisions applicable to a project will be included on the HPA. Flexibility is provided for applicants who submit an alternate plan to the standard provisions that provides equal or greater protection for fish life.

NEW SECTION WAC 220-110-035 MISCELLANEOUS HYDRAULIC PROJECTS - PERMIT REQUIREMENTS

JUSTIFICATION

The language contained in this section was previously included in sections 17, 22, 23, 24, and a portion of section 21 of WAC 220-110-030, and have been transferred into this new section which more appropriately reflects the intent. Language has also been incorporated to restrict the distance between entry and exit points of a ford permitted after the adoption of the revised rule, to minimize impacts to fish habitat and avoid using a watercourse as a travel corridor.

WAC 220-110-040 FRESHWATER TECHNICAL PROVISIONS

Clarification provided to identify why additional special provisions may be necessary, and to identify that saltwater provisions may be applicable in certain estuarine areas that may appear to be freshwater, but exhibit saltwater conditions.

WAC 220-110-050 BANK PROTECTION.

JUSTIFICATION

New language informs that bioengineering is the preferred method of bank protection, where practicable. Bioengineering is an effective means of bank protection which also retains habitat components necessary for protection of fish life. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(1) Modifications clarify that bank protection, which typically alters habitat features important to fish life, will be restricted to banks showing signs of erosion.
(2) New language prohibits constriction of the watercourse except for installation of habitat mitigation features. Any area waterward of the existing bank is considered fish habitat and loss of this area results in a loss of fish production. In many cases, bank protection can be accomplished without placement of material within the watercourse.
(4) Relocation of wording previously located in 10. The requirement to dispose of overburden material in a manner that will not reenter the water is intended to reduce the entry of fine sediments into the watercourse.
(Deleted 6, 7, 8) The language found on previous sections 6 and 7 can be found in 220-110-050 (8). The language in 8 has been deleted as the department often encourages exposure of the underlying soil substrate to encourage woody vegetation growth.
(5) New language clarifies amount of disturbance allowed to the banks and bank vegetation, and specifies the requirement for revegetation. A common practice associated with bank protection work is removal of all existing riparian vegetation. The protected banklines are often devoid of shade, cover, and food producing vegetation and the materials used to protect banks are often not conducive to growth of vegetation. The new language is necessary to ensure that vegetation is established and maintained.
(6) New language informs applicants that fish habitat components may be required to mitigate for project impacts to fish life. Bank protection activities often harm existing or potential fish habitat. It is common for the departments to require various types of mitigation features to compensate for the impacts of bank protection activities. If the departments did not require this mitigation, there would be a loss of fish life associated with the projects. The requirement to install according to an approved design to withstand the 100-year flow is intended to provide durable habitat components.

(7) Design and installation criteria provide a measurable target condition. The language included in (b) has been relocated from the previous (7).

WAC 220-110-060 ~~BRIDGE,~~ CONSTRUCTION OF FRESHWATER DOCKS, PIERS, AND ~~PILING~~, FLOATS AND THE DRIVING OR REMOVAL OF PILING ~~CONSTRUCTION~~.

JUSTIFICATION

Bridges have been removed from this section and grouped in 220-110-070. Dock and float construction and the driving or removal of piling have been added to this section as related structures. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

There is significant reorganization of this section, much of which is for housekeeping, clarification, and consistency with other sections. Additions not in previous language include:

(4) Requires that materials treated with preservatives be cured to minimize leaching of materials, and potential toxic effects to fish life. The use of pentachlorophenol and creosote are precluded in lakes due to high toxicity of these substances to fish life and due to the low water exchange.
(5) To prevent potential migration and shading impacts, addition of skirting or other features requires an HPA.
(6) The containment of flotation material is necessary to prevent breakup and potential adverse impacts to fish life.
(7) Restricts the discharge of silt which can smother fish eggs and reduce the ability of fish to assimilate oxygen from the water.
(8) Restricts unnecessary loss of aquatic vegetation which is critical in maintaining suitable fish habitat.

WAC 220-110-070 ~~BRIDGE CONSTRUCTION--STRINGER TYPE.~~ WATER CROSSING STRUCTURES.

JUSTIFICATION

This section has been modified to include all water crossing structures, including all bridges and culverts. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The introductory paragraph indicates an order of descending preference for types of water crossing structures based on protection of fish life afforded by each option. Applicable provisions of former sections 220-110-060, 070, and 110 have been reorganized and clarified in this section.

In addition to housekeeping, clarification, and consistency changes, additions to previous language include:

(1)a Modification allows work waterward of the ordinary high water line if the construction and associated impacts can be isolated from potential contact with flowing water.
(1)c Requirement to limit vegetation disturbance of the bank and to establish woody vegetation on disturbed banks, and maintain it to ensure survival. This is necessary to prevent streambank erosion and entry of fine sediment into the watercourse, which adversely affects fish life.
(1)e and (3)c Increases in design requirements to the 100-year flood level to reduce potential for failure and blockage by debris. The requirement for bridge construction to pass the 100-year flow with consideration of debris likely to be encountered is intended to minimize the potential of catastrophic failure of the structure and associated fill which would likely result in significant impacts to fish life. The opportunity to provide alternative design criteria is allowed.
(1)h Instream structures associated with bridge construction must be designed in a manner that does not result in significant backwater elevation or channel wide scour, which would alter the habitat conditions within the stream.
(1)i The new language establishes a measurable design and installation standard that will minimize the need for regular maintenance and associated disturbance of the streambank and watercourse.
(2)a-j Modifications of the provisions in old section 220-110-110, to provide for the unique circumstances associated with temporary culverts. The use of clean rounded gravel for fill is preferred to minimize the potential for impacts associated with failure of the structure and fill, but the use of angular rock for fill during the summer work period may be approved where round rock is not available. The provisions provide for a minimum of disturbance and restoration of the site upon removal of the temporary culvert, including revegetation of all disturbed areas to minimize erosion and revegetation of the bank with woody species..
(3)a Incorporation of fish passage into culvert design is required to maintain fish

access to existing and potential production areas. Permanent culverts will only be approved for location in spawning areas where full replacement of the habitat is provided, to maintain full spawning capacity of the stream.

(3)b Culvert design criteria that will provide fish passage are described. An option is provided in (i) that does not require any engineering evaluation. An alternative option is provided in (ii) for applicants that have engineering support and have the expertise to design a culvert that will achieve the designated fish passage criteria.

(3)c Permanent culvert installation is required to maintain structural integrity to the 100-year flow to minimize the potential impacts to fish life resulting from structural failure. The debris likely to be encountered needs to be considered in the design to ensure structural integrity.

(3)d Requirement to limit vegetation disturbance of the bank and to establish woody vegetation on disturbed banks, and maintain it to ensure survival.

(3)g Requires maintenance of culverts to ensure continued fish passage. Potential future problems associated with the culvert may not be apparent at the time the initial permit for installation is approved. This requirement is also consistent with RCW 75.20.060. Owner will be financially responsible for immediate repair if the structure becomes a hinderance to fish passage.

(3)h Provides that culverts are installed in a manner to prevent sedimentation in streams to protect fish life.

(3)i Provides that sediment laden water is treated prior to discharging to fish bearing waters to prevent sedimentation in streams to protect fish life.

WAC 220-110-080 CHANNEL CHANGE/REALIGNMENT~~--TEMPORARY AND PERMANENT~~.

JUSTIFICATION

This section combines two old sections, 220-110-080 CHANNEL CHANGE--TEMPORARY AND PERMANENT and 220-110-090 CHANNEL REALIGNMENT, into one section. Channel change and channel realignment projects are sufficiently similar that they are now grouped into one category. The introduction to the section has been expanded to discourage channel change projects unless the project provides protection or enhancement of fish life. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

In addition to housekeeping, clarification, and consistency changes, additions to previous language include:

(1) The modifications more accurately describe channel configuration and features necessary to maintain fish habitat benefits.

(3) The modifications describe what actions are necessary prior to diverting water into the new channel. These actions are necessary to ensure that fish have suitable habitat in the new channel, and to minimize impacts from erosion.

(Deleted 6) The efforts to minimize erosion have been incorporated into 3. The requirement to armor the banks has been removed because of the identified need to provide more habitat diversity in the new channel.

(Deleted 8) The intent of this language has been incorporated into 3.

(7) Old provisions of WAC 220-110-080 (9) and 220-110-090 (7), with minor changes to clarify and to provide for protection of fish life other than food or game fish when the departments determine such protection is warranted.

WAC 220-110-100 CONDUIT CROSSING.

JUSTIFICATION

The requirement to incorporate mitigation into projects of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(3)b Reworded to be consistent with WAC 220-110-070 (3)(h) to provide that sediment laden water is treated before being discharged to streams.

(3)c Deleted, determined to be unnecessary.

(4)c Reworded to limit the level of disturbance to that necessary to achieve the project purpose.

(4)d Deleted, determined to be unnecessary.

(8) Clarifies language to limit the level of disturbance to that necessary to achieve the project purpose and to make the wording consistent with similar provisions elsewhere.

WAC 220-110-120 TEMPORARY BYPASS CULVERT, FLUME, OR CHANNEL.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

Temporary bypass channels are moved from old WAC 220-110-080 and added to this section as structures with purposes and applications similar to temporary culverts and flumes.

(1-4) Minor changes to these provisions to add channels.

(5) Applicable provisions from WAC 220-110-080, regarding the construction of channels, are referenced for temporary bypass channels.

(8) The language has been modified to clarify and to provide for protection of fish life other than food or game fish when the departments determine such protection is warranted. The word "endangered" has been replaced because of potential confusion with use of the term under the Endangered Species Act.

(9) New language clarifies amount of disturbance allowed to the banks and bank vegetation, and specifies the requirement for revegetation. A common practice associated with bank protection work is removal of all existing riparian vegetation. The protected banklines are often devoid of shade, cover, and food producing vegetation and the materials used to protect banks are often not conducive to growth of vegetation. The new language is necessary to ensure that vegetation is established and maintained.

WAC 220-110-130 DREDGING.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(3) The conditions applicable to disposal of dredge material have been modified to recognize existing approved in-water disposal sites and to limit the potential to re-enter state waters if disposed upland. Language has also been incorporated to allow disposal in other in-water nearshore areas for certain beneficial uses if approved by the department.

(4) Language has been modified to stress that impacts to habitat must be considered as well as direct mortality of organisms when selecting the type of equipment to be used.

(5) Reworded to clarify the intent of the old language and to modify the notification requirement to reflect the agency merger.

(6) Language modified to be consistent with the provision as used in WAC 220-110-320.

(7) Modification to improve clarity and to include the area waterward of the ordinary high water line that is subject to inundation as water levels increase.

(8) Modification to improve permittee understanding of need to fill depressions.

WAC 220-110-140 GRAVEL REMOVAL.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(1) Significant changes are made to this section to limit gravel removal to exposed gravel bars, although additional removal may be authorized where the project is an integral part of a flood control plan approved by the department. The section also states that the gravel removal shall not result in lowering, over time, the average channel cross-section profile through the project area or downstream. The changes are designed to allow the removal of excess gravel while protecting the needs of fish life for reproduction and growth in the river system.

(2) Changes old provision (1) and eliminates the mandatory 2-foot area of no disturbance and allows the excavation line to be established as low as the water's edge, where appropriate. Conditions establishing the excavation line would be site-specific depending on the needs of fish life in the vicinity of the project. Increases the area available for gravel removal while protecting fish life.

(3) Combines old provisions (4) and (5) and clarifies the limits of the excavation zone.

(4) Old provision (3), modified to also address bars with depressions or channels on the bank side.

(5) Old provision (2), unchanged.

(6) Rewording of old provision (9) to prevent equipment from operating within the water of any river or stream to prevent sedimentation and protect fish life.

(7-10) Revision of old provisions (6-8) to clarify the procedures to be used in excavating and stockpiling material within the ordinary high water line. The

procedures are designed to prevent adverse effects to fish life from the release of materials into the water and to prevent the creation of depressions in the watercourse that could trap and strand fish. Provision (7) provides that a field survey of the site, performed with hand-held instruments such as clinometers or pea levels, may be required to ensure that the minimum 2 percent gradient toward the water is maintained and that no depressions remain in the excavation zone. Provision 8 requires that pre- and post-project channel cross-section surveys be conducted for gravel removal projects for commercial purposes and for gravel removal done as part of a flood control plan approved by the department. These channel cross-sections provide the a key reference base to determine impacts of gravel removal projects on stream hydrology and fish habitat. This information is also critical for evaluating upstream and downstream impacts of gravel removal.

(11) New language provides that the upstream end of the gravel bar be left undisturbed by the gravel removal operation to maintain the existing location of the low flow channel of the stream.

(12) Rewording of old provision (10) to clarify that large woody material, important to fish life, is to be retained within the watercourse and other debris, which may be harmful to fish life, is removed from the watercourse and disposed of in a manner that will prevent impacts to fish life.

(13) Minor rewording of old provision (11).

(14) New language provides that disturbances to the banks or streambank vegetation are minimized and that disturbed banks are revegetated with woody vegetation to maintain the integrity and stability of the channel.

(15) New language provides that all equipment operated within the ordinary high water line is properly maintained to prevent leaking or spillage of petroleum products harmful to fish life in areas where they may wash into waters of the state.

(16) New language provides a notification procedure to the department so that a pre-project and post-project inspection may be made to ensure compliance with the provisions of the HPA.

WAC 220-110-150 LARGE WOODY MATERIAL - DEBRIS REMOVAL OR REPOSITIONING ~~LOG AND LOG JAM REMOVAL~~.

JUSTIFICATION

This section was formerly titled LOG AND LOG JAM REMOVAL. The section has been renamed to more accurately reflect the type of projects and activities allowed when large woody material accumulations become problems in rivers and streams. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(1) New language provides for retaining or repositioning large woody material within the ordinary high water line for its benefits to fish life. Large woody motorial is extremely important for its role in providing habitat and food chain support for fish life. Where possible, large woody material is to be retained within the watercourse.

(2) Modification of the previous provision, requiring that equipment be operated from outside the watercourse to minimize the disturbance within the channel.

(3) Expansion of old provision (2) to specify precautionary measures necessary to prevent damage to stream banks and streamside vegetation.

(4) Rewording and clarification of old provision (3).

(5) Clarification of old provision (4) to distinguish between large woody material that is to be repositioned within the ordinary high water line and smaller debris that is to be removed and placed so it will not become a hazard to fish life.

(6) Rewording of old provision (5) to substitute "large woody material" for "logs" and to prevent disturbing embedded material that is important for fish habitat.

(7) Rewording of old provision (6) to substitute "large woody material" for "logs" and to minimize the release of bedload to downstream areas.

(8) Minor rewording of old provision (7) to be consistent other provisions.

WAC 220-110-160 FELLING AND YARDING OF TIMBER.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(1) Provision revised to allow felling of trees into or across a watercourse when specifically authorized by an HPA prior to the felling.

(2) New language provides that specific authorization must be obtained to remove

trees from watercourses. This is a current requirement, but has not been specifically addressed in existing WAC.

(3) Addition to old provision (2) to prevent damage to streamside vegetation as well as to the bed or banks.

(4) New language provides for anchoring cable ends across watercourses as long as damage to streamside vegetation is minimized during placing or operating the cable.

(5) Rewording of old provision (3) to clarify the timing of debris removal and distinguishing between large woody material in place prior to the project and debris entering the watercourse as a result of the project.

(6) New language that requires precautionary measures to minimize the release of fine sediment to downstream areas. Fine sediment can clog gravel and fill pools.

(7) The limitation on skidding and ground lead yarding is intended to minimize the release of fine sediment to downstream areas. The provision has been limited to channels with defined bed or banks so that operators can clearly distinguish areas where the limitation would apply.

WAC 220-110-170 OUTFALL STRUCTURES.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life.

(1) The department typically discourages fish entry into outfalls because of concerns related to fish stranding and water quality impacts to fish life. There are, however, situations where fish passage may be encouraged to provide rearing area where water and habitat conditions allow.

(4) Modification of revegetation requirement to be consistent with other sections.

(5-6) Separates old provision (5) into two provisions and makes the language consistent with other sections.

WAC 220-110-180 POND CONSTRUCTION.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The language has been modified to clarify that the section does not apply to wholly artificial ponds not connected to a watercourse.

(2) Adds considerations for controlling fish access to constructed ponds and requires screening or free access to the ponds when appropriate.

(3) Simplified to require that the inlet and outlets of constructed ponds be as close together as practicable.

(4) Changes this provision to reflect that administering water rights is the responsibility of the department of ecology, but that a water right be obtained before exercising the authorization of the HPA for pond construction involving diversion of state waters. This ensures that fish life is not unnecessarily impacted by a project unable to obtain the necessary permits.

(5) Revegetation of disturbed areas is required to minimize the entry of fine sediment into the watercourse. The establishment of woody vegetation on the bank is important for bank stability and to provide suitable fish habitat.

WAC 220-110-190 WATER DIVERSIONS.

JUSTIFICATION

Language additions reflect language that has been transferred from WAC 220-110-030 - provisions 18, 19, and 21. HPA and notification requirements are specified for diversion of water for emergency fire control. New language has been added to require that water diversions be equipped with a fish guard or screen as provided for in statute. Modifications also provide opportunity for additional flexibility to remove accumulated sediments at pump stations, screens and headgates. When conducting activities authorized by the Irrigation and Fish pamphlet, a copy of the pamphlet is required to be on-site to serve as the HPA. An water right to divert water is required prior to exercise of project activity as approved under the HPA, because the impacts to fish life associated with the project are unnecessary unless the hydraulic project activity is required to provide access for a water right. The requirement to incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat has not been included in this section as water diversion projects are likely to result in net loss, although the HPA will be conditioned to minimize the impacts.

(1) Modifications are necessary to clarify what materials are acceptable for construction of gravel berm dams, minimizing the potential of siltation to downstream areas. Emphasis is placed on use of clean gravel materials to minimize impacts f fine sediment, and the use of logs or other woody material may be authorized based on site specific conditions.
(2) Modifications address the need to maintain large woody material waterward of the ordinary high water line to maintain important fish habitat.
(4) Modifications clarify maintenance activities necessary to maintain the upstream end of the diversion, including the need to dispose the sediment in a manner that will not result in siltation of the stream.
(5) Language has been clarified to require fish guards where fish are likely to be present.
(6) The requirement of maintain the hydraulic gradient in the diversion canal has been incorporated into the rule to minimize the need for regular maintenance and associated impacts within the watercourse.
(7) Changes this provision to reflect that a water right be obtained before exercising the authorization of the HPA for diversion of state waters, to ensure that fish life is not unnecessarily impacted.

WAC 220-110-200 MINERAL PROSPECTING (PANNING).

JUSTIFICATION

The requirement that a copy of the Gold and Fish pamphlet be on the job site at all times to serve as the HPA when conducting activities authorized by the pamphlet has been moved to the front of the section. Other changes reflect clarification only, no substantive changes.

WAC 220-110-210 MINERAL PROSPECTING (SLUICING).

JUSTIFICATION

The requirement that a copy of the Gold and Fish pamphlet be on the job site at all times to serve as the HPA when conducting activities authorized by the pamphlet has been moved to the front of the section. Other changes reflect clarification only, no substantive changes.

WAC 220-110-220 MINERAL PROSPECTING (DREDGING).

JUSTIFICATION

The requirement that a copy of the Gold and Fish pamphlet be on the job site at all times to serve as the HPA when conducting activities authorized by the pamphlet has been moved to the front of the section. Other changes reflect clarification only, no substantive changes.

NEW SECTION WAC 220-110-223 FRESHWATER LAKE BULKHEADS

JUSTIFICATION

New section necessary to establish provisions specific to construction of freshwater lake bulkheads. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The use of creosote and pentachlorophenol is precluded in fresh water lakes due to the high toxicity to fish life and the low water exchange in lakes.

NEW SECTION WAC 220-110-224 FRESHWATER BOAT HOISTS, RAMPS, AND LAUNCHES

JUSTIFICATION

New section necessary to establish provisions specific to construction of freshwater boat ramps and launches. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The language referencing boat hoists has been transferred in from WAC 220-110-030 (25). The use of creosote and pentachlorophenol is precluded in fresh water lakes due to the high toxicity to fish life and the low water exchange in lakes.

WAC 220-110-230 SALTWATER TECHNICAL PROVISIONS

Clarification provided to identify why additional special provisions may be necessary,

and to identify that saltwater provisions may be applicable in certain estuarine areas that may appear to be freshwater, but exhibit saltwater conditions.

WAC 220-110-240 TIDAL REFERENCE AREAS

No proposed changes.

WAC 220-110-250 SALTWATER HABITATS OF SPECIAL CONCERN

JUSTIFICATION

The proposed revision replaces both existing WAC 220-110-250 and WAC 220-110-260 and adds additional saltwater habitats of special concern. Previously, legal descriptions were provided for documented surf smelt and herring spawning beds. Significant additions of species and areas make individual legal descriptions impractical in rule form. Since this information is frequently updated, it is not feasible to describe all locations in the WAC. A database of known habitats of special concern will be maintained by the department and will be available to the public on a site specific basis upon request.

WAC 220-110-270 COMMON SALTWATER TECHNICAL PROVISIONS

JUSTIFICATION

The lead language indicates that mitigation for adverse project impacts is required. Project applications may be denied where adequate proven mitigation is not provided.

(2) Restrictions are placed on the use of bed material for fill, to maintain the production potential of the bed. The disposal of dredge material in nearshore areas may be approved under specific conditions.
(3) Requirement to restrict the release of fresh concrete onto the beach or into the water, which can be toxic to fish life.
(5) The requirement to not allow disposal of debris or deleterious material waterward of the ordinary high water line is to prevent adverse impacts to fish life.
(8-10) Restrictions to minimize leaching or release of toxic compounds to state waters.
(11) Requirement to cease project activity and notify the department in the event of a fish kill associated with the project, to enable the problem to be identified and resolved before continuation of project activity.

NEW SECTION WAC 220-110-271 PROHIBITED WORK TIMES IN SALTWATER AREAS

JUSTIFICATION

This section identifies the prohibited work periods for the saltwater habitats of special concern. Reference to project timing has been changed to prohibited rather than permitted times, to provide greater clarity. Clear definition of these prohibited periods will enhance applicant predictability and certainty and provide consistency in the conditioning of HPAs. Opportunity has been provided for work in those areas with an extended surf smelt spawning season, subject to an inspection verifying lack of spawn.

WAC 220-110-280 SALTWATER BULKHEADS AND ASSOCIATED FILLS.

JUSTIFICATION

These provisions increase specificity for bulkhead projects and clarify the requirements of the permittee. The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The reference to "sloping and vertical" bulkheads was eliminated. The use of tidal elevations did not allow for sufficient protection of the nearshore, intertidal habitats, and the fish life dependent on them. This language will allow for only as much encroachment on the beach as is necessary to construct the bulkhead. Bulkhead construction provisions are intended to minimize encroachment waterward of the ordinary high water line, protecting the shallow nearshore corridor which is very important to protection of fish life. Provisions 9-12 minimize the impacts of excavation and stockpiling of materials waterward of the ordinary high water line. The placement of gravel is required upon project completion for all bulkhead projects in identified surf smelt spawning areas, to maintain the productive capacity of the disturbed shoreline.

NEW SECTION WAC 220-110-285 SINGLE FAMILY RESIDENCE BULKHEADS IN SALTWATER AREAS

JUSTIFICATION

New language applicable to implementation of RCW 75.20.160, enacted in 1991, governing construction of bulkheads on single family residence type property. The location of the bulkhead in relation to the bank reflects statutory language. Work corridors and excavation are restricted to protect the shallow near-shore corridor. Bulkhead construction that meets specific placement and construction method restrictions is allowed during the juvenile salmon migration period. The placement of gravel is required upon project completion for all bulkhead projects in identified surf smelt spawning areas, to maintain the productive capacity of the disturbed shoreline. The other provisions are included for consistency with other sections of the rule proposal.

WAC 220-110-290 SALTWATER BOAT RAMPS AND LAUNCHES.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The limitation of construction in listed habitats of special concern is identified.

WAC 220-110-300 SALTWATER PIERS, PILINGS, DOCKS, AND FLOATS.

JUSTIFICATION

The requirement to incorporate mitigation into projects of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The grounding of floats or rafts is prohibited on certain spawning beds to maintain the productive capacity of the spawning areas. In other areas, the impacts from grounding are minimized by the 20% restriction, and juvenile salmon migration corridors are maintained with the alignment and 8-inch height limitation. Impacts to saltwater habitats of special concern are to be avoided and adequate mitigation measures employed in other areas. Floatation is required to be fully contained to minimize potential impacts to fish life. Piers, ramps, docks, floats and other over water structures have been found to eliminate or significantly reduce, due to shading, marine vegetation important to many species of fish and shellfish. These structures may also impact juvenile salmonid migration corridors and rearing habitats if not properly designed and located.

WAC 220-110-310 UTILITY LINES

JUSTIFICATION

The requirement to incorporate mitigation into projects of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. Language has been clarified for excavation within the beach area during periods when the area is not covered by tidal waters, and to allow the trenches to remain open for limited periods provided fish are prevented from entering open trenches where they could be stranded when the tide recedes. The replacement of disturbed kelp and wetland vascular plants is required to maintain the productive capacity of these habitats of special concern.

WAC 220-110-320 DREDGING IN SALTWATER AREAS.

JUSTIFICATION

The requirement to incorporate mitigation into projects of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. The disposal of dredged materials may be approved for placement in nearshore areas for beneficial uses. Dredging is prohibited in certain habitats of special concern because of the inability to mitigate the impacts. If kelp is adversely impacted, it must be replaced through mitigation. Other changes are minor and have been made for clarification.

WAC 220-110-330 MARINAS IN SALTWATER AREAS.

JUSTIFICATION

The requirement to incorporate mitigation into project of this type to achieve no-net-loss is clearly stated to promote a clear understanding that mitigation will be required for impacts to fish life. Construction of marinas in listed saltwater habitats of special concern are to be avoided because proven mitigation measures are not available for loss of these habitats. The requirement to locate boathouses, houseboats, and covered moorages in water deeper than -10 feet is to avoid shading impacts in the nearshore migration corridor.

WAC 220-110-340 INFORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS.

JUSTIFICATION

Modifications are necessary to incorporate informal appeal opportunities provided in RCW 75.20.160, enacted in 1991, and to provide the appropriate reference to the Administrative Procedures Act. It is recommended that the Habitat Manager be contacted initially to determine whether the concern can be resolved without initiating an informal appeal. The filing deadline was incorporated to provide for timely review of concerns, and the request must be submitted in writing to document the request. A response deadline is imposed on the department to provide timely resolution. The responsible official who will conduct the informal appeal has been clarified.

WAC 220-110-350 FORMAL APPEAL OF ADVERSE ADMINISTRATIVE DECISIONS.

JUSTIFICATION

This section has been modified to reflect more appropriate legal terminology, correct references to the Administrative Procedure Act, correct notification addresses, and clarify the formal appeal process. The reference of formal appeals pursuant to RCW 75.20.103 and RCW 75.20.160 to the Hydraulic Appeals Board has also been incorporated. A request deadline of 30 days has been established from the date of the agency action to allow for timely review. The time period for filing a formal appeal is suspended during consideration of a timely informal appeal.

NEW SECTION WAC 220-110-360 PENALTIES

JUSTIFICATION

The language in this section was previously included in section 16 of WAC 220-110-030 and has been transferred to this new section and modified to clarify penalties associated with violation of the Hydraulic Code. Language has been modified on implementation of the civil penalty, to explain how the departments may apply the civil penalty, how and when the civil penalty accumulates, and when it becomes payable. The change reflects the manner in which criminal and civil penalties are levied. Civil penalties are allowed to accrue during the appeal process to avoid/compensate for losses of habitat which occur while the appeal is ongoing.

REPEALED

WAC 220-110-110 Culvert Installation
WAC 220-110-260 Pacific Herring Spawning Beds

Reason Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Chris Drivdahl, 1111 Washington Street, Olympia, 902-2580; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

Small Business Economic Impact Statement:

REGULATORY FAIRNESS ACT COMPLIANCE DOCUMENT

CHAPTER 220-110 WAC AMENDED

HYDRAULIC CODE RULES

INTRODUCTION

The Regulatory Fairness Act (Chapter 19.85 RCW) requires that proposed rules or rule amendments impacting more than 20 percent of all industries or more than 10 percent of the business in any one industry be evaluated for disproportionate impacts on small businesses versus large businesses. If such occur, mitigation of disproportionate small business impacts is to be provided if legal and feasible under the statute implemented by the proposed rule. This document describes that evaluation for the proposed amendments to Chapter 220-110 WAC.

OVERVIEW

Chapter 220-110 WAC (Hydraulic Code Rules) implements those parts of Chapter 75.20 RCW requiring that a Hydraulic Project Approval (HPA) be secured from the Washington Department of Fish and Wildlife for construction or other activities that "use, divert, obstruct or change the natural flow or bed of any of the salt or fresh waters of the state." (Quoted language from RCW 75.20.100 and WAC 220-110-010.) Hydraulic projects or other work diverting water for agricultural irrigation, stockwatering, or associated with streambank stabilization for agricultural land protection are similarly regulated under authority contained in RCW 75.20.103. Bulkhead construction for protection of single-family type residences and property is regulated under the authority contained in RCW 75.20.160. Hydraulic Project Approvals may only be denied or conditioned for protection of fish life.

The existing version of the Hydraulic Code Rules (last updated in 1987) is a rather general, relatively brief specification of fish life and fish habitat protection conditions usually associated with various hydraulic projects or activities -- with provision to add other requirements (or delete some of those specified) as required or appropriate on a case by case basis. Over the years, inclusion of additional conditions has become more frequent and regular as conditions in freshwater and marine environments have changed and as information and knowledge about important fish stocks and habitats has been developed.

The proposed amended version of the rule formally incorporates many of the HPA conditions that have come to be regularly or consistently applied for protection of fish life. Such conversion of guidelines or policies into formal rules is in keeping with the directive contained in the Administrative Procedure Act (see RCW 34.05.220(4)). Although the ability to add conditions as required on a case by case basis is retained, opportunity and a process for deletion of conditions on a showing by a project applicant that they do not apply in a specific case, that alternative means for protection of fish life or habitat has been provided, or for other specified reasons, has been explicitly provided. (See proposed WAC 220-110-032.) Although there may be a period of adjustment to the new structure and language, it is the intent and expectation of the Departments that this approach will, over time, provide greater certainty to project proponents as to the sorts of conditions that may apply to projects and greater efficiency in the process of determining the conditions that will make up any particular HPA.

This analysis will not concentrate upon the formalization of existing requirements and the clarification, reorganization and housekeeping modifications that do not represent substantive changes from the current rule. Rather, the remainder of this document considers small versus large business impacts of those elements that represent significant modifications to the existing rule. These include sections and provisions relating to bank protection and revegetation, water crossing structures, and certain aspects of marine and freshwater construction and related activities.

BANK PROTECTION AND REVEGETATION

a. Bank protection

Proposed new language in WAC 220-110-050 elevates bioengineering to preferred status among methods for restoring or protecting eroding streambanks. "Bioengineering" refers to the use of woody vegetation and other materials to stabilize

streambanks, with use of rock kept to the minimum required to provide stability for the establishment of vegetation -- as opposed to methods relying more heavily or entirely on rock or riprap. The intent is to provide or enhance riparian vegetation as part of an environment conducive to fish life. The economic sectors most likely to be affected by this proposed language are within the agricultural sectors (SICs 01 and 02). There is no basis for assigning potential impacts at the three-digit level, since a bank protection project may be undertaken by a farm owner or operator in any of these sectors.

The costs implied by this proposed requirement depend directly upon the size and physical characteristics of each site. It has been assumed, for this analysis, that smaller sized projects are usually undertaken by smaller businesses, although this may not be true in all cases. To the extent that this does hold, estimated costs (as developed below) would not be disproportionately greater for small businesses than for large businesses.

Since the costs associated with these provisions will vary depending on the characteristics and conditions of each site or area, no general estimate of impacts is possible. However, an indication of cost differentials can be gained from a recently completed bank protection project in western Washington. In this case, bank toe stabilization with rock was combined with plantings of live willow cuttings on the bank face and rooted alder stock planted in an additional upland buffer. A cost estimate for the same project using only rock riprap was also developed. This and the costs incurred for the bioengineering process were converted to a cost per "face foot" -- a measure incorporating the length of the streambank segment addressed, the width of the area covered, and the slope of the bank.

In this particular case, the costs for the bioengineering process amounted to some $1.50 per face foot. Estimated costs for an entirely rock riprap treatment amounted to approximately $4.00 per face foot. (In both cases, original costs or cost estimates have been updated for inflation.)

While similar comparisons would yield different results for other projects or cases, some general conclusions can be drawn. The costs cited here reflect the fact that purchasing, transporting and installing rock is expensive compared to planting trees or other vegetation. To the extent that the latter can be substituted for the former, costs should decline. This effect tends to be greater for projects having higher streambanks on which work would occur. Some rock is required in virtually all cases -- usually along the bank toe to provide stability. If that is the case, a relatively low streambank provides less opportunity for the cost-reducing substitution of vegetation for rock than would be the case with a higher streambank.

The proposed language identifies bioengineering as the preferred alternative, not as the only option. Subject to conditions specified in WAC 220-110-050(7), rock or other hard materials may be approved for use on a case by case basis. Further mitigation and flexibility is provided, once again, by the variance procedure in WAC 220-110-032.

b. Revegetation

Requirements for erosion protection and revegetation of disturbed streambanks and riparian areas are commonly found in the existing rule. They apply to a wide range of projects or activities and, hence, to an equally wide variety of industries or sectors in the Washington economy. The proposed rule applies this requirement more broadly and adds some specific conditions to the process. In general, initial erosion protection is to be in place within seven days of completion of a project and live stakes are to be planted (within one year) at three foot intervals and maintained as necessary over three years to achieve 80 percent survival. Planting densities and maintenance requirements may be varied on a site specific basis, and may be waived in cases with adequate potential for natural revegetation or when other safety or engineering factors warrant. (Once again, the variance procedures of WAC 220-110-032 provide additional flexibility if needed.)

Consultation with a person knowledgeable in this field indicates that -- if planted at the proper time and proper stage of plant dormancy -- 80 percent survival would normally occur for most woody species except under unusual climate or rainfall conditions. Cutting and planting live (willow) stakes should cost about $1.00 each. On this basis, revegetation costs would amount to approximately 25 cents per square foot. Even if some replacement or other maintenance were required, this provision should not represent a large proportion of the overall costs of most hydraulic projects.

WATER CROSSING STRUCTURES

WAC 220-110-070 incorporates provisions presently found in that section and section 110 of the existing rule. Major new elements include a requirement that bridges and culverts be designed to pass 100 year flows (as compared to 50 year flows) with consideration of debris loadings likely to be encountered, and more complete, formal fish passage requirements in the case of culverts.

Major bridge construction or renovation/maintenance projects usually fall within public sector activities. Smaller projects involving culverts are more likely to occur in the private sector. Affected industries include agriculture and others in which utilization of land surrounding a watercourse may be involved.

The impacts of an increase in design capacity from passage of 50 year floods to 100 year floods involves somewhat higher initial capital costs in exchange for significant reductions in ongoing maintenance and replacement costs. Less clogging and fewer washouts are likely to occur, especially in areas in which stormwater runoff increases due to development-related impervious surfaces. In that the existing and proposed rule requires maintenance of culverts in perpetuity (WAC 220-110-110(6) and proposed WAC 220-110-070(3)(g)), this will yield a tangible benefit to project owners. Many public sector (and larger private sector) entities are already designing bridges to a 100 year flood passage level because of this. Testimony offered in rule development workshops indicated that the increase in culvert size needed to meet a 100 year flow requirement is typically only one culvert size larger. The resulting increase in capital and installation costs is not large. Discussions with a consulting engineer experienced in this field confirmed this, and indicated that a usable "rule of thumb" is for typical culvert projects to cost approximately $50 per square foot (defined, in this case, as diameter of the culvert times width of the crossing). Additional armoring to provide structural integrity to a 100 year flow, plus a larger culvert, could increase this by roughly 10 to 20 percent; that is to $55 -$60 per square foot.

Existing language in WAC 220-110-110(1) requires that "Culverts shall be designed and constructed so as not to impede fish passage." New language in the proposed rule defines this requirement more completely and precisely and includes minimum flow depth and maximum velocity conditions for culverts in waters bearing important fish species. This may require engineering assistance in some cases. However, an option has been provided via WAC 220-110-070(3)(b)(i) that would allow culvert installation without the necessity to conduct major design evaluations. This option would typically apply to small businesses, and would reduce culvert installation complexity and cost.

Further mitigation is provided in that designs to flows other than the 100 year flood may be accepted upon a showing by project proponents that these are appropriate, and by the provisions of proposed WAC 220-110-032.

MARINE INDUSTRIES AND ACTIVITIES

Substantial portions of the existing and proposed versions of Chapter 220-110 WAC relate to businesses and activities that occur entirely or largely within either the fresh or salt waters of the state. Generally referred to as "marine industries," these include, but are not limited to, dredging; pile driving; pier, dock and bulkhead construction; and construction of marinas. As with other portions of the proposed rule, the bulk of the new language formalizes requirements that have come to be regularly and consistently applied as HPA additional conditions, or consists of reorganization and housekeeping changes to previous language. This discussion focusses on a smaller number of elements to the proposed rule that appear to represent substantive new requirements.

Significant portions of the activities fall within the public sector, including port and harbor construction and much new marina and boat launch development. As such these fall beyond the scope of Chapter 19.85 RCW. Private sector projects may be proposed and undertaken by a wide variety of businesses and by individuals acting on their own account as homeowners or property owners. The businesses providing the goods and services required for these largely fall within SIC 1629 (Heavy construction not elsewhere classified), a four-digit subsector of SIC 162. However, a large number of other activities are also included in SIC 1629, and available information does not permit separation of the firms or businesses engaged in marine/water related activities from the overall group, although the pattern of the data reported in the 1987 Census of Construction suggests that these activities account for approximately 8 percent of total SIC 162 sales

and revenue volumes, or about 2 percent of those volumes when largely public sector activities are taken out. In the absence of more definitive information, estimation of small business versus large business impacts will not be possible with any reasonable degree of precision.

a. Prohibition of wood treated with creosote or pentachlorophenol in freshwater lakes.

This proposed condition can be found in sections 060, 170, 223, and 224 of the proposed rule. Costs or savings of complying with it will enter into the costs and charges of those businesses engaged in activities that would otherwise use wood treated with these preservatives -- and will be ultimately borne by project proponents. The ultimate impacts are not expected to be large, in that:

- the use of untreated wood has been shown to be an effective alternative in freshwater lakes, thus reducing project costs;
- alternative materials (recycled plastic, steel or concrete) may be more expensive initially but will yield benefits over time in the form of reduced maintenance costs and less frequent replacement requirements; and
- alternative wood preservatives exist (ACZA was cited as one example during informal discussion with a contractor active in this field.) that are not prohibited, are equally effective, and are no more costly.

Collateral impacts may fall upon SIC 249 (Miscellaneous Wood Products) and the four-digit subsector SIC 2491 (Wood Preserving) in that some portion of the market for this sector's output may be foreclosed. However, available information does not permit identification of the portion of that sector's sales that have been, or would continue to be, used for projects in freshwater lakes. In that discussions with contractors active in this field indicate that the use of creosote and pentachlorophenol in freshwater lake environments has been decreasing in any case, the impacts should not be large.

b. Prohibited work times in saltwater areas.

The existing rule contains three tables or lists of times when bulkhead construction (WAC 220-110-280); construction or installation of piers, pilings, docks and floats (WAC 220-110-300); and dredging (WAC 220-110-320) is permitted in various tidal reference areas. The second of these separately addresses smelt and herring spawning beds. Provision is made, either generally or specifically (see existing WAC 220-110-300(2)), for more restrictive work periods or for additional restrictions as required for protection of juvenile salmonids or other fish species.

The proposed rule combines prohibited work times into one section (proposed WAC 220-110-271) and explicitly adds provisions for Pacific sand lance and rock sole spawning beds and for lingcod settlement and nursery areas. In some cases, prohibited work times for these species overlap prohibited work times already in place for surf smelt or juvenile salmon. Specific reference to prohibited work times for juvenile salmon migration, feeding, and rearing areas is also included. This clarifies work time closures associated with juvenile salmon that were included, but not always specifically referenced, in the existing rule and that have been consistently applied. When both the existing provisions and the proposed language are converted into the same reference frame (prohibited times), few significant changes are found. In some cases prohibited work times are expanded, but in many others they are reduced. Generally, however, greater restrictions on allowable work times are contained in the proposed rule.

Significant closures are necessary for protection of surf smelt spawning beds in some areas, but mitigation of the impacts of this change upon marine industry activities is explicitly provided in proposed WAC 220-110-271(6). This subsection provides for work in areas where surf smelt spawning seasons equal or exceed 6 months, provided work begins within 48 hours of an inspection by department representatives or another acceptable biologist that determines that no spawning is occurring or has recently occurred. Further mitigation is, of course, provided by the variance procedure in WAC 220-110-032.

Exemption from work time prohibitions for protection of nearshore juvenile salmon migration, feeding, and rearing areas potentially impacted by single family residence bulkhead projects may be available if the conditions in WAC 220-110-285(4)(b) are satisfied. These exemptions represent a relaxation of prohibited work times when compared to the existing rule.

c. Single family residence bulkheads in saltwater areas.

A proposed new section, WAC 220-110-285, implements legislation enacted and approved in 1991 and now codified as RCW 75.20.160. Much of the language in this proposed new section adds specificity to, or mirrors, that of the statute, especially subsections (1), (2) and (3). The remainder of the new section corresponds closely to similar requirements and conditions delineated in sections applying to similar activities in non-single family residence settings. (Compare, for example, proposed section 280.) As before, this represents updating and formalization of conditions and requirements that have come to be regularly applied to hydraulic projects of this type.

Section 285(12) [and section 280(13)] requires one-time placement of appropriately sized gravel on beach areas following bulkhead construction in identified surf smelt spawning areas. Although this has been included in HPAs as an additional condition in the past, it is a relatively new requirement and has attracted some concern. Based on limited information, it appears that the costs of obtaining and applying gravel falls within a range from $16 to $20 per cubic yard (depending on access and method of application), and that -- where required -- approximately 17 yards applied per 100 feet of bulkhead serves as a usable "rule of thumb." Based on this, graveling costs would run somewhere between $270 and $340 per 100 feet of bulkhead, with cost savings potentially available if it is possible to combine graveling operations for several bulkhead projects into one job. There is no concrete basis for assigning impacts to small versus large businesses, although intuition would lead one to assume that the amount and value of total project activity is related to firm size. The additional cost of beach graveling would likely be passed on to the consumer and represents a small fraction (approximately two percent) of the total cost of a bulkhead.

Mitigation for timing restrictions in nearshore juvenile salmonid migration, rearing and feeding areas has been provided in proposed WAC 220-110-285(4)(b) if the conditions contained therein are satisfied. Additional, general mitigation is provided through the variance procedures in proposed WAC 220-110-032 and the enhanced informal appeal process contained in proposed WAC 220-110-340.

This Small Business Impact Statement was prepared by staff of the Economics Unit of the Washington State Department of Ecology under an interagency agreement with the Washington State Department of Fish and Wildlife. Questions should be directed to:

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Hearing Location: Spokane Community College, Building 6 - Sasquatch Room, North 1810 Greene Street, Spokane, WA, on June 21, 1994, at 7:00 p.m.; at Central Washington University, Mary Group Center, Ellensburg, Washington, on June 22, 1994, at 7:00 p.m.; at Everett Community College, Baker 120, 801 Wetmore Avenue, Everett, WA, on June 23, 1994, at 7:00 p.m.; at Lower Columbia College, Student Center Conference Rooms A and B, 1600 Maple, Longview, WA, on June 27, 1994, at 7:00 p.m.; and at Olympia Center, Rooms 101 and 102, 222 North Columbia, Olympia, WA, on June 28, 1994, at 7:00 p.m.

Submit Written Comments to: Hearings Officer, Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501, by June 20, 1994.

Date of Intended Adoption: July 22, 1994.

May 18, 1994
Judith Freeman, Deputy
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-010 Purpose. It is the intent of the department to provide protection for all fish life through the development of a state-wide system of consistent and predictable rules. The department will coordinate with other local, state, and federal regulatory agencies, and tribal governments, to minimize regulatory duplication. Pursuant to ((~~RCW 75.20.100, 75.20.103, 75.20.106, 75.20.130, and 75.20.140~~)) chapter 75.20 RCW, this chapter establishes regulations for the construction of ((~~any form of~~)) hydraulic project(s) or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, and sets forth procedures for obtaining a hydraulic project approval (HPA). In addition, this chapter incorporates criteria ((~~and guidelines~~)) generally used by the department of ((~~fisheries and the department of game~~)) fish and wildlife for project review and conditioning ((~~hydraulic project approvals~~)) HPAs. ((~~It is not intended that~~))

The technical provisions in WAC 220-110-040 through 220-110-330 represent common provisions for the protection

of fish life for typical projects proposed to the department. Implementation of these provisions is necessary to minimize project specific and cumulative impacts to fish life. These regulations reflect the best available science and practices related to protection of fish life. The department will incorporate new information as it becomes available, and to allow for alternative practices that provide equal or greater protection for fish life.

The technical provisions ((~~will automatically~~)) shall apply to ((~~each~~)) a hydraulic project ((~~approval~~)) when included as provisions on the HPA. ((~~Rather,~~)) Each application ((~~will~~)) shall be reviewed on an individual basis. Common technical provisions applicable to a specific project may be modified or deleted by the department pursuant to WAC 220-110-032. HPAs may also be subject to additional special provisions to address project or site-specific considerations not adequately addressed by the common technical provisions.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-020 Definitions. As used in this chapter, unless the context clearly requires otherwise:

(1) "Beach area" means the beds between the ordinary high water line and extreme low tide.

(2) "Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, ((~~storm water~~)) storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

(3) "Bed materials" means natural-occurring material found in the beds of state waters ((~~of the state~~)).

(4) "Bio-engineering" means project designs or construction methods which use a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

(5) "Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

(6) "Cofferdam" means a temporary enclosure used to keep water from a work area.

((~~(5)~~)) (7) "Department((~~s~~))" means the department of ((~~fisheries and the department of game~~)) fish and wildlife.

((~~(6)~~)) (8) "Dredging" means removal of bed material using other than hand held tools.

((~~(7)~~)) (9) "Emergency" means an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation, arising from weather or stream flow conditions ((~~or~~)), other natural conditions, or fire.

((~~(8)~~)) (10) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

((~~(9)~~)) (11) "Established ford" means a crossing place in a ((~~river or stream which has existed for at least three years~~)) watercourse that was in existence and annually used prior to 1986 or subsequently permitted by the department, and, has ((~~an~~)) identifiable ((~~approach on the stream bank~~)) approaches on the streambanks.

((~~(10)~~)) (12) "Extreme low tide" means the lowest level reached by a receding tide.

((~~(11)~~)) (13) "Farm and agricultural land" means those lands identified as such in RCW 84.34.020.

(14) "Filter blanket" means a layer or combination of layers of pervious materials (organic, mineral, or ((~~man-made~~)) synthetic) designed and installed in such a manner as to provide drainage, yet prevent the movement of soil particles due to flowing water.

((~~(12)~~)) (15) "Fish life" means all fish species, including but not limited to food fish, shellfish, ((~~and~~)) game fish, and other nonclassified fish species and all stages of development of those species.

((~~(13)~~)) (16) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for except as authorized by rule of the director of the department of ((~~fisheries~~)) fish and wildlife.

((~~(14)~~)) (17) "Freshwater area" means those state waters and associated beds below the ordinary high water line that are upstream of river mouths including all lakes, ponds, and streams.

((~~(15)~~)) (18) "Game fish" means those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the ((~~state game~~)) fish and wildlife commission.

((~~(16)~~)) (19) "General provisions" means those provisions that are contained in every ((~~hydraulic project approval~~)) (HPA).

((~~(17)~~)) (20) "Hand-held tools" means tools that are held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, ((~~and~~)) hammers, etc.

((~~(18)~~)) (21) "Hydraulic project" means construction or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. Hydraulic projects include forest practice activities, conducted pursuant to the Forest Practices Act (Title 222 WAC), that involve construction or performance of other work in or across the ordinary high water line of:

(a) Type 1-3 waters; or

(b) Type 4 and 5 waters with identifiable bed or banks where there is a hatchery water intake within two miles downstream; or

(c) Type 4 or 5 waters with defined bed or banks within one-fourth mile of Type 1-3 waters where any of the following conditions apply:

(i) Where the removal of timber adjacent to the stream is likely to result in entry of felled trees into flowing channels;

(ii) Where there is any felling, skidding, or ground lead yarding through flowing water, or through dry channels with defined bed or banks with gradient greater than twenty percent;

(iii) Where riparian or wetland leave trees are required and cable tailholds are on the opposite side of the channel;

PROPOSED

(iv) Where road construction or placement of culverts occurs in flowing water;

(v) Where timber is yarded in or across flowing water;

(d) Type 4 and 5 waters that are likely to adversely affect fish life, where the HPA requirement is noted by the department in response to the forest practice application.

Hydraulic projects and associated permit requirements for specific project types are further defined in other sections of this chapter.

((~~(19)~~)) (22) "Hydraulic project application" means a form provided by and submitted to the department of ((~~fisheries or the department of game~~)) fish and wildlife accompanied by plans and specifications of the proposed hydraulic project.

((~~(20)~~)) (23) "Hydraulic project approval" (HPA) means:

(a) A written approval for a hydraulic project signed by the director of the department of ((~~fisheries or the director of the department of game~~)) fish and wildlife, or ((~~by employees designated and authorized to do so~~)) their designates; or

(b) A verbal approval for an emergency hydraulic project from the director of the department of ((~~fisheries or the director of the department of game~~)) fish and wildlife, or by employees designated and authorized to do so; or

(c) A "Gold and Fish" pamphlet issued by the department which identifies and authorizes specific minor hydraulic project activities for mineral prospecting (panning); or

(d) An "Irrigation and Fish" pamphlet issued by the department which identifies and authorizes specific minor hydraulic project activities.

((~~(21)~~)) (24) "Impervious surface" means an artificially hardened surface which either prevents or retards the natural entry of water into the soil mantle, or an artificially hardened surface which causes water to run off the surface in greater quantities or at a greater rate of flow than compared to the preproject conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which impede the natural infiltration of storm water. Retention and detention facilities shall not be considered as impervious surfaces.

(25) "Large woody material" means trees or tree parts larger than four inches in diameter and longer than six feet and rootwads, wholly or partially waterward of the ordinary high water line.

(26) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years. It is measured from the MLLW = 0.0 tidal elevation.

(27) "Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each days' lowest tide at a particular location over a period of ((~~18.6~~)) nineteen years. It is the tidal datum ((~~base~~)) for ((~~tide levels and~~)) vertical tidal references in the saltwater area.

((~~(22)~~)) (28) "Mitigation" means actions which shall be required as provisions of the HPA to avoid or compensate for impacts to fish life resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action; ((~~and/or~~))

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation; ((~~and/or~~))

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; ((~~and/or~~))

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; ((~~and/or~~))

(e) Compensating for the impact by replacing or providing substitute resources or environments; ((~~and/~~)) or

(f) Monitoring the impact and taking appropriate corrective measures to achieve the identified goal.

For projects with potentially significant impacts, a mitigation agreement may be required prior to approval. Replacement mitigation may be required to be established and functional prior to project construction.

((~~(23)~~)) (29) "Natural conditions" means those conditions which arise in or are found in nature. This is not meant to include artificial or manufactured conditions.

((~~(24)~~)) (30) "No-net-loss" means:

(a) Avoidance of adverse impacts to fish life; or

(b) Avoidance of net loss of habitat functions necessary to sustain fish life; or

(c) Avoidance of loss of area by habitat type.

Mitigation to achieve no-net-loss should benefit those organisms being impacted.

(31) "Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland((~~, in respect to vegetation~~)): *Provided,* That in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the ((~~line~~)) elevation of the mean ((~~high water~~)) annual flood.

((~~(25)~~)) (32) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations.

((~~(26)~~)) (33) "Protection of fish life" means prevention of loss or injury to fish or shellfish, and protection of the habitat that supports fish and shellfish populations.

(34) "River or stream." ((~~means waters in which fish may spawn, reside, or through which they may pass. This includes watercourses which exist on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This also includes any natural watercourses which have been altered by man. This definition is not meant to include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses except where they exist in a natural watercourse which has been altered by man.~~

((~~(27)~~)) See "watercourse."

(35) "Saltwater area" means those state waters and associated beds below the ordinary high water line and downstream of river mouths.

((~~(28)~~)) (36) "Shellfish" means those species of ((~~marine~~)) saltwater and freshwater invertebrates that shall not be taken except as authorized by rule of the director of the

department of ((~~fisheries~~)) fish and wildlife. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

((~~(29)~~)) (37) "Special provisions" means those conditions that are a part of the ((~~hydraulic project approval~~)) (HPA), but are site or project specific, and are used to supplement or amend the technical provisions.

((~~(30)~~)) (38) "Streambank stabilization" means those projects which prevent or limit erosion, slippage, and mass wasting; including, but not limited to bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection (physical armoring of streambanks using rock or woody material, or placement of jetties or groins), gravel removal or erosion control.

(39) "Technical provisions" means those conditions that are a part of the ((~~hydraulic project approval~~)) (HPA) and apply to most projects of that nature.

((~~(31)~~)) (40) "Toe of the bank" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged below the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure, where it meets the stream bed or marine beach or bed.

(41) "Watercourse" and "river or stream" means any portion of a channel, bed, bank, or bottom ((~~within~~)) waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition ((~~is~~)) does not ((~~meant to~~)) include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by ((~~man~~)) humans.

((~~(32)~~)) (42) "Water right" means a certificate of water right, a vested water right or a claim to a valid vested water right, or a water permit, pursuant to Title 90 RCW.

(43) "Waters of the state" or "state waters" means all ((~~marine~~)) salt waters and fresh waters ((~~within~~)) waterward of ordinary high water lines and within the territorial boundaries of the state.

((~~(33)~~)) (44) "Water type" means water categories as defined in WAC 222-16-020 of the forest practice rules and regulations, published and dated November 1, 1988.

(45) "Wetted perimeter" means the areas of a watercourse covered with water, flowing or nonflowing.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-030 Hydraulic project approvals—Procedures. (1) A person shall ((~~secure a hydraulic project approval~~)) obtain an HPA before conducting a hydraulic project.

(2) A person seeking ((~~hydraulic project approval~~)) an HPA shall submit a complete application to the department ((~~of fisheries or the department of game~~)). The application shall contain general plans for the overall project, complete plans and specifications for the proposed construction or work ((~~below~~)) waterward of the mean higher high water line in salt water or waterward of the ordinary high water line ((~~of state waters~~)) in fresh water, and complete plans and specifications for the proper protection of fish life. The application shall be signed and dated by the applicant or their agent.

(3) ((~~Application for hydraulic project approval shall be submitted to the department of fisheries or department of game. The department having jurisdiction of a particular site will cooperate with the other department to protect all species of fish. If either department receives an application concerning a site not in its jurisdiction, it will transmit the application to the other department within three days, and the applicant will be notified.~~

~~(a) For projects located in the following areas, an application shall be submitted to the Department of Fisheries, Habitat Management Division, 115 General Administration Building, Olympia, WA 98504, (206) 753-6650:~~

~~(i) Western Washington, which includes all lands lying west of the summit of the Cascade Mountains;~~

~~(ii) The mainstem Snake River and the mainstem Columbia River downstream from Chief Joseph Dam.~~

~~(b) For projects located in the following areas, an application shall be submitted to the Department of Game, Habitat Management Division, 600 North Capitol Way, Olympia, WA 98504, (206) 753-5897:~~

~~Eastern Washington, which includes all lands lying east of the summit of the Cascade Mountains, including Klickitat County except those areas in (a)(ii) of this subsection.~~

~~(c) The departments reserve the right to exchange jurisdiction on individual projects.~~

~~(d)~~)) Receipt of any one of the following documents ((~~at the addresses listed in (a) and (b) of this subsection~~)) constitutes application for ((~~a hydraulic project approval~~)) an HPA:

((~~(i)~~)) (a) A completed hydraulic project application submitted to the department ((~~of fisheries or department of game~~));

((~~(ii)~~)) (b) A completed forest practice application submitted to the department of natural resources, if the hydraulic project is part of a forest practice as defined in WAC 222-16-010((~~(19)~~)); or

((~~(iii)~~)) (c) A section 10 or 404 public notice circulated by the United States Army Corps of Engineers or United States Coast Guard.

(4) The ((~~appropriate~~)) department shall grant or deny approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the State Environmental Policy Act (SEPA) (chapter 43.21C RCW). The department((~~s~~)) shall strive to ((~~process hydraulic project applications~~)) issue HPAs in less than thirty days. The forty-five day requirement shall be suspended if:

(a) An incomplete application is received;

(b) The site is physically inaccessible for inspection;

(c) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(d) The applicant requests delay.

(5) Immediately upon determination that the forty-five day period is suspended, the ((~~appropriate~~)) department shall notify the applicant in writing of the reasons for the delay.

(6) The department may issue an expedited written HPA in those instances where normal processing would result in unanticipated extreme hardship for the applicant, or unacceptable environmental damage would occur. An expedited HPA may be granted upon request for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources that are subject to imminent danger by weather, flow, or other natural conditions. Expedited HPA requests require complete written application and shall take precedence over other nonemergency applications and will normally be issued within ten calendar days of request. All SEPA requirements shall be met prior to issuance of an expedited HPA.

(7) Verbal approval shall be granted immediately upon request for emergency work to repair existing structures, move obstructions, restore banks, or protect property that is subject to immediate danger by weather, flow, or other natural conditions. Verbal approval shall be granted immediately upon request for driving across a stream during an emergency, as defined in WAC 220-110-020((~~(7)~~)).

((~~(7)~~)) (8) The department((~~s~~)) may accept written or verbal requests for time extensions, renewals, or alterations of an existing ((~~approval~~)) HPA. Approvals of such requests shall be in writing. Transfer of an HPA to a new permittee requires written request by the original permittee or their agent and such request shall include the HPA number. This written request shall be in a form acceptable to the department granting approval and shall contain an affirmation by the new permittee that he/she agrees to be bound by the conditions on the HPA. Project activity shall not be conducted by the new permittee until approval has been issued by the department.

((~~(8)~~)) (9) Each ((~~approval~~)) HPA is usually specific to a watercourse, stating the exact location of the project site, and usually consists of general, technical, and special provisions.

((~~(9)~~)) (10) The written ((~~hydraulic project approval~~)) HPA, or ((~~an exact copy~~)) clear reproduction, shall be on the project site when work is being conducted and shall be immediately available for inspection.

((~~(10)~~)) (11) All ((~~hydraulic project approvals~~)) HPAs may be granted for a period of up to five years. ((~~However, approvals issued under RCW 75.20.103 for work of a seasonal nature that diverts water for irrigation or stock watering purposes shall remain in effect without need for periodic renewal, provided the permittee notifies the agency that issued the approval before commencing the work each year. All~~)) Permittees ((~~must~~)) shall demonstrate substantial progress on construction of that portion of the project relating to the ((~~hydraulic approval~~)) (HPA) within two years of the date of issuance. The following types of HPAs issued under RCW 75.20.103 shall remain in effect without the need for periodic renewal provided the permittee notifies the department that issued the HPA before commencing the work each year.

(a) Work of a seasonal nature that diverts water for irrigation or stock watering purposes.

(b) Streambank stabilization projects if the problem causing the erosion occurs on an annual or more frequent basis as demonstrated by the applicant. Evidence of erosion may include, but is not limited to history of permit application, approval, or photographs. Periodic flood waters by themselves do not constitute the problem that requires a HPA.

((~~(11)~~)) (12) A hydraulic project application ((~~will~~)) shall be denied when, in the judgment of the department ((~~of fisheries or department of game~~)), the project ((~~is directly or indirectly harmful~~)) will result in direct or indirect harm to fish life unless adequate mitigation can be assured by conditioning the ((~~approval~~)) HPA or modifying the proposal. If approval is denied, the department ((~~of fisheries or department of game will~~)) shall provide the applicant, in writing, a statement of the specific reason(s) why and how the proposed project would adversely affect fish life.

((~~(12)~~)) (13) Protection of fish life shall be the only grounds upon which an ((~~approval~~)) HPA may be denied or conditioned.

((~~(13) Hydraulic project approvals~~)) (14) HPAs may have specific time limitations on project activities to protect fish life.

((~~(14) Hydraulic project approvals~~)) (15) HPAs do not exempt the applicant from obtaining other appropriate permits and following the rules or regulations of local, ((~~other state, and~~)) federal, and other Washington state agencies.

((~~(15)~~)) (16) Administration of this chapter shall be conducted in compliance with ((~~the State Environmental Policy Act~~)) SEPA, chapter 43.21C RCW, and chapters 197-11, 220-100 ((~~or~~)), and 232-19 WAC.

((~~(16) If a person commences any activity subject to RCW 75.20.100 or 75.20.103 without having first obtained approval of the department of fisheries or department of game or if any person fails to follow or carry out any of the requirements or provisions as are made a part of such approval, that person is guilty of a gross misdemeanor. In lieu of gross misdemeanor charges, at the discretion of the department of fisheries or the department of game, the person who violates RCW 75.20.100, 75.20.103, or chapter 220-110 WAC may be subject to a civil penalty of up to one hundred dollars per day. The amount of the civil penalty will be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty. The notice will describe the violation, the amount of the penalty, how to pay the penalty, and the appeal rights of the person incurring the penalty.~~

~~(17) In addition to hydraulic project approval, mechanical or hydraulic clam harvesters shall be governed by the provisions of WAC 220-52-018 and shall obtain and comply with the provisions of the department of fisheries' permit to operate a clam harvesting machine.~~

~~(18) The hydraulic code cannot be used to limit the amount or timing of water diverted under a water right. However, construction of structures or placement of devices or other work within waters of the state which will use, divert, obstruct or change the natural flow or bed of any river or stream, or that will utilize any of the waters of the state in order to take water allowed by a water right requires a hydraulic project approval. Regulation of water flow from a permanent irrigation structure by operating valves, or manipulating stop logs, check boards or head boards, does not require hydraulic project approval.~~

~~(19) Persons who have historically used and are currently using a gravel berm dam as the method of diversion shall be permitted to continue to do so. The departments can, however, condition the approval of gravel berms.~~

~~(20) The following general provisions apply to and are found on each hydraulic project approval:~~

~~(a) This approval is to be available on the job site at all times and its provisions followed by the permittee and operator performing the work.~~

~~(b) The person(s) to whom this approval is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this approval.~~

~~(c) Failure to comply with the provisions of this approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.~~

~~(d) All hydraulic project approvals~~)) (17) All HPAs issued pursuant to RCW 75.20.100 ((~~are~~)) and 75.20.160 may be subject to additional restrictions, conditions, or revocation if the department ((~~of fisheries or department of game~~)) determines that new biological or physical information indicates the need for such action. The permittee has the right ((~~pursuant~~)) to request an informal or formal appeal in accordance with chapter ((~~34.04~~)) 34.05 RCW((~~, to appeal such decisions~~)). All ((~~hydraulic project approvals~~)) HPAs issued pursuant to RCW 75.20.103 may be modified by the department ((~~of fisheries or department of game~~)) due to changed conditions after consultation with the permittee: *Provided however,* That ((~~such~~)) modifications of HPAs issued pursuant to RCW 75.20.103 and 75.20.160 shall be subject to appeal to the hydraulic appeals board established in RCW 75.20.130.

(((~~(e) This approval pertains only to the provisions of the fisheries and game codes. Additional authorization from other public agencies may be necessary for this project.~~

~~(21) Cleaning, adjusting, operating, and maintaining existing irrigation diversion structures or maintaining established fords, by use of hand held tools, may be accomplished without first securing a written hydraulic project approval. For these purposes, this subsection, or the latest edition of the *Irrigation and Fish* pamphlet issued by the departments of fisheries and game, shall serve as the hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020(8). If adverse impacts to fish life occur, the project shall immediately cease, and an application for approval shall be made in accordance with WAC 220-110-030 (1), (2), and (3).~~

~~(22) Aquatic weed control by hand pulling or hand tools does not require hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020(8).~~

~~(23) Driving a vehicle, or operating equipment, on or across an established ford does not require a hydraulic project approval. However, ford repair with equipment or construction work within the ordinary high water lines requires a hydraulic project approval. Driving a vehicle or operating equipment on or across wetted stream beds at areas other than established fords requires a hydraulic project approval.~~

~~(24) The installation, by hand or hand tools, of small scientific markers, oyster stakes, boundary markers, or property line markers does not require a hydraulic project approval.~~

~~(25) The installation and operation of portable boat hoists in lakes does not require a hydraulic project approval, provided:~~

~~(a) Equipment is not operated below the ordinary high water line during installation;~~

~~(b) The hoist is not installed at the mouth of any river or stream; and~~

~~(c) Dredging, filling, or pile driving is not conducted as part of the project.~~))

NEW SECTION

WAC 220-110-032 Modification of technical provisions. Technical provisions applicable to a specific project may be modified or deleted by the department where any of the following is demonstrated:

(1) The provision has no logical application to a project;

(2) The applicant provides an alternate plan to the provision and demonstrates that it provides equal or greater protection for fish life;

(3) Enforcement of the provision would result in denial and there is adequate mitigation to allow the project and achieve no-net-loss of fish life or productive fish or shellfish habitat;

(4) The modification or deletion of the provision will not contribute to net loss of fish life;

(5) The proposal is part of an approved clean-up action under Model Toxics Control Act; Comprehensive Environmental Response Compensation and Liability Act; or Superfund Amendment and Reauthorization Act; or

(6) The technical provisions conflict with applicable local, state, or federal regulations that provide adequate protection for fish life.

HPAs may also be subject to additional special provisions to address project or site-specific considerations not adequately addressed by the technical provisions. The HPA will include all of the technical provisions with which an applicant will be required to comply.

NEW SECTION

WAC 220-110-035 Miscellaneous hydraulic projects—Permit requirements. (1) Operators of mechanical or hydraulic clam harvesters shall be required to obtain an HPA and comply with provisions of WAC 220-52-018, and shall obtain and comply with the provisions of the department's permit to operate a clam harvesting machine.

(2) Aquatic weed control by hand pulling or hand-held tools does not require hydraulic project approval. This does not include the use of equipment as defined in WAC 220-110-020.

(3) The installation, by hand or hand-held tools, of small scientific markers, oyster stakes, boundary markers, or property line markers does not require an HPA.

(4) Driving a vehicle or operating equipment on or across an established ford does not require an HPA. However, ford repair with equipment or construction work waterward of the ordinary high water lines requires an HPA. Driving a vehicle or operating equipment on or across wetted stream beds at areas other than established fords requires an HPA. HPAs for fords issued subsequent to July 1994 shall

require that the entry and exit points of the ford not exceed one hundred feet upstream or downstream of each other.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-040 Freshwater technical provisions. WAC 220-110-050 through ((~~220-110-220~~)) 220-110-224 set forth technical provisions that ((~~typically~~)) shall apply to freshwater hydraulic projects. Certain technical provisions ((~~may~~)) shall be required depending upon the individual proposal and site specific characteristics. Additional special provisions may be included as necessary to address site-specific conditions. Those provisions, where applicable, shall be contained in the hydraulic project approval, as necessary to protect fish life. Saltwater provisions referenced in WAC 220-110-230 through 220-110-330 may be applied to intertidal areas and the mainstem Columbia River downstream of Bonneville Dam, where applicable.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-050 Bank protection. Bio-engineering is the preferred method of bank protection where practicable. Bank protection projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to bank protection projects:

(1) Bank protection work shall be ((~~confined~~)) restricted to ((~~damaged~~)) work necessary to protect eroding banks.

(2) ((~~Watercourse encroachment shall be held to a minimum.~~

~~(3) Bank protection material shall not appreciably reduce normal watercourse capacity or configuration.~~

~~(4)~~)) Bank protection material placement waterward of the ordinary high water line shall be restricted to the minimum amount necessary to protect the toe of the bank, or for installation of mitigation features approved by the department.

(3) The toe shall be designed to protect the integrity of bank protection material.

((~~(5)~~)) (4) Bank sloping shall be accomplished in a manner that ((~~will prevent the~~)) avoids release of overburden material into the water. Overburden material resulting from the project shall be deposited so as not to reenter the water.

((~~(6) Bank protection material shall be clean, angular rock or other material of a sufficient size to prevent its being washed away by water action. River gravels shall not be used as exterior armor.~~

~~(7) Bank protection and filter blanket material shall be placed from the bank or a barge. Dumping onto the bank face shall be permitted only if the toe is established and the material can be confined to the bank face.~~

~~(8) Filter blanket material shall be placed prior to placement of bank protection material.~~

~~(9)~~)) (5) Alteration or disturbance of the bank and bank vegetation shall be ((~~held to a minimum~~)) limited to that necessary to construct the project. All disturbed areas shall be protected from erosion, within seven calendar days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

((~~(10) Overburden material resulting from this project shall be deposited so as not to reenter the water~~)) (6) Fish habitat components such as logs, stumps, and/or large boulders may be required as part of the bank protection project to mitigate project impacts. These fish habitat components shall be installed according to an approved design to withstand 100-year flows.

(7) When rock or other hard materials are approved for bank protection, the following provisions shall apply:

(a) Bank protection material shall be angular rock. The project shall be designed and the rock installed to withstand 100-year flows. River gravels shall not be used as exterior armor, except as specifically approved by the department.

(b) Bank protection and filter blanket material shall be placed from the bank or a barge. Dumping onto the bank face shall be permitted only if the toe is established and the material can be confined to the bank face.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-060 ((~~Bridge, pier, and piling construction~~)) Construction of freshwater docks, piers, and floats and the driving or removal of piling. All pier, dock, float, and piling construction projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to ((~~bridge, pier, and piling~~)) freshwater dock, pier, and float construction projects and the driving or removal of piling:

(1) ((~~Excavation for the footings, piers, or abutments shall be isolated from the wetted perimeter by a dike, cofferdam, or similar mechanism.~~

~~(2) Wastewater discharged to receiving waters shall not adversely impact fish life.~~

~~(3) Structures containing concrete or wood preservatives shall be cured or dried prior to water encroachment.~~

~~(4) Abutments, piers, piling, sills, etc., shall not restrict the flow so as to cause any appreciable increase in backwater elevation or scour and shall be aligned to cause the least effect on the hydraulics of the body of water.~~

~~(5) Riprap materials used for structure protection shall be clean and of sufficient size to prevent their being washed away.~~

~~(6) Backfilling and armoring around each structure shall take place prior to removal of cofferdams.~~

~~(7) The bridge shall be constructed high enough to pass the fifty year flood level. Exception shall be granted if applicant provides design criteria to support a more appropriate level.~~

~~(8) Alteration or disturbance of bank or bank vegetation shall be held to a minimum, and all disturbed areas shall be protected from erosion and revegetated.~~)) Excavation for and placement of the footings and foundation shall be landward

of the ordinary high water line unless the construction site is separated from state waters by use of an approved dike, cofferdam, or similar structure.

(2) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to construct the project. All disturbed areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(3) Removal of existing or temporary structures shall be accomplished so that the structure and associated material does not reenter the watercourse.

(4) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

(5) Skirting or other structures shall not be constructed around piers, docks, or floats unless specifically approved in the HPA.

(6) Floatation for the structure shall be enclosed and contained to prevent the breakup or loss of the floatation material into the water.

(7) All work operations shall be conducted in such a manner that causes little or no siltation to adjacent areas. If at any time, fish are observed in distress, a fish kill occurs, or water quality problems develop as a result of a pier, dock, float, or piling project, construction operations shall cease and the permittee or authorized agent shall immediately contact the department granting the HPA.

(8) Removal of aquatic vegetation shall be limited to that necessary to gain access to construct the project.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-070 ((~~Bridge construction—Stringer type~~)) Water crossing structures. ((~~The following technical provisions may apply to bridge construction—Stringer type projects:~~)) In fish bearing waters, bridges are preferred as water crossing structures by the department in order to ensure free and unimpeded fish passage for adult and juvenile fishes and preserve spawning and rearing habitat. Pier placement waterward of the ordinary high water line shall be avoided, where practicable. Other structures which may be approved, in descending order of preference, include: Temporary culverts, bottomless arch culverts, arch culverts, and round culverts. Corrugated metal culverts are generally preferred over smooth surfaced culverts. Culvert baffles and downstream control weirs are discouraged except to correct fish passage problems at existing structures.

An HPA is required for construction or structural work associated with any bridge structure waterward of or across the ordinary high water line of state waters. An HPA is also required for bridge painting and other maintenance where there is potential for wastage of paint, sandblasting material, sediments, or bridge parts into the water, or where the work, including equipment operation, occurs waterward of the ordinary high water line. Exemptions/5-year permits will be considered if an applicant submits a plan to adhere to practices that meet or exceed the provisions otherwise required by the department.

Water crossing structure projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to water crossing structures:

(1) ((~~Unless construction is separated from state waters by use of a cofferdam or similar mechanism,~~)) Bridge construction.

(a) Excavation for and placement of the foundation and superstructure shall be outside the ordinary high water line unless the construction site is separated from waters of the state by use of an approved dike, cofferdam, or similar structure.

((~~(2) At least one end of the bridge or stringer shall be securely anchored.~~

~~(3) The stringers or structure shall be placed by floating equipment or by working from outside the ordinary high water line and in a manner as to not damage the beds or banks.~~

~~(4)~~)) (b) The bridge structure or stringers shall be placed in a manner to minimize damage to the bed.

(c) Alteration or disturbance of bank or bank vegetation shall be ((~~held to a minimum and~~)) limited to that necessary to construct the project. All disturbed areas shall be ((~~revegetated or otherwise~~)) protected from erosion, within seven calendar days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

((~~(5)~~)) (d) Removal of existing or temporary structures shall be accomplished so that the structure and associated material does not enter the watercourse ((~~and placed so it will not re-enter the watercourse~~)).

((~~(6)~~)) (e) The bridge shall be constructed, according to the approved design, high enough to pass the ((~~fifty~~)) 100-year ((~~flood level~~)) flows with consideration of debris likely to be encountered. Exception shall be granted if applicant provides hydrologic or other information that supports alternative design criteria ((~~to support a more appropriate level~~)).

(f) Wastewater from project activities and water removed from within the work area shall be routed to an area landward of the ordinary high water line to allow removal of fine sediment and other contaminants prior to being discharged to state waters.

(g) Structures containing concrete shall be sufficiently cured prior to contact with water to avoid leaching.

(h) Abutments, piers, piling, sills, approach fills, etc., shall not constrict the flow so as to cause any appreciable increase (not to exceed .2 feet) in backwater elevation (calculated at the 100-year flood) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.

(i) Riprap materials used for structure protection shall be angular rock and the placement shall be installed according to an approved design to withstand 100-year flows.

(2) Temporary culvert installation.

The allowable placement of temporary culverts and time limitations shall be determined by the department, based on the specific fish resources of concern at the proposed location of the culvert.

(a) Where fish passage is a concern, temporary culverts shall be installed according to an approved design to provide adequate fish passage. In these cases, the temporary culvert installation shall meet the fish passage design criteria in Table 1 in subsection (3) of this section.

(b) Where culverts are left in place during the period of September 30 to June 15, the culvert shall be designed to maintain structural integrity to the 100-year flow with consideration of the debris loading likely to be encountered.

(c) Where culverts are left in place during the period June 16 to September 30, the culvert shall be large enough to pass all flows likely to be encountered.

(d) Disturbance of the bed and banks shall be limited to that necessary to place the culvert and any required channel modification associated with it. Affected bed and bank areas outside the culvert shall be restored to preproject condition following installation of the culvert.

(e) The culvert shall be installed in the dry, or in isolation from stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. Exception may be granted if siltation or turbidity is reduced by installing the culvert in the flowing stream. The bypass reach shall be limited to the minimum distance necessary to complete the project. Fish stranded in the bypass reach shall be safely removed to the flowing stream.

(f) Wastewater, from project activities and dewatering, shall be routed to an area outside the ordinary high water line to allow removal of fine sediment and other contaminants prior to being discharged to state waters.

(g) Imported fill associated with the culvert shall consist of clean rounded gravel ranging in size from one-quarter to three inches in diameter. The use of angular rock may be approved from June 16 to September 30, where rounded rock is unavailable. Angular rock shall be removed from the watercourse and the site restored to preproject conditions upon removal of the temporary culvert.

(h) The culvert and fill shall be removed, and the disturbed bed and bank areas shall be reshaped to preproject configuration. All disturbed areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(i) The temporary culvert shall be removed and the approaches shall be blocked to vehicular traffic prior to the expiration of the HPA.

(j) Temporary culverts may not be left in place for more than two years from the date of issuance of the HPA.

(3) Permanent culvert installation.

(a) In fish bearing waters or waters upstream of a fish passage barrier (which if corrected, fish presence would be reestablished), culverts shall be designed and installed so as not to impede fish passage. High water velocity, shallow water depth within the structure, vertical drop at the culvert outfall, and debris blockages are the most frequent causes of fish passage problems at culverts. Culverts shall only be approved for installation in spawning areas where full replacement of impacted habitat is provided by the applicant.

(b) To facilitate fish passage, culverts shall be designed to the following standards:

(i) Culverts may be approved for placement in small streams if placed on a flat gradient with the bottom of the culvert placed below the level of the streambed a minimum of twenty percent of the culvert diameter for round culverts, or twenty percent of the vertical rise for elliptical culverts. The twenty percent placement below the streambed shall be measured at the culvert outlet. The culvert width at the bed, or footing width, shall be equal to or greater than the average width of the bed of the stream.

(ii) Where culvert placement is not feasible as described in (b)(i) of this subsection, the culvert design shall include the elements in (b)(ii)(A) through (E) of this subsection:

(A) Water depth at any location within culverts as installed and without a natural bed shall not be less than that identified in Table 1. The low flow design, to be used to determine the minimum depth of flow in the culvert, is the two-year seven-day low flow discharge for the subject basin or ninety-five percent exceedance flow for migration months of the fish species of concern. Where flow information is unavailable for the drainage in which the project will be conducted, calibrated flows from comparable gauged drainages may be used, or the depth may be determined using the installed no-flow condition.

(B) The high flow design discharge, used to determine maximum velocity in the culvert (see Table 1), is the flow that is not exceeded more than ten percent of the time during the months of adult fish migration. The two-year peak flood flow may be used where stream flow data are unavailable.

(C) The bottom of the culvert shall be placed below the natural channel grade a minimum of twenty percent of the culvert diameter for round culverts, or twenty percent of the vertical rise for elliptical culverts (this depth consideration does not apply within bottomless culverts). The downstream bed elevation, used for hydraulic calculations and culvert placement in relation to bed elevation, shall be taken at a point downstream at least four times the average width of the stream (this point need not exceed twenty-five feet from the downstream end of the culvert). The culvert capacity for flood design flow shall be determined by using the remaining capacity of the culvert.

Table 1
Fish Passage Design Criteria for Culvert Installation

Criteria	Adult Trout >6 in.(150mm)	Adult Pink, Chum Salmon	Adult Chinook, Coho, Sockeye, Steelhead
1. Velocity, Maximum (fps)			
Culvert length (ft)			
a. 10 - 60	4.0	5.0	6.0
b. 60 - 100	4.0	4.0	5.0
c. 100 - 200	3.0	3.0	4.0
d. >200	2.0	2.0	3.0
2. Flow Depth Minimum (ft)	0.8	0.8	1.0

(D) Appropriate statistical or hydrologic methods must be applied for the determination of flows in (b)(ii)(A) and (B) of this subsection. These design flow criteria may be modified for specific proposals as necessary to address unusual fish passage requirements, where other approved methods of empirical analysis are provided, or where the fish passage provisions of other special facilities are approved by the department.

(E) Culvert design shall include consideration of flood capacity for current conditions and future changes likely to be encountered within the stream channel, and debris and bedload passage.

(c) Culverts shall be installed according to an approved design to maintain structural integrity to the 100-year flow with consideration of the debris loading likely to be encountered. Exception may be granted if the applicant provides justification for a different level or a design that routes that flow past the culvert without jeopardizing the culvert or associated fill.

(d) Disturbance of the bed and banks shall be limited to that necessary to place the culvert and any required channel modification associated with it. Affected bed and bank areas outside the culvert and associated fill shall be restored to preproject configuration following installation of the culvert, and the banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(e) Fill associated with the culvert installation shall be protected from erosion to the 100-year flow.

(f) Culverts shall be designed and installed to avoid inlet scouring and shall be designed in a manner to prevent erosion of streambanks downstream of the project.

(g) Where fish passage criteria are required, the culvert facility shall be maintained by the owner(s), such that fish passage is not impeded. If the structure becomes a hindrance to fish passage, the owner shall be responsible for its immediate repair.

(h) The culvert shall be installed in the dry or in isolation from the stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. Exception may be granted if siltation or turbidity is reduced by installing the culvert in the flowing stream. The bypass reach shall be limited to the minimum distance necessary to complete the project. Fish stranded in the bypass reach shall be safely removed to the flowing stream.

(i) Wastewater, from project activities and dewatering, shall be routed to an area outside the ordinary high water line to allow removal of fine sediment and other contaminants prior to being discharged to state waters.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-080 Channel change((~~—Temporary and permanent~~))/realignment. Channel changes/realignments are generally discouraged, and shall only be approved where the applicant can demonstrate benefits or lack of adverse impact to fish life. Channel change/realignment projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to channel change((~~—Temporary~~)) and ((~~permanent~~)) channel realignment projects:

When approved, a channel change may occur provided:

(1) Permanent new channels shall, at a minimum, be similar in length, width, depth, floodplain configuration, and gradient, ((~~and meander configuration~~)) as the old channel. The new channel shall incorporate fish habitat components, bed materials, meander configuration, and native or other approved vegetation equivalent to or greater than that which previously existed in the old channel.

(2) ((~~The new channel shall provide fish habitat similar to that which previously existed in the old channel.~~

~~(3)~~)) During construction, the new channel shall be isolated from the flowing stream by plugs at the upstream and downstream ends of the new channel.

((~~(4)~~)) (3) Before water is diverted into a permanent new channel, the applicant shall complete the following actions:

(a) Approved fish habitat components, bed materials and bank protection to prevent erosion shall be in place.

(b) Approved fish habitat components shall be installed according to an approved design to withstand 100-year flows.

(c) All disturbed areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(4) Diversion of flow into a new channel shall be accomplished by: (a) First removing the downstream plug; (b) removing the upstream plug; and (c) closing the upstream end of the old channel.

(5) Filling of the old channel shall begin from the upstream closure and the fill material shall be compacted. Water discharging from the fill shall not adversely impact fish life.

(6) ((~~Before water is diverted into a permanent new channel, the banks shall be armored to prevent erosion.~~

~~(7)~~)) The angle of the structure used to divert the water into the new channel shall allow a smooth transition of water flow.

(((~~8) After completion of the permanent new channel and filling of the old channel, all unprotected banks shall be revegetated or otherwise protected to prevent erosion.~~

~~(9)~~)) (7) If fish may be ((~~endangered~~)) adversely impacted as a result of this project, the permittee will be required to capture and safely ((~~transport game and~~)) move food fish ((~~from the job site~~)), game fish or other fish life (at the discretion of the department) to the nearest free-flowing water. The permittee may request the department ((~~of fisheries or department of game~~)) to assist in capturing and safely ((~~transporting game and food~~)) moving fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-100 Conduit crossing. Conduit crossing projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. An HPA is not required for conduit crossings attached to bridge structures. The following technical provisions ((~~may~~)) shall apply to conduit crossing projects:

(1) Conduit alignment shall be as nearly perpendicular to the watercourse as possible.

(2) The conduit shall be installed at sufficient depth so that subsequent disturbance of the bed of the watercourse is avoided.

(3) If the method used is boring or jacking:

(a) Pits shall be isolated from surface water flow;

(b) ((~~All drainage water removed from the boring or jacking pit shall not adversely impact fish life; and~~

~~(c) Provisions of subsection (4)(a), (b), (c), and (d) of this section shall not apply.~~)) Wastewater, from project activities and dewatering, shall be routed to an area outside the ordinary high water line to allow removal of fine sediment and other contaminants prior to being discharged to state waters.

(4) If the method used is trench excavation:

(a) Trenches shall be excavated in the dry or shall be isolated from the flowing watercourse by the installation of a cofferdam, culvert, flume, or other approved method;

(b) Plowing, placement, and covering shall occur in a single pass of the equipment;

(c) Disturbance of the bed as a result of the plowing operation shall be ((~~held to a minimum; and~~

~~(d) Provisions of subsection (3)(a), (b), and (c) of this section shall not apply~~)) limited to the amount necessary to complete the project.

(5) Trenches shall be backfilled with approved materials and the bed shall be returned to preproject condition.

(6) Excess spoils shall be disposed of so as not to reenter the watercourse.

(7) The conduit approach trench shall be isolated from the watercourse until laying of the conduit across the watercourse takes place.

(8) Alteration or disturbance of the banks ((~~or~~)) and bank vegetation shall be ((~~held to a minimum and all denuded~~)) limited to that necessary to construct the project. All disturbed areas shall be ((~~revegetated or otherwise~~)) protected from erosion within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-120 Temporary bypass culvert ((~~or~~)), flume, or channel. Temporary bypass culvert, flume, or channel projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to temporary bypass culvert ((~~or~~)), flume, or channel projects:

(1) The temporary bypass culvert ((~~or~~)), flume, or channel shall be in place prior to initiation of other work in the wetted perimeter.

(2) A sandbag revetment or similar device shall be installed at the inlet to divert the entire flow through the culvert ((~~or~~)), flume, or channel.

(3) A sandbag revetment or similar device shall be installed at the downstream end of the culvert ((~~or~~)), flume, or channel to prevent backwater from entering the work area.

(4) The culvert ((~~or~~)), flume, or channel shall be of sufficient size to pass flows and debris ((~~occurring during~~)) for the duration of the project.

(5) For diversion of flow into a temporary channel the relevant provisions of WAC 220-110-080 shall apply.

(6) Prior to releasing the water flow to the project area, all bank protection or armoring shall be completed.

(((~~6~~))) (7) Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to preproject conditions.

(((~~7~~))) (8) If fish may be ((~~endangered~~)) adversely impacted as a result of this project, the permittee ((~~will~~)) shall be required to capture and safely ((~~transport~~)) move game and food fish and other fish life, (at the discretion of the department), from the job site to the nearest free-flowing water. The permittee may request the department ((~~of fisheries or department of game~~)) to assist in capturing and safely ((~~transporting game and food~~)) moving fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

(9) Alteration or disturbance of the banks and bank vegetation shall be limited to that necessary to construct the project. All disturbed areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-130 Dredging in freshwater areas. Dredging projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to dredging projects:

(1) Dredging shall not be conducted in fish spawning areas.

(2) During the dredging of a lake or pond, a boom or similar device ((~~shall~~)) may be ((~~installed~~)) required to contain floatable materials.

(3) Dredged bed materials shall be disposed of at ((~~department of natural resources open water~~)) approved in-water disposal sites or upland ((~~sites approved by the departments~~)) so as not to reenter state waters. The department may allow placement of dredged material in areas for beneficial uses such as beach nourishment or capping of contaminated sediments.

(4) Dredging shall be conducted with dredge types and methods that cause the ((~~lowest mortality on~~)) least adverse impact to fish ((~~life~~)) and shellfish and their habitat.

(5) ((~~Dredging shall stop when distressed or dead fish are observed in the work area. The departments shall be notified immediately.~~)) If at any time, fish are observed in distress, a fish kill occurs, or water quality problems develop as a result of dredging, operations shall cease immediately and the department shall be immediately contacted.

(6) ((~~If a~~)) An hydraulic dredge ((~~is used, it~~)) shall only be operated with the intake ((~~on~~)) at or below the surface of the material being removed. ((~~Reverse purging of the intake line shall be held to a minimum~~)) The intake shall only be raised a maximum of three feet above the bed for brief periods of purging or flushing the intake system.

(7) If a dragline or clamshell is used, it shall be operated to minimize turbidity. During excavation, each pass with the clamshell or dragline bucket shall be complete. Dredged material shall not be stockpiled ((~~in~~)) waterward of the ordinary high water line.

(8) Upon completion of the dredging, the ((~~water course~~)) bed shall not contain pits, potholes, or large depressions that have the potential to strand juvenile or adult fish.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-140 Gravel removal. Gravel removal projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to gravel removal projects:

(1) Gravel removal from a watercourse shall be limited to removal from exposed bars and shall not result in a lowering, over time, of the average channel cross-section profile through the project area or downstream. Additional removal of bed material, including removal from wetted portions of the channel, may be authorized where the project is an integral part of a comprehensive flood control plan approved by the department.

(2) An "excavation line" shall be established. "Excavation line" means a line on the dry bed, at or parallel to the water's edge((~~; two feet vertically above the existing water level, unless otherwise stated, and~~)), the distance from the water's edge to be determined by the department on a site-specific basis. The excavation line may change((~~s~~)) with water level fluctuations.

((~~(2) Bed material shall not be removed from the water side of the excavation line.~~

~~(3) Excavation shall begin at the excavation line and proceed toward the bank, perpendicular to the alignment of the watercourse.~~

~~(4) The maximum distance of excavation toward the bank from the excavation line shall be approximately equal throughout the excavation zone. "Excavation zone" means the area between the excavation line and the bank.~~

~~(5) The excavation zone shall be identified by boundary markers.~~

~~(6) A minimum two percent gradient upward from the excavation line shall be maintained in the excavation zone.~~

~~(7) At the end of each days' operation the excavation zone shall not contain pits or potholes.~~

~~(8) Excavated materials shall not be stockpiled or spoiled within the ordinary high water line.~~

~~(9) Equipment shall not enter the wetted perimeter of the watercourse.~~

~~(10) Debris in the excavation zone shall be disposed of so as not to reenter the watercourse.~~

~~(11) Gravel washing or crushing operations shall not take place below the ordinary high water line.~~)) (3) An "excavation zone" shall be defined as the area between the "excavation line" and the bank or the center of the bar. The "excavation zone" shall be identified by boundary markers placed by the applicant and approved by the department prior to the commencement of gravel removal.

(4) Excavation shall begin at the excavation line and proceed toward the bank or the center of the bar, perpendicular to the alignment of the watercourse.

(5) Bed material shall not be removed from the water side of the excavation line.

(6) Equipment shall not enter or operate within the wetted perimeter of the watercourse.

(7) Gravel may be removed within the excavation zone from a point beginning at the excavation line and progressing upward toward the bank or the center of the bar on a minimum two percent gradient. It may be necessary to survey the excavation zone upon completion of the gravel removal operation to ensure the two percent gradient is maintained and that no depressions exist. When required the survey shall be made at the applicant's expense.

(8) Preproject and postproject channel cross-section surveys shall be required for gravel removal projects for commercial purposes, and may be required as part of a comprehensive flood control plan approved by the department. The cross-sections shall be referenced vertically to a permanent bench mark and horizontally to a permanent base line, and shall be done perpendicular to the high flow channel every one hundred feet through the project area and at cross-sections upstream and downstream at adjacent channel riffles. The preproject survey information shall be submitted to the department at the time of application for HPA, and the postproject survey shall be submitted to the department within ninety days of completion of removal of gravel or the expiration date of the HPA, whichever occurs first.

(9) At the end of each work day the excavation zone shall not contain pits, or potholes, or depressions that may trap fish as a result of fluctuation in water levels.

(10) Stockpiling of material waterward of the ordinary high water line, after the initial bed disturbance, shall be limited to avoid impacts to fish life. If stockpiling is approved waterward of the ordinary high water line, the material shall be completely removed prior to the onset of fish spawning in the vicinity or the typical onset of increasing stream flows. Timing restrictions shall be determined on a site-specific basis. If the water level rises and makes contact with stockpiles, further operation of equipment or removal of the stockpiles shall not proceed unless authorized under a separate HPA issued by the department.

(11) The upstream end of the gravel bar shall be left undisturbed to maintain watercourse stability waterward of the ordinary high water line.

(12) Large woody material shall be retained waterward of the ordinary high water line and repositioned within the watercourse. Other debris shall be disposed of so as not to reenter the watercourse.

(13) Gravel washing or crushing operations shall not take place waterward of the ordinary high water line.

(14) Alteration or disturbance of the banks and bank vegetation shall be limited to that necessary to access the excavation zone. All disturbed areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(15) Equipment shall be inspected, cleaned, and maintained to prevent loss of petroleum products waterward of the ordinary high water line.

(16) The department shall be notified at least five working days before the start of actual gravel removal, and upon project completion to allow for compliance inspection.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-150 ((~~Log and log jam removal~~)) Large woody material removal or repositioning. Large woody material removal or repositioning projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to ((~~log and log jam projects~~)) large woody material removal or repositioning:

(1) ((~~Logs or log jams shall be removed by yarding from the bank.~~

~~(2) Where logs are to be yarded up a bank, skid logs or similar methods shall be used to prevent bank damage.~~

~~(3) Upon completion of the yarding operation skid logs shall be removed and the bank restored to preproject condition.~~

~~(4) Material associated with the log or debris jam shall be removed and disposed of so as not to reenter the watercourse.~~

~~(5) Logs embedded in a bank or bed shall be cut off at the bank or bed line.~~

~~(6) Log or debris jam removal shall be accomplished in a manner which prevents the release of logs or debris downstream.~~

~~(7) Depressions created in gravel bars shall be filled, smoothed over, and sloped toward the water.~~)) Large woody material removal from watercourses shall only be approved where necessary to address safety considerations, or its removal would not diminish the fish habitat quality of the watercourse. The department may approve the repositioning of large woody material within the watercourse to protect life and property or as needed to conduct a hydraulic project. Repositioned large woody material shall be placed or anchored to provide stable, functional fish habitat.

(2) Large woody material removal shall be conducted by equipment stationed on the bank, bridge, or other approved structure.

(3) Unless otherwise authorized, large woody material shall be suspended during its removal so no portion of the large woody material or limbs can damage the bed or banks. Yarding corridors or full suspension shall be required to avoid damage to riparian vegetation. It may be necessary to cut the large woody material in place, to a size that allows suspension during removal.

(4) Where large woody material cannot be suspended above the bed and banks, skid logs or similar methods shall be used to avoid bank damage. Upon completion of the yarding operation, skid logs shall be removed in a manner that avoids damage to streambanks and vegetation, and the bank shall be restored to preproject condition.

(5) Smaller limb and bark debris associated with the large woody material shall be removed and disposed of so as not to reenter the watercourse.

(6) Large woody material embedded in a bank or bed shall be left undisturbed and intact except where authorized for removal.

(7) Large woody material removal or repositioning shall be accomplished in a manner which minimizes the release of bedload, logs, or debris downstream.

(8) Depressions created in gravel bars shall be filled, smoothed over, and sloped upwards toward the bank on a minimum two percent gradient.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-160 ((~~Logging~~)) Felling and yarding of timber. The following technical provisions ((~~may~~)) shall apply to ((~~logging projects:~~)) any felling and yarding of timber for which an HPA is required (see WAC 220-110-020). Timber felling and yarding projects requiring an HPA shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat.

(1) Trees shall not be felled into or across a watercourse except where authorized in special provisions of an HPA.

(2) Trees or logs which enter a watercourse during felling or yarding shall remain where they enter unless parts or all of the trees or logs are specifically authorized to be removed.

(3) Logs transported across a watercourse, with defined bed or banks, shall be suspended so no portion of the logs or limbs can enter the watercourse or damage the bed and banks. Yarding corridors or full suspension shall be required to prevent damage to riparian vegetation.

(((~~(3) Debris resulting from the project shall be removed from the bed during the operation and before removal of equipment from the site. Debris removal shall be accomplished so the watercourse, bed or banks are not disturbed.~~)))

(4) Cable tailholds may be placed over watercourses provided the number of yarding roads is kept to a minimum. When changing roads, the cable shall be moved around or over the riparian vegetation to avoid damage to the vegetation.

(5) If limbs or other small debris enter the watercourse as a result of felling and yarding of timber, they shall be removed concurrently with each change in yarding road or within seventy-two hours after entry into the watercourse and placed outside the 50-year flood plain. Limbs or other small debris shall be removed from dry watercourses prior to the normal onset of high flows. Large woody material which was in place prior to felling and yarding of timber shall not be disturbed.

(6) Precautions shall be taken to prevent sediment from entering the water downstream from the felling or yarding activity. Sediment control devices, including, but not limited to, straw bales and filter fabric check dams, shall be used as necessary to avoid the release of sediment downstream. Accumulated sediment shall be removed from above check dams prior to their removal. The requirement to provide sediment control may be waived where adequate protection is provided through seasonal restriction of operations.

(7) There shall be no skidding or ground lead yarding or equipment operation within flowing waters in channels with defined bed or banks.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-170 Outfall structures. Outfall structure projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~)) shall apply to outfall structure projects:

(1) The outfall structure shall be ((~~designed and~~)) constructed according to an approved design to prevent the entry of fish, except where fish passage could enhance fish life or habitat.

(2) The watercourse bank and bed at the point of discharge shall be armored to prevent scouring.

(3) Excavation for placement of the structure or armoring materials shall be isolated from the wetted perimeter.

(4) Alteration or disturbance of banks ((~~or~~)) and bank vegetation shall be ((~~held to a minimum, and~~)) limited to that necessary to construct the project. All disturbed areas shall be ((~~revegetated or otherwise protected from erosion~~)) protected from erosion within seven days of completion of the project using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(5) Structures containing concrete ((~~or wood preservatives~~)) shall be sufficiently cured prior to contact with water ((~~encroachment~~)), to avoid leaching.

(6) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-180 Pond construction. Pond construction projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~may~~))

shall apply to pond construction projects connected to a watercourse:

(1) Ponds shall not be constructed within the watercourse.

(2) Ponds shall be designed ((~~and~~)), constructed, and screened to prevent the entry of fish unless the pond will provide beneficial habitat, as determined by the department, in which case free and unrestricted access shall be provided.

(3) ((~~Flow from the~~)) Pond ((~~to the watercourse~~)) return flow shall be ((~~by gravity. Pond return flow shall be located near the inlet~~)) located to minimize the length of the bypass reach.

(4) ((~~Initial filling of the pond shall occur during a high flow period. Fifty percent of the flow shall be maintained within the watercourse during initial filling of the pond.~~)) Pond construction activities involving diversion of state waters shall be dependent upon first obtaining a water right. This requirement does not apply to construction of storm water pond facilities landward of the ordinary high water line.

(5) The work area shall be isolated from the watercourse during construction of the pond, the diversion system, and the return flow system.

(6) Prior to the initial filling, all disturbed ((~~banks shall be revegetated or otherwise protected to prevent erosion~~)) areas shall be protected from erosion, within seven days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors need to be considered.

(7) Ponds shall be designed and constructed so the outflow temperature is not harmful to fish life.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-190 Water diversions. A written HPA is not required for emergency water diversions during emergency fire response. The department shall be notified prior to the diversion, when possible. When prior notification is not possible, the department shall be notified within twenty-four hours of the diversion. The hydraulic code cannot be used to limit the amount or timing of water diverted under a water right. However, construction of structures or placement of devices or other work within waters of the state which will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, or that will utilize any of the waters of the state in order to divert water pursuant to a water right, requires an HPA. Regulation of water flow from a permanent irrigation structure by operating valves, or manipulating stop logs, check boards or head boards, does not require an HPA. Any hydraulic project activity related to a change in the manner or location of water diversion will require an HPA modification.

Persons who have gravel berm dams as the method of diversion permitted by the department prior to January 1994 shall be allowed to continue to do so consistent with the provisions of an HPA. The department can, however, condition the approval of gravel berms.

Construction or maintenance of fish screens or guards requiring use of equipment requires a written HPA. Installation of suction hoses or cleaning, adjusting, operating, and maintaining existing irrigation or stock water diversion structures including intakes or screens using hand-held tools, may be accomplished without first securing a written HPA. For these activities, compliance with the provisions of the latest edition of the Irrigation and Fish pamphlet issued by the department shall be on-site and serve as the HPA. Use of hand-held tools does not include the use of equipment as defined in WAC 220-110-020. If a fish kill occurs or fish are observed in distress, the project activity shall cease and the department shall be notified immediately.

The following technical provisions ((~~may~~)) shall apply to water diversions:

(1) Gravel berm dams shall be constructed of gravels available on site waterward of the ordinary high water line, or of clean round gravel transported to the site. Bed disturbance shall be limited to the minimum necessary to achieve the provisions of the water right. No dirt from outside the ordinary high water line shall be used to seal ((~~them~~)) the dam and no logs or woody ((~~debris presently in the river~~)) material waterward of the ordinary high water line may be utilized for ((~~their~~)) construction of the dam, unless specifically authorized.

(2) Logs and large woody ((~~debris~~)) material may be ((~~removed from the river or stream only~~)) relocated waterward of the ordinary high water line, if they block water flow into the ditch or inhibit construction.

(3) As long as the applicant or permittee can divert enough water to satisfy the water right, the ((~~gravel berm~~)) diversion dam shall be constructed so that it does not hinder upstream and downstream adult and juvenile fish passage. If passage problems develop, department ((~~of fisheries or department of game~~)) personnel may, after consultation, require modification of the gravel berm dam.

(4) At pump stations, screens and headgate areas, a backhoe or suction dredge may be used to remove accumulated silts and gravel from the pumping sump. Material removed shall be placed so it will not ((~~be washed back into the river~~)) reenter state waters.

(5) ((~~A diversion~~)) Any device used for ((~~conducting~~)) diverting water from a ((~~lake, river, stream or other watercourse for any purpose~~)) fish bearing watercourse shall be equipped with a fish guard ((~~(screen) approved by the department of fisheries~~)) to prevent passage of fish into the diversion device pursuant to RCW 75.20.040 and ((~~the department of game pursuant to RCW~~)) 77.16.220 ((~~to prevent the passage of fish into the diversion device~~)).

(6) Diversion canals shall be maintained (sediment and debris removal) to provide maximum hydraulic gradient in the diversion canal in order to minimize the need for work within the natural watercourse.

(7) The exercise of project activity associated with diversion of state waters shall be dependent upon first obtaining a water right.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-200 Mineral prospecting (panning). A copy of the current *Gold and Fish Pamphlet* available from the department shall be on the job site at all times and shall serve as an HPA. The following technical provisions ((~~may~~)) are found in the pamphlet and apply to mineral prospecting (panning) projects:

(1) Gold pans, mini-rocker boxes, and nonmotorized sluice boxes are allowed. The riffle area of the sluice box ((~~size~~)) shall not exceed one-foot ((~~width~~)) wide by ((~~three-foot length in the riffle area~~)) three feet long, and shall not ((~~to~~)) exceed fifty percent of the width of the wetted perimeter of the stream.

(2) All work ((~~will~~)) shall be performed by hand or with hand tools only.

(3) There shall be no disturbance of graveled spawning areas.

(4) There shall be no streambank excavation.

(5) There shall be no disturbance of rooted or embedded woody plants (trees, shrubs, etc.) waterward of the ordinary high water line.

(6) Materials too large to be moved by hand ((~~will~~)) or hand-held tools shall not be disturbed.

(7) There shall be no damming of the flowing stream.

(8) All pits, furrows, potholes and diversions ((~~must~~)) shall be filled, leveled, or removed prior to leaving the project site, to prevent fish entrapment.

(9) No motorized, tracked, or wheeled vehicles ((~~will~~)) shall be allowed within the wetted perimeter of the stream.

(10) ((~~Any~~)) Siltation ((~~in excess of state water quality standards resulting from this project may be considered~~)) resulting from this project, which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the HPA cancelled.

(11) This HPA does not authorize entry onto private property or removal of minerals from an existing mining claim ((~~is not authorized~~)). It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or bureau of land management should be contacted regarding this.~~

~~(12) A copy of the current *Gold and Fish Pamphlet* shall be on the job site at all times and shall serve as a formal approval.~~))

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-210 Mineral prospecting (sluicing). An individual written HPA will be required for all mineral prospecting (sluicing) projects. A copy of the HPA and current *Gold and Fish Pamphlet* available from the department shall be on the job site at all times. The following technical provisions ((~~may~~)) shall apply to mineral prospecting (sluicing) projects:

(1) ((~~Nonmotorized~~)) Motorized sluice boxes are ((~~allowed. Sluice boxes~~)) prohibited. The riffle area of the nonmotorized sluice box shall not be wider than two feet ((~~in the riffle area~~)) and shall not ((~~to~~)) exceed fifty percent of the wetted perimeter of the stream.

(2) Suction removal of aggregate from sluice or sluice tailings may be performed by a suction device powered by an engine of not more than 3 HP with a maximum intake nozzle size of 1.5 inches.

(3) There shall be no ((~~stream bank~~)) streambank excavation.

(4) There shall be no disturbance of graveled spawning areas.

(5) All excavations shall be performed by hand or with hand-held tools only.

(6) Materials too large to be moved by hand or hand-held tools shall not be disturbed.

(7) Diversion of the flowing stream shall be restricted to only that necessary to direct water into a sluice box.

(8) There shall be no damming of the flowing stream.

(9) All pits, furrows, and potholes and diversions ((~~must~~)) shall be filled, leveled, or removed prior to leaving the project site, to prevent fish entrapment.

(10) No motorized, tracked, or wheeled vehicles shall be allowed within the wetted perimeter of the stream.

(11) ((~~Any siltation in excess of state water quality standards resulting from this project may be considered~~)) Siltation resulting from this project, which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the ((~~hydraulics project approval~~)) HPA cancelled.

(12) This ((~~approval~~)) HPA does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or bureau of land management should be contacted regarding this.~~))

(13) ((~~A copy of the current *Gold and Fish Pamphlet* shall be on the job site at all times.~~

~~(14)~~)) There shall be no disturbance of rooted or imbedded woody plants (trees, shrubs, etc.) waterward of the ordinary high water line.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-220 Mineral prospecting (dredging). An individual written HPA will be required for all mineral prospecting (dredging) projects. A copy of the HPA and current *Gold and Fish Pamphlet* available from the department shall be on the job site at all times. The following technical provisions ((~~may~~)) shall apply to mineral prospecting (dredging) projects:

(1) This ((~~approval~~)) HPA authorizes the use of a suction dredge having a nozzle intake size not to exceed that allowed in the stream listing section of the current *Gold and Fish Pamphlet* for the area in which it is operated. A copy of the current *Gold and Fish Pamphlet* available from the department shall be on the job site at all times.

(2) There shall be no hydraulicing (jet or nozzle) outside of the wetted perimeter.

(3) There shall be no streambank excavation.

(4) There shall be no disturbance of rooted or embedded woody plants (trees, shrubs, etc.) waterward of the ordinary high water line.

(5) There shall be no disturbance of graveled spawning areas.

(6) All pits, furrows, and potholes ((~~must~~)) shall be filled or leveled prior to leaving the project site, to prevent fish entrapment.

(7) Damming or diversion of the stream shall be allowed, only to the extent necessary to operate a dredge((~~,~~)). The dam shall not restrict more than fifty percent of the natural flow and shall be removed prior to leaving the site.

(8) No motorized, tracked, or wheeled vehicles shall be allowed within the wetted perimeter of the stream.

(9) Motorized tools shall not be used to move materials offering fish cover (boulders, logs, stumps, etc.) ((~~too large to be moved by hand~~)).

(10) Stable log and woody debris jams shall not be disturbed.

(11) ((~~Extreme care shall be taken to assure that~~)) No petroleum products or other deleterious material ((~~is allowed to fall, be wasted into, or otherwise deposited so as to~~)) shall enter surface waters.

(12) ((~~Any~~)) Siltation ((~~in excess of state water quality standards~~)) resulting from this project ((~~may be considered~~)) which the department considers damaging to fish life, ((~~causing~~)) may cause operations to be terminated and the ((~~hydraulic project approval~~)) HPA cancelled.

(13) This ((~~approval~~)) HPA does not authorize entry onto private property or removal of minerals from an existing mining claim. It is the applicant's responsibility to contact the department of natural resources or the bureau of land management to determine if a claim has been issued. ((~~The department of natural resources or the bureau of land management should be contacted regarding this.~~

~~(14) A copy of the current *Gold and Fish Pamphlet* shall be on the job site at all times.~~))

NEW SECTION

WAC 220-110-223 Freshwater lake bulkheads. Bioengineering is the preferred method of bank protection where practicable. Freshwater lake bulkhead projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to freshwater bulkhead projects:

(1) The toe of the bulkhead shall be placed landward of the ordinary high water line.

(2) Rock used for the bulkhead construction shall be composed of clean, angular material of a sufficient size to prevent its being washed away by high water or wave action.

(3) Material that is waterward of the ordinary high water line shall not be utilized for backfill.

(4) Excavated or dredged material shall not be stockpiled waterward of the ordinary high water line.

(5) All trenches, depressions, or holes created within the ordinary high water line shall be backfilled prior to inundation by high water or wave action.

(6) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

NEW SECTION

WAC 220-110-224 Freshwater boat hoists, ramps, and launches. The installation and operation of portable boat hoists in lakes does not require a HPA, provided:

1. Equipment is not operated below the ordinary high water line during installation;

2. The hoist is not installed at the mouth of any watercourse; and

3. Dredging, filling, or pile driving is not conducted as part of the project. Freshwater boat hoist, ramp, and launch projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat.

The following technical provisions shall apply to boat ramps and launches in freshwater areas.

(1) Structures containing concrete shall be sufficiently cured to prevent leaching prior to contact with water.

(2) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

(3) Overburden material resulting from this project shall be deposited so as not to reenter the water.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-230 Saltwater technical provisions. WAC 220-110-240 through 220-110-330 set forth technical provisions that ((~~typically~~)) shall apply((~~, and additional definitions applicable~~)) to saltwater hydraulic projects. Certain technical provisions ((~~may~~)) shall be required depending upon the individual proposal and site specific characteristics. Additional special provisions may be included, as necessary to address site-specific conditions. Those provisions, where applicable, shall be contained in the hydraulic project approval, as necessary to protect fish life. Saltwater provisions may be applied to intertidal areas and the mainstem Columbia River downstream of Bonneville Dam where applicable.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-240 Tidal reference areas. Tidal reference areas are defined as follows:

(1) Tidal Reference Area 1 (Shelton): All saltwater areas in Oakland Bay and Hammersley Inlet westerly of a line projected from Hungerford Point to Arcadia.

(2) Tidal Reference Area 2 (Olympia): All saltwater areas between a line projected from Hungerford Point to Arcadia and a line projected from Johnson Point to Devil's Head. This includes Totten, Eld, Budd, Case and Henderson Inlets, and Pickering Passage.

(3) Tidal Reference Area 3 (South Puget Sound): All saltwater areas easterly and northerly of a line projected from Johnson Point to Devil's Head and southerly of the Tacoma Narrows Bridge.

(4) Tidal Reference Area 4 (Tacoma): All saltwater areas northerly of the Tacoma Narrows Bridge and southerly of a line projected true west and true east across Puget Sound from the northern tip of Vashon Island.

(5) Tidal Reference Area 5 (Seattle): All saltwater areas northerly of a line projected true west and true east across Puget Sound from the northern tip of Vashon Island and southerly of a line projected true east from Point Jefferson at 47° 15' N. latitude across Puget Sound. This area includes Port Orchard, Port Madison, and Dyes and Sinclair Inlets.

(6) Tidal Reference Area 6 (Edmonds): All saltwater areas northerly of a line projected true east from Point Jefferson at 47° 15' N. latitude across Puget Sound and southerly of a line projected true east from Possession Point to Chenault Beach and from Foulweather Bluff to Double Bluff.

(7) Tidal Reference Area 7 (Everett): All saltwater areas northerly of a line projected true east from Possession Point to Chenault Beach, easterly of a line projected 5° true from East Point to Lowell Point, and southerly of the Stanwood to Camano Island Highway. This area includes Port Gardner, Port Susan, and parts of Possession Sound and Saratoga Passage.

(8) Tidal Reference Area 8 (Yokeko Point): All saltwater area westerly and northerly of a line projected 5° true from East Point to Lowell Point, north of the Stanwood to Camano Island Highway, and easterly and southerly of Deception Pass Bridge and the Swinomish Channel Bridge on State Highway 536. This area includes Holmes Harbor, Saratoga Passage, Skagit Bay, Similk Bay, and most of the Swinomish Channel.

(9) Tidal Reference Area 9 (Blaine): All saltwater area in Skagit County and Whatcom County that lies northerly of the Swinomish Channel Bridge on State Highway 536 and westerly and northerly of Deception Pass Bridge.

(10) Tidal Reference Area 10 (Port Townsend): All saltwater area of Puget Sound as defined in WAC 220-16-210 except Hood Canal south of a line projected from Tala Point to Foulweather Bluff, and except all waters defined in Tidal Reference Areas 1 through 9. Area 10 includes waters of the San Juan Islands, Admiralty Inlet, the Strait of Juan de Fuca, and associated bays and inlets.

(11) Tidal Reference Area 11 (Union): All saltwater area of Hood Canal southerly and easterly of a line projected from Lilliwaup Bay to Dewatto Bay.

(12) Tidal Reference Area 12 (Seabeck): All saltwater areas of Hood Canal northerly of a line projected from Lilliwaup Bay to Dewatto Bay and southerly of a line projected true east from Hazel Point. This area includes Dabob Bay and Quilcene Bay.

(13) Tidal Reference Area 13 (Bangor): All saltwater area of Hood Canal northerly of a line projected true east from Hazel Point and south of a line projected from Tala Point to Foulweather Bluff. This area includes Port Gamble.

(14) Tidal Reference Area 14 (Ocean Beaches): All saltwater area between Cape Flattery and the Oregon border at the mouth of the Columbia River, excluding Grays Harbor and Willapa Bay.

(15) Tidal Reference Area 15 (Westport): All saltwater area in Grays Harbor easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty, and westerly of 123° 59' W. longitude.

(16) Tidal Reference Area 16 (Aberdeen): All saltwater area in Grays Harbor easterly of 123° 59' W. longitude and westerly of the Union Pacific railroad bridge across the Chehalis River.

(17) Tidal Reference Area 17 (Willapa Bay): All saltwater area in Willapa Bay easterly of a line projected from Leadbetter Point to Cape Shoalwater Light.

AMENDATORY SECTION (Amending Order 84-04, filed 1/30/84)

WAC 220-110-250 ((~~Surf smelt spawning beds~~)) Saltwater habitats of special concern. ((~~Surf smelt spawning beds are defined as follows:~~

~~(1) All beds within Tidal Reference Area 2 between +9.0 feet and +14.0 feet above MLLW in:~~

~~(a) Totten Inlet westerly and southerly of a line projected from Windy Point to Gallagher Cove, except Skookum Inlet westerly of a line projected true north from the entrance to Wildcat Cove, and except that part of Oyster Bay westerly of a line projected true south from the Olympia Oyster Company plant;~~

~~(b) Eld Inlet from Flapjack Point southerly to Rocky Point, and from Cooper Point south to the line of 47° 3' 36" N. latitude;~~

~~(c) Budd Inlet from Cooper Point south to 47° 4' 6" N. latitude, and from Dofflemyer Point south to 47° 3' 48" N. latitude;~~

~~(d) Henderson Inlet from Johnson Point southerly to 47° 7' N. latitude; and~~

~~(e) Case Inlet (North Bay) from the mouth of Sherwood Creek north to a point 1/4 mile north of the city of Tacoma's Lake Cushman transmission line.~~

~~(2) All beds within Tidal Reference Area 4 between +7.0 feet and +11.5 feet above MLLW in Quartermaster Harbor north of a line projected true west from the northern tip of Dockton.~~

~~(3) All beds within Tidal Reference Area 5 between +7.0 feet and +11.0 feet above MLLW in:~~

~~(a) Sinclair Inlet from the west city limits of Port Orchard west to 122° 40' W. longitude;~~

~~(b) Liberty Bay northerly of a line projected from Bolin Point westerly to the southern property line of the United States Naval Facility;~~

~~(c) Dyes Inlet from Silverdale south to Chico;~~

~~(d) Dyes Inlet along the west shore of Marine Drive Peninsula from its northern terminus south to a point 300 feet south of Madrona Point;~~

~~(e) Dyes Inlet along the west shore of Madrona Point from the southern boundary of Section 9 north a distance of 600 feet; and~~

~~(f) Dyes Inlet along the southern shore of Elwood Point Peninsula.~~

~~(4) All beds within Tidal Reference Area 7 between +7.0 feet and +11.0 feet above MLLW in Port Susan from the entrance to Triangle Cove south to Camano Country Club.~~

~~(5) All beds within Tidal Reference Area 8 between +7.0 feet and +11.0 feet above MLLW in:~~

~~(a) Saratoga Passage from Onamac Point northerly to Rocky Point, then easterly to Brown Point in Skagit Bay;~~

~~(b) Skagit Bay from the mouth of Dugualla Bay southeasterly for about 2 miles to 48° 19' 54" N. latitude;~~

~~(e) Saratoga Passage from Muellers Park in Penn Cove easterly and southerly to a point on Whidbey Island determined by projecting a line true west from Onamac Point;~~

~~(d) Penn Cove from San de Fuca to Penn Cove Park;~~

~~(e) Oak Harbor from the boat ramp to Blowers Bluff; and~~

~~(f) Crescent Harbor adjacent to the United States Naval Air Station property.~~

~~(6) All beds within Tidal Reference Area 9 between +6.0 feet and +8.5 feet above MLLW in:~~

~~(a) Fidalgo Bay along the north side of Weaverling Spit;~~

~~(b) Fidalgo Bay from the tip of Crandall Spit northerly and easterly to the east side of March Point; and~~

~~(c) Along the east shore of Fidalgo Bay between a point 1350 feet south of Fidalgo and a point 3900 feet north of Fidalgo.~~

~~(7) All beds within Tidal Reference Area 10 between +5.5 feet and +8.0 feet above MLLW in:~~

~~(a) Kilisut Harbor (Scow Bay) south of a line projected true west from the mouth of Mystery Bay;~~

~~(b) Dungeness Harbor from "Gun Club Spit" at Old Town westerly to the boundary of the Dungeness Wildlife Refuge at the base of Dungeness Spit;~~

~~(c) The Strait of Juan de Fuca from 300 yards east of the mouth of East Twin River westerly to 300 yards west of the mouth of West Twin River; and~~

~~(d) The Strait of Juan de Fuca at the mouth of Deep Creek and easterly for 1,400 yards.~~

~~(8) All beds within Tidal Reference Area 11 between +7.0 feet and +11.5 feet above MLLW in Hood Canal east of a line projected true south from the west side of the Tahuya River and west of a line projected from Rose Point to the mouth of Little Mission Creek.~~

~~(9) All beach area within Tidal Reference Area 14 below +9.0 feet above MLLW from Cape Johnson south to the Quinault Indian Reservation.~~)) In the following saltwater habitats of special concern, or areas in close proximity with similar bed materials, specific restrictions regarding project type, design, location, and timing may apply as referenced in WAC 220-110-270 through 220-110-330. The location of such habitats may be determined by a site visit. In addition, the department may consider all available information regarding the location of the following habitats of special concern.

(1) Information concerning the location of the following saltwater habitats of special concern is available on request to the habitat management division of the department of fish and wildlife. These habitats of special concern may occur in the following types of areas:

(a) Surf smelt (Hypomesus pretiosus) spawning beds are located in the upper beach area in saltwater areas containing sand and/or gravel bed materials.

(b) Pacific sand lance (Ammodytes hexapterus) spawning beds are located in the upper beach area in saltwater areas containing sand and/or gravel bed materials.

(c) Rock sole (Lepidopsetta bilineata) spawning beds are located in the upper and middle beach area in saltwater areas containing sand and/or gravel bed materials.

(d) Pacific herring (Clupea harengus pallasi) spawning beds occur in lower beach areas and shallow subtidal areas in saltwater areas. These beds include eelgrass (Zostera spp) and other saltwater vegetation and/or other bed materials such as subtidal worm tubes.

(e) Rockfish (Sebastes spp) settlement and nursery areas are located in kelp beds, eelgrass (Zostera spp) beds, other saltwater vegetation, and other bed materials.

(f) Lingcod (Ophiodon elongatus) settlement and nursery areas are located in beach and subtidal areas with sand, eelgrass (Zostera spp), subtidal worm tubes, and other bed materials.

(2) Juvenile salmonid (Family salmonidae) migration corridors, and rearing and feeding areas are ubiquitous throughout shallow nearshore saltwater areas of the state.

(3) The following vegetation is found in many saltwater areas and serves essential functions in the developmental life history of fish or shellfish:

(a) Eelgrass (Zostera spp);

(b) Kelp (Order laminariales);

(c) Intertidal wetland vascular plants (except noxious weeds).

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-270 Common saltwater technical provisions. The following technical provisions ((~~that commonly~~)) apply to projects in ((~~the~~)) saltwater areas ((~~are as follows:~~)). Project activities may be prohibited where project impacts adversely affect fish habitats for which no proven mitigation methods are available.

(1) Use of equipment on the beach area shall be held to a minimum and confined to specific access and work corridors.

(2) ((~~Beach area~~)) Bed material, other than material excavated for bulkhead footings or placement of bulkhead base rock, shall not be utilized for project construction or fills. The department may allow placement of dredged material in areas for beneficial uses such as beach nourishment or cleanup of contaminated sediments.

(3) ((~~Fresh concrete shall be cured or covered to prevent leaching, prior to water contact.~~)) Wet concrete shall be prevented from entering waters of the state. Forms for any concrete structure shall be constructed to prevent leaching of wet concrete. Impervious material shall be placed over any exposed concrete not lined with forms that will come in contact with waters of the state. Forms and impervious material shall remain in place until the concrete is cured.

(4) Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion. Hydraulic clam harvesters shall comply with those conditions specified in WAC 220-52-018.

(5) No debris or deleterious material shall be disposed of or abandoned waterward of the ordinary high water line except at an approved in-water site.

(6) All debris or deleterious material resulting from construction shall be removed from the beach area or bed and prevented from entering ((~~state~~)) waters of the state.

((~~(6)~~)) (7) Project activities shall be conducted to minimize siltation ((~~on~~)) of the beach area((~~s~~)) and bed.

((~~(7)~~)) (8) All piling, lumber, and other materials treated with ((~~creosote or other~~)) preservatives shall be ((~~dry before use in~~)) sufficiently cured to minimize leaching into the water or bed.

(9) Wood treated with preservatives, trash, waste, or other deleterious materials shall not be burned below the ordinary high water line. Limited burning of untreated wood or similar material, subject to timing restrictions or other provisions may be allowed.

(10) Project activities shall not degrade water quality to the detriment of fish life.

(11) If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and the department granting the HPA shall be notified immediately.

NEW SECTION

WAC 220-110-271 Prohibited work times in saltwater areas. Work waterward of the ordinary high water line shall be prohibited or conditioned for the following times and areas. These timing restrictions shall be applied to projects in the following saltwater areas except when allowed under subsection (6) of this section or WAC 220-110-285 (Single family residence bulkheads in saltwater areas).

(1) The prohibited times and areas for protection of migrating juvenile salmonids, surf smelt, and Pacific herring spawning beds are listed in the following table:

PROHIBITED TIMES

TIDAL REFERENCE AREA	JUVENILE SALMONID MIGRATION FEEDING AND REARING AREAS	SURF SMELT SPAWNING BEDS	HERRING SPAWNING BEDS
1	March 15 - June 14	---	January 15 - March 31
2	March 15 - June 14	July 1 - March 31	January 15 - March 31
3	March 15 - June 14	October 1 - April 30	January 15 - March 31
4	March 15 - June 14	October 1 - April 14	January 15 - April 14
5	March 15 - June 14	September 1 - March 31 in all areas except Eagle Harbor and Sinclair Inlet Year round in Eagle Harbor and Sinclair Inlet	January 15 - April 30
6	March 15 - June 14	---	---
7	March 15 - June 14	Year round	February 1 - April 14
8	March 15 - June 14	Year round	February 1 - April 14
9	March 15 - June 14	Year round	February 1 - April 14 south of a line running due west from Governor's point February 1 - June 14 north of a line running due west from Governor's point
10	March 15 - June 14	Sept. 15 - October 31 in Kilisut Harbor October 15 - January 14 in Dungeness Bay May 1 - August 31 in Twin Rivers and Deep Creek Year round in San Juan Islands	January 15 - April 30
11	March 15 - June 14	September 15 - March 1	January 15 - March 31
12	March 15 - June 14	---	February 15 - April 14
13	March 15 - June 14	October 15 - January 31	January 15 - April 14
14	March 1 - June 14	---	---
15	March 1 - June 14	---	---
16	March 1 - June 14	---	---
17	March 1 - June 14	---	February 1 - March 14

(2) Tidal Reference Areas 1 through 17; October 15 through March 1 for projects in or adjacent to Pacific sand lance spawning beds.

(3) Tidal Reference Areas 1 through 17; December 15 through March 31 for projects in or adjacent to rock sole spawning beds.

(4) Tidal Reference Areas 1 through 17; May 15 through October 14 for projects in or adjacent to lingcod settlement and nursery areas.

(5) Additional timing restrictions may apply for protection of other important species of fish or shellfish or if necessary to protect fish life at a particular site.

(6) If the surf smelt spawning season for the project location is six months or longer, work may be permitted if it commences within forty-eight hours after the location is inspected by a department representative or biologist acceptable to the department and it is determined that no spawning is occurring or has recently occurred. The project may be further conditioned to require completion within a particular time.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-280 Bulkheads and ((~~associated fills~~)) bank protection in saltwater areas (nonsingle family residence). Bulkhead construction and other bank protection projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat.

The following technical provisions ((~~commonly~~)) apply to bulkhead and ((~~associated fill~~)) bank protection projects in saltwater areas on nonsingle family residence property. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) ((~~The construction of sloping or vertical bulkheads and the placement of associated fill is restricted to the tidal elevations and time periods provided for in this section.~~

~~(2) The lowest tidal elevations for the toe of sloping or vertical bulkheads is as follows:~~

			All other beach areas	
Tidal Reference Area No.	Name	Vertical or Sloping bulkheads adjacent to smelt spawning beds	Vertical bulkhead	Sloping bulkhead
1	Shelton	N/A+	+11.5 ft	+8.0 ft
2	Olympia	+14.0 ft	+11.6	+8.3
3	South Puget Sound	N/A	+10.7	+7.7
4	Tacoma	+11.5	+9.4	+6.9
5	Seattle	+11.0	+9.0	+6.6
6	Edmonds	N/A	+8.9	+6.6
7	Everett	+11.0	+8.8	+6.5
8	Yokeko Point	+11.0	+8.7	+6.5
9	Blaine	+8.5	+7.5	+6.1
10	Port Townsend	+8.0	+6.5	+5.1
11	Union	+11.5	+9.4	+6.9
12	Seabeck	N/A	+9.2	+6.8
13	Bangor	N/A	+8.7	+6.5
14	Ocean Beaches	+9.0	+7.8	+7.8
15	Westport	N/A	+8.3	+4.8
16	Aberdeen	N/A	+9.4	+5.4
17	Willapa Bay	N/A	+9.1	+5.2

+ Not applicable because there are no known surf smelt spawning beds.

(3) The faces of bulkheads shall be constructed of permanent material not readily subject to erosion.

(4) Sloping bulkheads shall have a slope not steeper than 1.5 feet horizontal to 1 foot vertical.

(5) Bulkheads shall be constructed only during periods of low tide.

(6) Bulkhead forms shall be constructed so that leaching of concrete is minimized. Exposed concrete shall be covered or cured prior to water contact.

(7) Bulkhead construction is restricted to the following time periods:

(a) Tidal Reference Area 1: June 16 through March 14.

(b) Tidal Reference Area 2: June 16 through March 14 except June 16 through July 20 only adjacent to smelt spawning beds.

(c) Tidal Reference Area 3: June 16 through March 14.

(d) Tidal Reference Area 4: June 16 through March 14, except March 1 through March 14 and June 16 through September 30 adjacent to smelt spawning beds.

(e) Tidal Reference Area 5: June 16 through March 14, except:

(i) March 1 through March 14 and June 16 through August 30 adjacent to Liberty Bay smelt spawning beds; and

(ii) June 16 through October 15 adjacent to smelt spawning beds within Sinclair Inlet and Dyes Inlet.

(f) Tidal Reference Area 6: June 16 through March 14.

(g) Tidal Reference Area 7: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.

(h) Tidal Reference Area 8: June 16 through March 14, except October 16 through March 14 adjacent to smelt spawning beds.

(i) Tidal Reference Area 9: June 16 through March 14, except June 16 through September 30 adjacent to smelt spawning beds.

(j) Tidal Reference Area 10: June 16 through March 14, except:

(i) June 16 through September 10 and November 10 through March 14 adjacent to smelt spawning beds within Kilisut Harbor;

(ii) June 16 through October 15 and January 15 through March 14 adjacent to smelt spawning beds within Dungeness Harbor; and

(iii) September 1 through May 1 adjacent to Smelt spawning beds at Twin Rivers and Deep Creek.

(k) Tidal Reference Area 11: June 16 through March 14, except June 16 through September 10 and February 1 through March 15 adjacent to smelt spawning beds in southern Hood Canal.

(l) Tidal Reference Area 12: June 16 through March 14.

(m) Tidal Reference Area 13: June 16 through March 14.

(n) Tidal Reference Area 14 through 17: January 1 through December 31.)) The waterward face of a new bulkhead or other bank protection shall be constructed according to an approved design, utilizing the least impacting type of structure and shall minimize encroachment waterward of the ordinary high water line to protect juvenile salmonid migration corridors and other habitats of special concern.

(2) Replacement or repair of an existing, functioning bulkhead or other bank protection shall utilize the least impacting type of structure and method of construction and shall minimize further waterward encroachment.

(3) The construction of bulkheads and other bank protection is prohibited in eelgrass (Zostera spp), Pacific herring spawning beds, and lingcod and rockfish settlement and nursery areas.

(4) The construction of bulkheads and other bank protection shall not result in a permanent loss of surf smelt, Pacific sand lance, or rock sole spawning beds.

(5) Kelp (Order laminariales) or intertidal wetland vascular plants (except noxious weeds) adversely impacted due to construction of bulkheads or other bank protection shall be replaced using proven methodology.

(6) Project activities within the beach area shall not occur when the project area, including the work corridor, is inundated by tidal waters.

(7) Removal or destruction of overhanging bankline vegetation shall be limited to that necessary for construction of the bulkhead or other bank protection.

(8) All natural habitat features on the beach larger than twelve inches in diameter including trees, stumps and logs, and large rocks shall be retained on the beach following construction.

(9) Excavated materials containing silt, clay, or fine grained soil shall not be stockpiled below the ordinary high water line.

(10) When stockpiling of sand, gravel, and other coarse material is allowed below the ordinary high water line, it shall be placed within a designated work corridor waterward of the bulkhead footing or base rock. All excavated or stockpiled material shall be removed from the beach within seventy-two hours of bulkhead construction.

(11) If sand, gravel, and other coarse material is to be temporarily placed where it will come into contact with tidal waters, this material shall be covered with filter fabric and adequately secured to prevent erosion and/or potential entrainment of fish.

(12) All trenches, depressions, or holes created in the beach area shall be backfilled prior to inundation by tidal waters. Trenches excavated for footings or placement of base rock may remain open during construction, however, fish shall be prevented from entering such trenches.

(13) Placement of appropriately sized gravel on the beach area shall be required following construction of bulkheads or other bank protection in identified surf smelt spawning areas.

NEW SECTION

WAC 220-110-285 Single-family residence bulkheads in saltwater areas. Single-family residence bulkheads shall not result in the permanent loss of critical food fish or shellfish habitat.

The following provisions apply to bulkhead projects in saltwater areas on single-family residence property. Except as expressly provided for in this section, construction of single- family residence bulkheads shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) Critical food fish and shellfish habitats pertaining to single-family residence bulkheads as identified in RCW 75.20.160 are those habitats that serve an essential function in the developmental life history of fish or shellfish. These habitats include but are not limited to the following:

(a) Pacific herring, surf smelt, Pacific sand lance, and rock sole spawning beds;

(b) Intertidal wetland vascular plants (except noxious weeds);

(c) Eelgrass (Zostera spp);

(d) Kelp (Order laminariales);

(e) Lingcod settlement and nursery areas;

(f) Rockfish settlement and nursery areas;

(g) Juvenile salmonid migration corridors and rearing and feeding areas.

(2) The waterward face of a new bulkhead shall be located at or above the ordinary high water line. Where this is not practicable due to geological, engineering, or safety concerns, the waterward face of the new bulkhead shall be located only as far waterward of the ordinary high water line as necessary to excavate for footings or place base rock for the structure and under no conditions shall the waterward face of the bulkhead be located more than six feet waterward of the ordinary high water line. In addition, the waterward face of any bulkhead shall be located as close to the toe of the bank as possible.

(3) The waterward face of a replacement bulkhead shall be located no further waterward than the face of the existing, functioning bulkhead except where removal of the existing bulkhead would result in environmental degradation (e.g., release of deleterious material) or removal problems due to geological, engineering, or safety concerns. Where removal of an existing bulkhead is not practicable for the above reasons, the replacement or repair bulkhead shall be placed waterward of and directly abutting the existing structure. The least impacting type of structure and method of construction shall be utilized in these instances.

(4) Construction work on a bulkhead project under this section shall be subject to the timing restrictions in WAC 220-110-271 if the department determines that the project may affect a critical food fish or shellfish habitat described above. To determine if a timing constraint is appropriate for a bulkhead project under this section the department shall consider the particular location of the project and characteristics of habitats that may be affected by the project, and may include an inspection of the project site to evaluate the particular habitats near the project. The timing constraints listed in WAC 220-110-271 shall be imposed only if the department determines in the particular case that the constraint is necessary to protect a critical food fish or shellfish habitat. In addition, the timing constraints under this section shall meet the following requirements:

(a) When a project under this section may affect more than one critical habitat, the department shall apply the more protective timing constraint.

(b) Timing conditions to protect nearshore juvenile salmonid migration, rearing, and feeding areas shall not be required if:

(i) The excavation for footings or placement of base rock is located at or above MHHW and all construction work is conducted from the landward side of the project; or

(ii) The waterward face of the bulkhead and all work areas and corridors, including stockpile areas, but excluding the area occupied by a grounded barge, are at or above MHHW; or

(iii) The waterward face of the bulkhead is at or above MHHW and the bed of the project site does not contain substantial amounts of silt, clay, or fine grained sediments, so long as the project also meets the following conditions:

(A) If the bulkhead is to be constructed of rock, then work shall be limited to daylight hours in a twenty-five-foot

wide corridor immediately waterward of the new bulkhead face (excluding the area occupied by a grounded barge) and construction work shall not occur if tidal waters are within thirty feet of the new bulkhead face or within the stockpile area, whichever is greater. The department may permit rock to be stockpiled within fifty feet of the new bulkhead face.

(B) If the bulkhead is to be constructed of concrete, timber, steel, or material other than rock, work shall be limited to daylight hours in a fifteen foot wide corridor immediately waterward of the new bulkhead face (excluding the area occupied by a grounded barge) and construction work shall not occur if tidal waters are within twenty feet of the new bulkhead face.

(c) Timing conditions to protect surf smelt spawning beds shall be imposed if a bulkhead project is located on or where it may affect a surf smelt spawning area and the surf smelt spawning season for that location is less than six months. If the surf smelt spawning season for the project location is six months or longer, then work may be permitted if it commences within forty-eight hours after the location is inspected by a department representative or biologist acceptable to the department and it is determined that no spawn is occurring or has recently occurred. The project may be further conditioned to require completion within a particular time.

(d) When required by the habitat characteristics of a particular case, location, or project, the department may impose appropriate timing constraints to protect a critical habitat pursuant to WAC 220-110-271(5).

(5) Project activities shall not occur when the project area including the work corridor (excluding the area occupied by a grounded barge), is inundated by tidal waters.

(6) Removal or destruction of overhanging bankline vegetation shall be limited to that necessary for construction of the bulkhead.

(7) All natural habitat features on the beach larger than twelve inches in diameter including trees, stumps, logs, and large rocks shall be retained on the beach following construction.

(8) Excavated materials containing silt, clay, or fine grained soil shall not be stockpiled below the ordinary high water line.

(9) When stockpiling of sand, gravel, and other coarse material is allowed below the ordinary high water line, it shall be placed within a designated work corridor waterward of the bulkhead footing or base rock. All excavated or stockpiled material shall be removed from the beach within seventy-two hours of bulkhead construction.

(10) If sand, gravel and other coarse material is to be temporarily placed where it will come into contact with tidal waters, this material shall be covered with filter fabric and adequately secured to prevent erosion and/or potential entrainment of fish.

(11) All trenches, depressions, or holes created in the beach area shall be backfilled prior to inundation by tidal waters. Trenches excavated for footings or placement of base rock may remain open during construction, however, fish shall be prevented from entering such trenches.

(12) Placement of appropriately sized gravel on the beach area shall be required following construction of bulkheads in identified surf smelt spawning areas.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-290 Saltwater boat ramps and launches. Boat ramp projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~commonly~~)) apply to saltwater area boat ramp and launch projects. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) Railway-type boat launches ((~~on smelt and herring spawning beds~~)) shall be designed to cause minimal interference with tidal currents and littoral drift.

(2) The construction of ((~~concrete boat launch ramps or the placement of other material for solid~~)) boat ((~~launch~~)) ramps ((~~is prohibited on~~)) shall be designed and located to avoid adverse impacts to surf smelt, Pacific sand lance, rock sole, and Pacific herring spawning beds, rockfish and lingcod settlement and nursery areas, and eelgrass (Zostera spp).

(3) The slope of boat ((~~launch~~)) ramp sides shall be no steeper than 1.5 feet horizontal to ((~~1~~)) one foot vertical.

AMENDATORY SECTION (Amending Order 84-04, filed 1/30/84)

WAC 220-110-300 Saltwater piers, pilings, docks, and floats. Piers, ramps, docks, floats, and associated mooring projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~commonly~~)) apply to pier, piling, dock, and float projects in saltwater areas. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) ((~~Pile driving in or adjacent to surf smelt and herring spawning beds is permitted only as follows:~~

~~Tidal Reference Area~~	~~Permitted Times~~	
	~~Smelt spawning beds~~	~~Herring spawning beds~~
~~1~~	~~January 1 December 31~~	~~January 1 December 31~~
~~2~~	~~April 1 July 20~~	~~April 1 December 31~~
~~3~~	~~January 1 December 31~~	~~January 1 December 31~~
~~4~~	~~March 1 October 1~~	~~April 1 January 10~~
~~5~~	~~March 1 September 1 in Liberty Bay February 15 October 15 in Sinclair Dyes Inlet~~	~~March 20 January 20 in Port Orchard April 10 February 20 in Port Madison March 25 January 10 in Dyes Inlet~~
~~6~~	~~January 1 December 31~~	~~January 1 December 31~~
~~7~~	~~October 15 May 15~~	~~April 15 February 15~~
~~8~~	~~October 15 May 15~~	~~April 10 February 10~~
~~9~~	~~March 15 October 1~~	~~June 1 January 31 at Point Roberts June 15 February 10 Blaine Birch Bay; Point Whitehorn to Sandy Point; and Hale Passage and Portage Bay April 10 February 20 in Samish Bay April 10 February 10 in Padilla Bay, Fidalgo Bay~~

10	January 15-October 15 in Dungeness Harbor	April 15-February 1 West Sound, East Sound, Orcas Island
	November 10-September 10 in Kilisut Harbor	March 15-January 15 Hunter Bay, Lopez Island
	September 1-May 1 at Twin Rivers and Deep Creek	April 10-January 10 Mosquito Pass, San Juan Islands
		March 20-January 31 New Dungeness Harbor
		April 10-February 1, Discovery Bay
		March 1-January 31 Sequim Bay
		March 20-January 31 Port Townsend, Kilisut Harbor
11	December 1-September 10	March-January 15
12	January 1-December 31	April 15-February 10
13	January 1-December 31	April 1-January 31
14	September 1-April 1	January 1-December 31
15	January 1-December 31	January 1-December 31
16	January 1-December 31	January 1-December 31
17	January 1-December 31	March 15-January 15

~~(2) In addition to those limitations listed in WAC 220-110-300(1) pile driving may be further restricted to protect juvenile salmonids or other species of fish.~~

~~(3) Floats and rafts shall be located and anchored to prevent grounding on smelt and herring spawning beds during periods of low tides.~~

~~(4) Anchoring systems for floating structures shall be designed and deployed so that beds are not damaged.~~)) Floats and rafts shall not ground on surf smelt, Pacific herring, Pacific sand lance, and rock sole spawning beds. In all other areas, no more than twenty percent of the float or raft within the beach area shall ground at any time. Those portions of the float or raft that will ground shall be constructed to align parallel to the shore and provide a minimum of eight inches clearance between the beach area and nongrounding portions of the float.

(2) Floats, rafts, and associated anchoring systems shall be designed and deployed so that the bed is not damaged.

(3) Piers, ramps, docks, boathouses, houseboats, floats, and associated moorings shall be designed and located to avoid shading of eelgrass (Zostera spp).

(4) Kelp (Order laminariales) and intertidal wetland vascular plants (except noxious weeds) adversely impacted due to construction of piers, ramps, docks, boathouses, houseboats, and floats shall be replaced using proven methodology.

(5) Mitigation measures for piers, docks, and associated mooring projects shall include, but are not limited to, restrictions on structure width and/or incorporation of materials that allow adequate light penetration (i.e., grating) for structures located landward of -10.0 feet MLLW.

(6) Piers, ramps, docks, boathouses, houseboats, floats, and associated moorings shall be designed and located to avoid adverse impacts to Pacific herring spawning beds and rockfish and lingcod settlement and nursery areas.

(7) Piers, ramps, docks, floats, and associated moorings shall be designed and located to avoid adverse impacts to juvenile salmonid migration routes and rearing habitats.

(8) Floatation for the structure shall be fully enclosed and contained to prevent the breakup or loss of the floatation material into the water.

(9) Boathouses and houseboats and covered moorages shall not be located landward of -10.0 feet MLLW.

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-310 Utility lines. Utility line projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~commonly~~)) apply to utility line projects. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) Timing restrictions for digging trenches in the beach area for the installation of cables, sewer lines, and other utilities ((~~is~~)) may be further restricted to ((~~the same time periods provided for driving piles (WAC 220-110-300) and dredging (WAC 220-110-320)~~)) protect other important fish life.

(2) Excavation of trenches ((~~in~~)) within the beach area((~~s~~)) shall ((~~be conducted in the dry during low tide periods~~)) not occur when the project area is inundated by tidal waters.

(3) Trenches ((~~in the beach area shall be backfilled expeditiously and all disturbed areas restored to preproject conditions~~)) excavated for placement of utilities may remain open for limited times during construction, but fish shall be prevented from entering open trenches.

(4) If a fish kill occurs, or fish are observed in distress, excavation activities shall immediately cease and the department shall be notified immediately.

(5) Excavation for and installation of cables, sewer lines, and other utilities shall be conducted with equipment and techniques that minimize adverse impacts to fish and shellfish and their habitats.

(6) Utility lines shall be located to avoid Pacific herring spawning beds, rockfish and lingcod settlement and nursery areas and eelgrass (Zostera spp).

(7) Kelp (Order laminariales) and intertidal wetland vascular plants (except noxious weeds) adversely impacted due to excavation or installation activities shall be replaced using proven methodology.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-320 Dredging in saltwater areas. Dredging projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions ((~~commonly~~)) apply to dredging projects. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-271.

(1) ((~~Dredging in Tidal Reference Areas 1 through 13 is limited to the period June 16 through March 15.~~

~~(2) Dredging in Tidal Reference Area 14 is permitted year-round.~~

~~(3) Dredging in Tidal Reference Area 15 in water shallower than the minus twenty (-20.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 28.~~

~~(4) Dredging in Tidal Reference Area 16 in water shallower than the minus twenty (-20.0) foot contour~~

~~(MLLW = 0.0) is limited to the period June 16 through February 15.~~

~~(5) Dredging in Tidal Reference Area 17 in water shallower than the minus twenty (-20.0) foot contour (MLLW = 0.0) is limited to the period May 1 through February 15.~~

~~(6) Floatable materials such as debris and piling shall not be disposed of in the water.~~

~~(7) Dredging shall stop if distressed or dead fish are observed in the work area, and the departments shall be notified immediately.~~

~~(8)~~)) In addition to those timing limitations listed in WAC 220-110-271, dredge timing may be further restricted to protect other important fish life.

(2) If a fish kill occurs or fish are observed in distress, dredging shall immediately cease and the department shall be notified immediately.

(3) A hydraulic dredge shall ((~~not~~)) only be operated with the intake ((~~above~~)) at or below the surface of the material being removed. The intake ((~~may~~)) shall only be raised ((~~not over 3~~)) a maximum of three feet above the bed for brief periods of purging or flushing the intake system. ((~~This provision does not apply to hopper dredges.~~

~~(9)~~)) (4) Each pass of a clamshell dredge bucket shall be complete. Stockpiling of dredged material below the ordinary high water line may be prohibited.

(5) Dredging shall be conducted with dredge types and methods that cause the least adverse impact to fish and shellfish and their habitat.

(6) Dredged bed materials shall be disposed of at ((~~department of natural resources deep water~~)) approved in-water disposal sites or ((~~approved~~)) upland ((~~sites~~)). The department may allow placement of dredged material in areas for beneficial uses such as beach nourishment or cleanup of contaminated sediments.

((~~(10)~~)) (7) Dredging shall be conducted to a depth not greater than the channel depth at the seaward end. Dredging to depths greater than the channel at the seaward end may be authorized only in berthing areas and turning basins for commercial shipping purposes.

((~~(11)~~)) (8) Dredging is prohibited ((~~on~~)) in herring spawning beds and in rockfish and lingcod settlement and nursery areas.

((~~(12) Dredging shall be conducted with dredge types that cause the least adverse impact on fish and shellfish and their habitat.~~)) (9) Kelp (Order laminariales) adversely impacted due to dredging shall be replaced using proven methodology.

(10) Dredging shall avoid adverse impacts to eelgrass (Zostera spp).

AMENDATORY SECTION (Amending Order 83-25, filed 4/13/83)

WAC 220-110-330 Marinas in saltwater areas. Marina construction projects shall incorporate mitigation measures to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following ((~~policies and~~)) technical provisions ((~~commonly~~)) apply to marina projects. In addition, these projects shall comply with technical provisions and timing restrictions in WAC 220-110-240 through 220-110-320 except WAC 220-110-285.

(1) The construction of marinas is prohibited on or over Pacific herring spawning beds and lingcod and rockfish settlement and nursery areas.

(2) Marinas shall be designed, located, and constructed to avoid adverse impacts to surf smelt, Pacific sand lance, and rock sole spawning beds, and eelgrass (Zostera spp).

(3) Open-type construction, utilizing floating breakwaters and open pile work, shall be used whenever practicable.

((~~(2)~~)) (4) Physical modeling, numerical models, or other information that demonstrates adequate water exchange and circulation may be required.

((~~(3)~~)) (5) All navigation channels and breaches shall be maintained at or below marina depth to provide adequate fish passage.

((~~(4)~~)) (6) Isolated breakwaters beyond the line of extreme low tide shall be constructed of permanent material. No slope restrictions apply.

((~~(5)~~)) (7) The following provisions apply to marina construction shoreward of the existing ordinary high water line:

(a) A single entrance may be required.

(b) The entire inner shoreline shall be in conformance with bulkheading provisions in WAC 220-110-280. ((~~Between the bulkhead toe and the 0 tide level the beach face shall be sloped a minimum of 1.5 feet horizontal to 1 foot vertical.~~

~~(6)~~)) (8) The following provisions apply to marina construction waterward of the ordinary high water line:

(a) The beach area inside the marina may be protected in accordance with bulkheading provisions in WAC 220-110-280. Between the elevation of the toe of the bulkhead and ((~~the 0 tide level~~)) MLLW the beach face shall not exceed a slope of 1.5 feet horizontal to ((~~1~~)) one foot vertical.

(b) For a single entrance or breach marina, the breakwater structure shall not exceed a 1.5 feet horizontal to ((~~1~~)) one foot vertical slope inside and outside the marina.

(c) The following provisions apply when a marina includes breaches that form shore breakwaters (jetties) and detached breakwaters:

(i) The toe of the shore breakwaters (jetties) may extend seaward to ((~~the 0 foot tide level~~)) MLLW, but shall not extend seaward more than 250 feet from MHHW.

(ii) The shore breakwaters shall have a minimum slope of 1.5 feet horizontal to 1 foot vertical throughout.

(iii) The breaches between the shore breakwaters and the detached breakwaters shall be not less than 20 feet in width measured at the toe of the slope.

(d) Boathouses, houseboats, and covered moorages shall not be located landward of -10 feet MLLW.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-340 Informal appeal of adverse administrative decisions. ((~~Any person who has received a civil penalty notice of violation of any provision of RCW 75.20.100 or 75.20.103, any person who, upon proper application pursuant to RCW 75.20.100 or 75.20.103, is denied a requested hydraulic project approval, any person who wishes to contest a condition placed in a granted approval, or any person who is aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to~~

~~RCW 75.20.100 or 75.20.103 may initiate an informal agency review of any such decision by notifying a field representative of the department having jurisdiction over the project site. Upon the receipt of a request for informal agency review, the department having jurisdiction over the site shall coordinate a comprehensive review of the agency decision by the chief of the habitat management division whose ultimate decision shall be approved or disapproved by the director or designee. If, following this informal agency review process, any person still feels aggrieved by the agency decision, a formal appeal may be taken pursuant to WAC 220-110-350.~~))

It is recommended that an aggrieved party contact the local habitat biologist responsible for the hydraulic permit decision of concern prior to initiating an informal or formal appeal. Discussion of concerns with the habitat biologist often results in resolution of the problem without the need for an informal or formal appeal. The habitat biologist may request review of your concerns by his or her supervisor.

All parties are encouraged to take advantage of this informal appeal process prior to initiating a formal appeal. However, this informal appeal process is not mandatory, and a person may proceed directly to a formal appeal.

(1) The following procedures shall govern informal appeals of department actions taken pursuant to RCW 75.20.100, 75.20.103, 75.20.106, and 75.20.160. A person who is aggrieved or adversely affected by the following department actions may request an informal review:

(a) The denial or issuance of an HPA, or the conditions or provisions made part of an HPA; or

(b) An order imposing civil penalties.

(2) A request for an informal review shall be in writing and shall be received by the department within thirty days of the denial or issuance of an HPA or receipt of an order imposing civil penalties. Requests for informal review shall be mailed or delivered to the following address: Department of Fish and Wildlife, Habitat Management Division, Natural Resources Building, Fifth Floor, 1111 Washington Street, Post Office Box 43155, Olympia, Washington 98504-3155.

(3) Upon receipt of a written request for informal agency review, the department shall initiate a review of the agency decision. This review shall be conducted by the regulatory services division manager or the division manager's designee. Upon completion of the comprehensive review, the division manager, or designee shall recommend a decision to the director or the director's designee. This recommended decision shall be approved or disapproved by the director or the director's designee within sixty days of the date the informal appeal was received by the department. The department shall notify the appellant in writing of the decision of the director or the director's designee.

(4) If, following this informal agency review process, the appellant still wishes to contest the agency action, a formal appeal may be initiated pursuant to WAC 220-110-350. Formal review must be requested within the time periods specified in WAC 220-110-350.

AMENDATORY SECTION (Amending Order 87-48, filed 7/20/87)

WAC 220-110-350 Formal appeal of ((~~adverse~~)) administrative decisions. (1) ((~~Any person issued a civil penalty pursuant to RCW 75.20.106 for being in violation of RCW 75.20.100 or 75.20.103, any person denied a hydraulic project approval requested pursuant to RCW 75.20.100, any person wishing to contest a condition placed in an approval granted pursuant to RCW 75.20.100, or any person aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to RCW 75.20.100 is entitled to an opportunity for hearing, pursuant to the Administrative Procedure Act, chapter 34.04 RCW. To obtain a hearing, a written request must be filed with the department that issued or denied the approval or levied the civil penalty. The mailing addresses are: Department of Fisheries, Habitat Management Division, Room 115, General Administration Building, Olympia, WA 98504; Department of Game, Habitat Management Division, 600 North Capitol Way, Olympia, WA 98504. Requests must be received within thirty days from the date of denial of a hydraulic approval or issuance of an approval with contested conditions. Hearings are conducted pursuant to the Uniform Procedure Rules, chapter 1-08 WAC, unless modified in writing and by agreement of the parties. Ordinarily, it is expected that an aggrieved party seeking administrative review will waive the notice of hearing requirements provided by RCW 34.04.090(1) in order to provide an expeditious decision. An administrative law judge will hear all evidence; subsequently, proposed findings of fact, conclusions of law, proposed order, and exceptions and replies thereto, and written argument, if any, shall be prepared and presented to the director, together with a tape of the contested case hearing, for final decision. All final decisions are appealable as provided by the Administrative Procedure Act, chapter 34.04 RCW. Administrative law judges will be provided by the office of administrative hearings.~~

~~(2) Any person denied a hydraulic project approval requested pursuant to RCW 75.20.103, any person wishing to contest a condition or modification of an approval granted pursuant to RCW 75.20.103, or any person aggrieved by a hydraulic project approval or the conditions thereon issued pursuant to RCW 75.20.103 is entitled to an opportunity for hearing before the hydraulic appeals board established in RCW 75.20.130 and outlined in chapter 259-04 WAC.~~)) The following procedures shall govern formal appeals of department actions taken pursuant to RCW 75.20.100 or 75.20.106. This rule does not apply to an appeal in which a person contests the denial, conditioning or issuance of an HPA issued pursuant to RCW 75.20.103 or 75.20.160, which shall be heard by the hydraulic appeals board. A person who is aggrieved or adversely affected by the following department actions may request a formal appeal:

(a) The denial or issuance of an HPA, or the conditions or provisions made part of an HPA;

(b) An order imposing civil penalties; or

(c) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, chapter 34.05 RCW.

PROPOSED

(2) As required by the Administrative Procedure Act, the department shall inform the permittee, or person subject to civil penalty or order of the department, of the opportunity for appeal, the time within which to file a written request for an appeal, and the place to file it.

(3) A request for an appeal shall be in writing and shall be received during office hours by the department within thirty days of the agency action that is being challenged. Requests for appeal shall be mailed or delivered to the following address: Department of Fish and Wildlife, Habitat Management Division, Natural Resources Building, Fifth Floor, 1111 Washington Street, Post Office Box 43155, Olympia, Washington 98504-3155. If there is no timely request for an appeal, the agency action shall be final and unappealable.

(4) The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within thirty days of the date of the department's written decision in response to the informal appeal.

(5) The written request for an appeal shall be plainly labeled as "Request for Formal Appeal" and shall contain the following:

(a) The name, address, and phone number of the person requesting the appeal;

(b) The specific agency action that the person contests; for example, denial of an HPA, a particular condition in an HPA, order imposing civil penalties, etc.;

(c) Whether the person is the permittee, landowner, resident, or other basis for the person's interest in the agency action in question;

(d) The date of denial, issuance, or condition of an HPA, if the person is contesting denial, issuance, or conditioning of an HPA;

(e) Specific relief requested; and

(f) The attorney's name, address, and phone number, if the person is represented by legal counsel.

(6) The appeal may be conducted by the director, the director's designee, or by an administrative law judge (ALJ) appointed by the office of administrative hearings. If conducted by an ALJ, the ALJ shall issue an initial order pursuant to RCW 34.05.461. The director or the director's designee shall review the initial order and enter a final order as provided by RCW 34.05.464.

(7) All hearings conducted by the director, the director's designee, or an ALJ pursuant to subsection (6) of this section, shall comply with the Administrative Procedure Act and the model rules of procedure, chapter 10-08 WAC.

NEW SECTION

WAC 220-110-360 Penalties. (1) Any person that commences any activity subject to RCW 75.20.100, 75.20.103, or 75.20.160 without having first obtained an HPA from the department, or any person that fails to comply with any of the requirements or provisions of an HPA, is guilty of a gross misdemeanor.

(2) The department may impose a civil penalty of up to one hundred dollars per day for a violation or continuing violation of RCW 75.20.100 or 75.20.103, or any provision or condition of an HPA. The department shall impose the civil penalty with an order in writing delivered by certified mail or personal service to the person who is penalized. The notice shall describe the violation, identify the amount of the penalty, identify how to pay the penalty, and identify informal or formal appeal rights for the person penalized. If the violation is an ongoing violation, the penalty shall accrue for each additional day of violation. For ongoing violations, the civil penalty may continue to accrue during any appeal process unless the accrual is stayed in writing by the department.

(3) If not timely appealed under WAC 220-110-340 or 220-110-350, the civil penalty order is final and unappealable. If appealed, the civil penalty becomes final upon issuance of a final order not subject to any further administrative appeal. When a civil penalty order becomes final, it is due and payable. If the civil penalty is not paid within thirty days after it becomes due and payable, the department may seek enforcement of the order pursuant to RCW 75.20.106 and 34.05.578.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-110-090	Channel realignment.
WAC 220-110-110	Culvert installation.
WAC 220-110-260	Pacific herring spawning beds.

WSR 94-11-128
PROPOSED RULES
ENERGY OFFICE
[Filed May 18, 1994, 11:56 a.m.]

Original Notice.

Title of Rule: Washington state curtailment plan for electric energy. A rule dealing with regional, protracted shortages of electric energy.

Purpose: To allow the state to manage protracted shortages of electric energy, and to prevent system-wide collapses of the regional electric transmission grid.

Statutory Authority for Adoption: RCW 43.21F.045.

Statute Being Implemented: RCW 43.21F.045 and chapter 43.21G RCW.

Summary: The states of Washington, Oregon, Idaho, and Montana share a single, integrated transmission system. The grid is connected with other large systems to the north, east, southeast, and south by major interties. These interties have limited transmission capacity to bring power from outside the Northwest. If electrical generation within the region, together with the interties, is insufficient to meet regional demand, the entire grid could fail. This rule constitutes a plan for Washington, in conjunction with the other Northwest states, to reduce its electricity consumption to meet available supply. The plan relies primarily on voluntary curtailment, but includes provisions for mandatory curtailment during severe electricity shortages.

Reasons Supporting Proposal: A regional model plan was developed over a two-year period by a task force that included government and utility representatives from the four Northwest states. The proposed rule for Washington was developed by the state working with state utility representa-

tives. It represents a general consensus of the state and the industry, and attempts to manage curtailment in an equitable, reasonable manner.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Anderson, 925 Plum Street, Olympia, WA 98504-3165, 956-2012.

Name of Proponent: Washington State Energy Office, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule has no continuous compliance requirements, only requirements that come into effect upon invocation of the rule during an electric energy shortage or emergency. Enforcement measures are not spelled out in the rule but will be developed by the state in conjunction with state utilities in the event mandatory curtailment becomes necessary.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Each year the state, in conjunction with neighboring states and regional utilities, determines whether electric energy supplies are likely to be sufficient to meet projected load. As the probability of a shortage increases the state determines whether and when to invoke the proposed rule and implement the curtailment plan. For smaller shortages where sufficient lead time exists, implementation of the rule may do no more than initiate state and utility requests for voluntary curtailment from utility customers. For larger shortages, and those that develop more quickly, implementation of the plan could lead to state mandated curtailment. Where curtailment is mandated, the rule includes numerous mechanisms to ease the burden of dealing with a shortage. Electric customers are provided with helpful curtailment tips and information. A curtailment target adjustment and exemptions process is provided by utilities and an appeals process by the state. Curtailment requirements can be bought and sold among certain classes of customers to provide flexibility for different types of business.

Proposal does not change existing rules.

Small Business Economic Impact Statement

Proposed Rule: Washington state curtailment plan for electric energy, chapter 194-22 WAC.

Statute Objectives: The Washington State Energy Office (WSEO) is required by statute to "prepare and update contingency plans for implementation in the event of energy shortages or emergencies," (RCW 43.21F.045(1)). An energy emergency is "a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare," (RCW 43.21G.020(8)). The proposed curtailment plan for electric energy is the state's plan for addressing region-wide, long-term shortages of electric energy. The general objective of the plan is to reduce electricity consumption to the level of available supply while treating consumers and utilities equitably, minimizing adverse personal and social impacts (economic, physical, and otherwise), ensuring efficient administrative processes, minimizing administrative requirements, and complying with existing state laws and regulations.

General Compliance Description: The proposed rule has no continuous compliance requirements, only requirements that come into effect upon invocation of the rule during an energy shortage or emergency. Once the rule has been invoked, small businesses have no direct administrative requirements, but are indirectly affected by the implementation efforts of the state and state utilities. While the rule emphasizes voluntary action, under certain circumstances and in conjunction with all other electricity customers, all small businesses may be required to reduce their consumption of electricity. This would occur if the governor invoked the mandatory curtailment features of the rule. If, under mandatory curtailment, a small business failed to meet required levels of curtailment, it also could be subject to comply with enforcement measures. Enforcement measures are not spelled out in the proposed rule, but will be developed in conjunction with state utilities in the event mandatory curtailment becomes necessary. Currently, the only two enforcement measures available in statute for failure to comply with a governor's energy emergency order include electrical system disconnection and prosecution for a gross misdemeanor. Either would be used only in extreme cases and circumstances. In addition, utilities' governing bodies have the authority to implement emergency tariffs to enforce compliance.

Small Business Allowances: Any small business may be eligible for a reduction in its curtailment requirement, or a full exemption from curtailment if it meets any of the following criteria.

The small business provides a "...vital public service, including but not limited to: Essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities," (proposed rule WAC 194-22-120(2)), and (RCW 43.21G.030).

The small business can demonstrate to the utility, or to the state on appeal, that the required curtailment "would result in unreasonable exposure to health or safety hazards, seriously impair the welfare of the affected (business), cause extreme economic hardship relative to the amount of energy saved, or produce counterproductive results," (proposed rule WAC 194-22-120(3)).

Costs of Compliance: Because the proposed rule will only be invoked during an energy shortage or emergency, the costs of compliance must be compared to the costs of not invoking the rule. The purpose for invoking the rule is to manage curtailment and prevent a system-wide collapse of the regional electric transmission grid. Uncontrolled grid collapse over extended periods offers businesses no opportunity to prepare for power outages, and can seriously damage equipment. The curtailment plan is therefore intended to reduce costs for all consumers, including small businesses. Reducing electricity consumption in a managed way is not a cost when the alternative is unmanaged loss of power.

Electricity is used by all businesses, large and small. While electricity is a more important production input for some businesses than others, this distinction is not a factor of the size of the business. In general, there is no reason to think that a required reduction in electricity consumption impacts small businesses any more than large businesses.

Should any business be unreasonably affected the rule provides for relief.

Hearing Location: Wyndham Garden (Sea-Tac) Hotel, 18118 Pacific Highway South, Seattle, WA 98188, on Tuesday, July 26, 1994, at 6:00 p.m. to 9:00 p.m.; at Chelan County Auditorium, 400 Douglas, Wenatchee, WA 98801, on Wednesday, July 27, 1994, at 6:00 p.m. to 9:00 p.m.; and at Spokane Community College, North 1810 Greene Street, Spokane, WA 99203, on Thursday, July 28, 1994, at 6:00 p.m. to 9:00 p.m.

Submit Written Comments to: Mark Anderson, Washington State Energy Office, 925 Plum Street, P.O. Box 43165, Olympia, WA 98504-3165; Telephone comments: Mark Anderson: (206)956-2012, TDD: (206)956-2218, Fax: (206)956-2217; Computer comments: Electric Ideas Clearinghouse, 1-800-762-3319, E-Mail to: Sysop: (System Operator), Topic: Electric Energy Curtailment; by 5:00 p.m. Friday July 29, 1994.

Date of Intended Adoption: August 29, 1994.

June 18, 1994
Mark L. Anderson
Energy Policy Specialist

Chapter 194-22 WAC
WASHINGTON STATE CURTAILMENT PLAN FOR ELECTRIC ENERGY

NEW SECTION

WAC 194-22-010 Purpose and goal. The purpose of this chapter is to establish the process by which the state of Washington and Washington state utilities will initiate and implement state-wide electric load curtailment when there is an insufficient supply of electric energy. This chapter constitutes the Washington state curtailment plan for electric energy (plan). The plan is not intended to be activated for relatively short-term emergencies such as those caused by extremely cold weather or the temporary loss of a major generating plant, but for regional, protracted shortages of electric energy. The plan will be activated by the Washington state energy office.

The goal of this plan is to accomplish necessary curtailment while treating consumers fairly and equitably, minimizing adverse impacts from curtailment, complying with existing state laws and regulations, and providing for smooth, efficient, and effective curtailment administration.

NEW SECTION

WAC 194-22-020 Definitions. "Base billing period" is one of the billing periods comprising the base year. Base billing period data may be weather-normalized at each utility's discretion before being used to calculate the amount of curtailment required by consumers.

"Base year" is the period from which required curtailment is calculated. It is normally the twelve-month period immediately preceding imposition of state-initiated load curtailment.

"Critical load consumer" includes consumers that supply essential services relating to public health, safety, welfare, or energy production, and includes but is not limited to those consumers listed in RCW 43.21G.030.

"Curtailment" means electric load reduction, irrespective of the means by which that reduction is achieved.

"Curtailment target" is the maximum amount of energy that a consumer may use and still remain in compliance with the state curtailment request or order; the curtailment target is figured individually for each consumer.

"Direct service industries" means industries, primarily aluminum plants, that receive electric power directly from the Bonneville Power Administration (BPA).

"Excess power consumption" is that amount of electric energy consumed during any billing period which is above the consumer's calculated curtailment target. It is calculated as one of two values:

*Actual or estimated load minus curtailment target; or

*Weather-normalized load minus curtailment target. Under mandatory curtailment, if a consumer's electric energy consumption exceeds the threshold consumption level, all excess power consumption is subject to penalty unless exempted.

"General use customer" refers to any nonresidential consumer who purchased and consumed five average megawatts or less during the base year.

"Major use consumer" refers to any consumer who purchased and consumed over five average megawatts during the base year.

"Minimum audit level" is the minimum percentage of consumers in each consuming sector that must be audited each billing period under mandatory curtailment. The minimum audit level is set by the state and subject to change.

"Region" includes the states of Washington, Oregon, Idaho, and those portions of Montana that are west of the continental divide and/or within the control area of the Montana Power Company.

"Regional curtailment plan for electric energy, May 22, 1992" is the model document on which this plan is based. The regional curtailment plan for electric energy and appendices are a policy document the state will use to guide implementation of this plan. Where there are discrepancies, this chapter applies.

"Regional load" is the electric load placed by ultimate consumers within the region on their respective utility suppliers.

"State" means the Washington state energy office. Other state agencies which participate in curtailment activities include: The office of the governor; the utilities and transportation commission; and the joint senate and house energy and utilities committee established during energy emergencies.

"State contacts" refers to individuals who represent the state of Washington in connection with curtailment issues.

"State-initiated" refers to actions taken by the state to implement load curtailment.

"Threshold consumption level" is the maximum amount of energy that a consumer can use during mandatory load curtailment without being subject to enforcement measures taken under this plan. The threshold consumption level is set by the state and subject to change.

"Utility contacts" refers to individuals representing utilities in connection with curtailment issues.

"Utility coordinator" is the director of the northwest power pool.

"Utility curtailment reports" are reports summarizing curtailment data, which must be submitted monthly to the state and the utility coordinator. Reporting requirements are provided by the state to utilities.

"Weather-normalization" is the procedure used to reflect the impact of weather on utility load levels, sometimes referred to as "weather-adjustment."

NEW SECTION

WAC 194-22-030 Curtailment stages. State curtailment directives apply to all retail loads served within the state of Washington. Under this plan, curtailment is requested or ordered as a percentage of historical, base billing period electric energy consumption, weather normalized at the discretion of each utility, for all individual residential, general, and major use consumers in the state of Washington. Curtailment stages are associated with increasing energy deficits, and are therefore likely to be implemented in a sequential manner, however, circumstances may require nonsequential implementation.

The five curtailment stages are:

Curtailment

Stage #	Nature	Percent	Type of Curtailment
Stage 1	Voluntary	No specified %	Uniform among all consumers
Stage 2	Voluntary	5% +	Uniform among all consumers
Stage 3	Mandatory	5 to 15%	Uniform among all consumers
Stage 4	Mandatory	15% 15% + 15% +	Residential consumers General use consumers Major use consumers
Stage 5	Mandatory	% associated with Stage 4 + additional curtailment	Continued consumer curtailment plus utility action, including plant closures and possible black-outs

NEW SECTION

WAC 194-22-040 Initiation of load curtailment. The state, in consultation with regional state and utility contacts, will determine if curtailment is required, and if so, the appropriate initial stage. It is the intent of the state to initiate state-wide curtailment concurrent with Oregon, Idaho, and Montana, leading to an effective regional curtailment and consistent implementation policies. The state will formally notify the utility coordinator and all electric utilities operating within the state of Washington that regional and state-wide electric load curtailment are in effect. If any stage associated with a specific level of curtailment is declared (Stages 2-5), the state will publicly announce the need for curtailment and provide all utilities operating within the state of Washington with written instructions regarding utility obligations during the period of state-initiated load curtailment. Upon notification by the state, utilities shall immediately initiate curtailment on their own systems in conformance with this plan.

NEW SECTION

WAC 194-22-050 Curtailment administration—Stage by stage utility obligations. Throughout the curtailment period, utilities will provide consumers with as much useful information as they reasonably can. The requirements specified below represent minimum actions to be taken. All requirements for lower level stages continue to apply to higher level stages. Utilities will provide information to the public, state and utility coordinator in conformance with the regional curtailment plan for electric energy, Appendix B, "Types of Curtailment Information."

(1) Stage 1 requirements: Utilities will begin providing curtailment information to all consumers. Utilities shall also assist states, as appropriate, in briefing the media about the shortage.

(2) Stage 2 requirements: Utilities will:

(a) Notify consumers of the percentage level of state-initiated voluntary curtailment;

(b) Provide curtailment tips to consumers;

(c) Answer consumer questions about curtailment;

(d) Provide curtailment reports to the states and the utility coordinator; and

(e) Provide more detailed information to the media than provided in Stage 1.

(3) Stage 3 requirements: Utilities will:

(a) Notify consumers of the percentage level of state-ordered mandatory curtailment;

(b) Calculate base billing period data and curtailment targets for all consumers subject to audit in the current billing period;

(c) Provide curtailment targets to all consumers who request such data for their own accounts;

(d) Provide consumers with information about how to apply for exemption and adjustment of base year data (utilities may elect to provide this information only to audited consumers or those subject to penalties under this plan);

(e) Process requests for exemption and base year data adjustments from those consumers selected for audit who would otherwise be subject to penalties; and

(f) Implement the enforcement requirements of the plan.

(4) Stage 4 requirements: Utilities will notify consumers of any applicable changes in state-initiated mandatory curtailment.

(5) Stage 5 requirements: Utilities will collaborate with the state to develop and implement the most effective methods for securing the required load curtailment and to minimize the economic and human hardships of the last stage of load curtailment.

NEW SECTION

WAC 194-22-060 Curtailment administration—Suggested curtailment actions. Utilities will provide their consumers with curtailment information about actions they can take to reduce their electric energy consumption. The state and utilities will work together to develop this material. The recommendations will be based on the actions described in the regional curtailment plan for electric energy, Appendix C, "Curtailment Measures." Utilities are responsible for tailoring curtailment information to their service areas,

adding utility-specific information, printing the material in an appropriate form, and disseminating it to their consumers.

NEW SECTION

WAC 194-22-070 Curtailment administration—Base year, base billing period data. The state will select a base year to be used in calculating curtailment targets for individual consumers. Base year and base billing period data may be weather-normalized at each utility's discretion using standard utility procedures, and will be calculated for any consumer audited under this plan. Utilities may elect to audit residential and general use consumers for whom no actual base year or base billing period data exists, but must estimate data for such consumers. Utilities will estimate base year and base billing period data for all major use consumers for whom no actual billing data exists.

NEW SECTION

WAC 194-22-080 Curtailment administration—Curtailment targets. Under voluntary curtailment utilities need do no more than provide curtailment tips to consumers, provided sufficient curtailment is being achieved equitably between states and utilities. At the direction of the state, utilities will provide individual consumers with curtailment targets. Utilities will provide retrospective, current, and forthcoming billing period curtailment target data to all consumers as directed by the state. Under mandatory curtailment the following will apply:

(1) At a minimum, utilities will provide retrospective, current, and forthcoming billing period curtailment target data to any audited consumer and to any consumer who so requests.

(2) Utilities may elect to audit up to one hundred percent of their customers, provided that each billing period minimum audit level requirements are met. Unless adjusted by the state, the minimum audit level will be at least one percent of residential consumers, five percent of general use consumers, one hundred percent of major use consumers, and any consumer whose previous billing period consumption exceeded the threshold consumption level. Such consumers will continue to be audited until their energy use falls below the threshold consumption level. Once their energy use falls below that level, they will be audited again only if selected by sample.

(3) For audit, new samples will be drawn each month. The number of consumers exempted or excluded from audit will not affect the sample size.

(4) Unless a utility is auditing one hundred percent of its residential and general use consumers, all such consumers selected for audit will be chosen on a random sample basis, except that the following consumers will be excluded:

(a) Consumers granted an exemption under this plan; and

(b) Consumers with an estimated power bill in the current billing period.

Utilities may elect to exclude residential and general use consumers with estimated base billing period data, if the state does not require their inclusion in the pool of consumers subject to audit.

(5) Any existing curtailment of load based on contractual provisions between an industrial consumer and its utility does not count towards the consumer's required curtailment obligation to the state, excepting where such curtailment represents fifty percent of the consumer's base year consumption level. This subsection (5) shall not pertain to curtailment requirements under Stage 5 of mandatory curtailment.

NEW SECTION

WAC 194-22-090 Curtailment administration—Excess power consumption. Excess power consumption is calculated at each utility's discretion as one of two values: Actual or estimated load minus curtailment target; or weather-normalized load minus curtailment target. Enforcement measures will only be assessed on excess power consumption if a consumer's actual, estimated or weather-normalized load is greater than the threshold consumption level.

NEW SECTION

WAC 194-22-100 Curtailment administration—Threshold consumption level. The threshold consumption level assigned to each consumer class is identified in the table below. These values are subject to change by the state.

Type of Consumer	Threshold Consumption Level
Residential consumers	10% above curtailment target
General use consumers	10% above curtailment target
Major use consumers	2% above curtailment target

NEW SECTION

WAC 194-22-110 Curtailment administration—Mandatory curtailment enforcement. The state will take whatever measures are available and appropriate at the time mandatory curtailment is instituted to ensure that consumers comply with the mandates of the plan.

Enforcement measures applicable to BPA's DSI customers may be assessed by the state based on billing data provided by BPA.

NEW SECTION

WAC 194-22-120 Curtailment administration—Exemptions and adjustments. (1) Utilities will inform consumers how to apply for exemption from plan requirements and for adjustments of base billing period data. Utilities may elect to process exemptions and adjustments only for audited consumers. Consumers seeking an exemption or adjustment shall apply first to their utility and then, if dissatisfied with that outcome, to the state.

(2) No automatic consumer exemptions will be granted under mandatory state-initiated load curtailment. Critical load consumers may be exempted once they have demonstrated to their utility that they have eliminated all nonessential energy use and are using any reliable, cost-effective back-up energy resources. Exempted consumers should be

informed that exemption may not protect them from Stage 5 black-outs.

(3) Exemptions for consumers not qualifying as critical load consumers under this plan will be evaluated based on whether curtailment would result in unreasonable exposure to health or safety hazards, seriously impair the welfare of the affected consumer, cause extreme economic hardship relative to the amount of energy saved, or produce counter-productive results.

(4) Utilities will maintain a list of all consumers applying for exemption, noting the account, the nature of the requested exemption (base year adjustment or exemption from the mandatory curtailment order), the rationale provided by the consumer, and the action taken by the utility with respect to the request. Records regarding exemption determinations will be made available to the Washington state energy office upon request.

NEW SECTION

WAC 194-22-130 Curtailment administration—State appeals board. (1) In the event that mandatory curtailment is ordered, the state shall form an electricity curtailment appeals board (board) to process consumer requests for either exemption or adjustment of base year data where the consumer is appealing a utility determination. The board shall consist of twelve members: The director of the state energy office or designee who shall serve as chair, the chair of the Washington utilities and transportation commission or designee, and one representative from each of the following groups as appointed by the governor; public utility districts, cooperative, municipal, and investor-owned utilities, county and municipal government, commercial and industrial users, and two citizens at large.

(2) The board will:

(a) Develop its own plans and procedures for hearing appeals;

(b) Initiate communications with utilities for receiving appeals; and

(c) Provide information to the governor for any case in which the board refuses to grant the requested exemption or adjustment.

(3) Throughout the appeals process, the state will periodically inform the appealing consumers and their respective utilities of the status of the appeals.

NEW SECTION

WAC 194-22-140 Utility exemption from plan. The state expects all electric utilities to comply with all aspects of this plan, and to work together to assist each other in conforming to curtailment requirements. Nevertheless, utilities may appeal to the state requesting an exemption from any aspect of this plan. A petition for exemption shall identify specific requirements from which a utility wishes to be exempted, demonstration of need for the exemption, and alternative actions the utility will take in lieu of complying with plan requirements.

NEW SECTION

WAC 194-22-150 Utility waiver of liability and financial relief. Utilities are released from liability and may seek financial relief from the extraordinary costs of curtailment in accordance with RCW 43.21G.050 and 43.21G.080.

NEW SECTION

WAC 194-22-160 Scheduling curtailment. During periods of mandatory curtailment a consumer is obligated to provide the requisite amount of curtailment within each billing period. Within that billing period, and subject to equipment limitations and utility rules on load fluctuations, consumers are free to schedule their curtailment so as to minimize the economic cost, hardship, or inconvenience they experience as a result of the mandatory curtailment requirement.

NEW SECTION

WAC 194-22-170 Purchase of curtailment requirements. General and major use customers may, with approval from the state, and with the assistance and approval of effected utilities, sell curtailment requirements to other regional general and major use customers, which would allow reduced curtailment for one customer and a commensurate increase in curtailment requirements for the other. No arrangement under this section may be carried out that contravenes the goals of regional curtailment. No sale of curtailment requirements may result in a net increase in actual electricity consumption during the curtailment year.

NEW SECTION

WAC 194-22-180 Consumer owned generation. Consistent with the need for safety and system protection, consumers having their own generation facilities or access to electricity from nonutility power sources may use energy from those other sources to supplement their curtailed power purchases from their electric utility.

NEW SECTION

WAC 194-22-190 Return to normal operations. The state will develop a plan for returning to normal utility operations based upon the circumstances at the end of the shortage. The nature of the actions required will depend on the last existing stage of curtailment and the actions taken and processes put in place during the curtailment. At a minimum, the procedures will address public information matters and the close-out of curtailment administrative procedures.

WSR 94-11-001
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Order R-410, Docket No. TV-940231—Filed May 4, 1994, 2:38 p.m.]

In the matter of amending WAC 480-12-455 relating to administrative penalty assessments for incorrect estimates issued by household goods carriers; and adopts WAC 480-12-137 relating to definitions, registrations processes, fees and compliance audits of those private carriers conducting terminal operations in Washington state.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-07-134, filed with the code reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-134, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by the commission staff.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted the rule as noticed.

In reviewing the entire record, the commission determines that WAC 480-12-137 should be adopted, and WAC 480-12-455 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-12-137 is adopted, and WAC 480-12-455 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rules shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

NEW SECTION

WAC 480-12-137 Private carriers. Private carriers conducting terminal operations in Washington state, and having nonexempt vehicles rated at twenty-six thousand one pounds or greater gross vehicle weight or gross combination weight, or vehicles of any rated weight that are used to transport hazardous materials in a quantity requiring the vehicle to be placarded, shall register as private carriers with the commission.

(1) Definitions for purposes of this section:

(a) A private carrier is a person who transports by its own motor vehicle, with or without compensation for the transportation, property that the person owns or is buying or selling, or property of which the person is lessee or bailee, when the transportation is incidental to and in furtherance of some other primary business conducted by that person in good faith. The term "private carrier" includes the agents, officers, representatives and employees of a private carrier who are responsible for hiring, training, supervising, assigning, or dispatching drivers, or who are responsible for ordering or directing the maintenance of motor vehicles used by a private carrier.

(b) A terminal operation is a location in the state of Washington where a private carrier maintains driver or vehicle records, or where it dispatches or maintains vehicles, or where it regularly parks, stores or houses vehicles that are available for transportation service.

(c) An exempt vehicle is a motor vehicle:

(i) That is owned and normally operated by a farmer to transport his or her own agricultural products, farm machinery and/or farm supplies to or from the owner's farm, within one hundred fifty air miles of the farm, and not transporting hazardous materials of a type or quantity that requires the vehicle to be placarded; or

(ii) That is owned and used by the United States government, Washington state, or a county, city or municipality; or

(iii) Has a rated gross vehicle weight or gross combination weight of twenty-six thousand pounds or less and is not used for transporting hazardous materials of a type or quantity that requires the vehicle to be placarded.

(2) Registration and payment of fees.

(a) Private carriers who are required to register with the commission shall do so by filing a master business application with the Washington state department of licensing. The private carrier registration fee shall be a one-time payment of thirty-five dollars per registration. When registering, the carrier shall also pay an annual fee of ten dollars per nonexempt vehicle.

(b) Private carriers who have registered under this section shall maintain their registration by renewing their master business license, including payment of the annual fee of ten dollars per nonexempt vehicle.

(c) Failure to register as required herein and to pay the required per-vehicle fee is a violation of law and commission rule.

PERMANENT

(3) The commission will audit terminal operations of registered private carriers for compliance with requirements of law and rule regarding driver and equipment safety. Private carriers must comply with provisions of WAC 480-12-165, 480-12-180, 480-12-181, 480-12-185, 480-12-190, 480-12-195, and 480-12-196 and with such other laws and regulations as pertain to safe motor carrier operations.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-12-455 Underestimates. When a carrier gives an estimate of charges for services in the carrying of household goods, such carrier shall endeavor to accurately reflect the actual tariff charges. Such carrier shall be subject to monetary penalties under the provisions of RCW ((~~81.04.405~~)) 81.80.132 when the actual total charges for long distance moves exceed the estimated charges by 15 percent and when, on local moves, the actual charges for the time required to complete the move exceed the estimated time charges by 25 percent or when actual charges for accessorial and other services not related to time charges exceed estimates for such services by 15 percent.

WSR 94-11-002
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Order R-412, Docket No. TV-940121—Filed May 4, 1994, 2:40 p.m.]

In the matter of amending WAC 480-04-030, describing the central and field organization of the commission, and listing the current addresses and telephone numbers of the commission's field offices.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-07-139, filed with the code reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-139, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by the commission staff.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted the rule as noticed.

In reviewing the entire record, the commission determines that WAC 480-04-030 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-04-030 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-368, Docket No. A-910530, filed 3/5/92, effective 4/5/92)

WAC 480-04-030 Description of central and field organization of Washington utilities and transportation commission. (1) The Washington utilities and transportation commission consists of three members who are appointed by the governor pursuant to RCW 80.01.010. The governor designates one member as the chairman.

(2) The administrative office of the commission, also known as the headquarters, is located at 1300 S. Evergreen Park Drive S.W., Olympia, Washington. Its mailing address is Washington Utilities & Transportation Commission, 1300 S Evergreen Park Dr SW, PO Box 47250, Olympia WA 98504-7250. Its telephone number is (206) 753-6423.

(3) The commission is organized into the following principal parts: Administrative services division; transportation division; utilities division; policy planning and research section; public affairs section; and regulatory affairs section. The heads of the listed parts are responsible directly to the commissioners. They are housed in the commission's headquarters office.

(4) The commission has ((~~six district~~)) two regional offices, each of which is in the charge of a ((~~district~~)) regional manager. Each of the offices is open during customary commission hours. As of the effective date of this rule, the addresses of the commission's ((~~district~~)) regional offices were as follows:

	Office	Address
(a)	((~~Seattle District No. 1~~)) Kent Region	West Meeker Square 1313 West Meeker Ave. Kent, WA 98032 (206) 859-1727
(b)	((~~Vancouver District No. 2~~	~~1006 N.E. 146th Suite A Vancouver, WA 98686 (206) 696-6660~~
~~(c)~~	~~D District No. 3~~	~~2808 Main Street Union Gap, WA 98903 (509) 575-2789~~
~~(d)~~))	Spokane ((~~District No. 4~~)) Region	East 6204 Dean Spokane, WA 99206 (509) 533-2475
(((~~c~~)	~~Olympia District No. 5~~	~~7912 Martin Way Suite D Olympia, WA 98506 (206) 459-6580~~
~~(f)~~	~~Pasco District No. 6~~	~~1600-C West Clark Pasco, WA 99301 (509) 545-2421~~))

Because ((~~district~~)) regional office addresses may change from time to time, current addresses and telephone numbers should be obtained from the local telephone directory or from the commission's administrative office.

(5) Each ((~~district~~)) regional office maintains one or more field offices. The addresses and office hours of the various field offices are available at the ((~~district~~)) regional offices and the commission's administrative office.

WSR 94-11-003
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Order R-413, Docket No. TR-940126—Filed May 4, 1994, 2:41 p.m.]

In the matter of amending WAC 480-60-990, 480-62-085 and 480-62-090, relating to typical track clearances, annual reports filed by railroad companies and transportation of hazardous materials by railroad companies.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-07-138, filed with the code reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-138, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by the commission staff.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted the rule as noticed.

In reviewing the entire record, the commission determines that WAC 480-60-990, 480-62-085, and 480-62-090 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-60-990, 480-62-085, and 480-62-090 are amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-313, Docket No. U-89-3099-R, filed 12/15/89, effective 1/15/90)

WAC 480-62-085 Annual reports. (1) The annual report form R1 promulgated by the Interstate Commerce Commission is hereby adopted for Class I railroad companies. The commission shall publish the annual report forms for the Class II and Class III railroad companies. At the close of each calendar year every railroad company must secure from the commission two copies of the annual report form applicable to its business. The annual report is to be completed for the calendar year's operations. One copy of the completed annual report will be submitted to the commission no later than May 1 of the succeeding year. The second completed copy is to be retained by the company.

(2) The regulatory fee for the Class I railroad companies will be due ((~~by October 1 and April 1. The October 1 fee will be based on one-half of the estimated annual fee. Class II and Class III railroad companies' regulatory fee is due by April 1 of the succeeding year~~)) and payable upon a schedule established by commission order.

PERMANENT

AMENDATORY SECTION (Amending Order R-182, Cause No. TR-1579, filed 2/10/82)

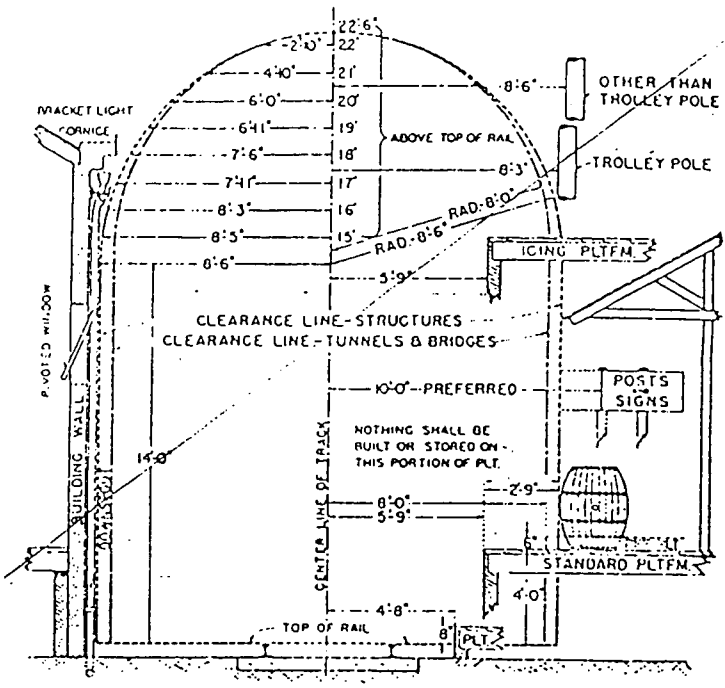
WAC 480-62-090 Hazardous materials regulations. (1) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 171 through 174, and parts 178 and 179, as well as and including all appendices and amendments thereto, in effect on January 1, ((~~1982~~)) 1992, are adopted and prescribed by the commission to define hazardous materials for purposes of carriage by rail, and to state the precautions that must be observed in storage packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying railroad cars and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all railroad companies operating in this state. A copy of the federal rules referenced in this chapter is available for inspection at the commission branch of the Washington state library, located in conjunction with the commission's headquarters office. A copy may be obtained from the secretary of the commission, upon payment of any required fee, or from the United States government printing office, which operates a retail sales facility in Seattle, Washington.

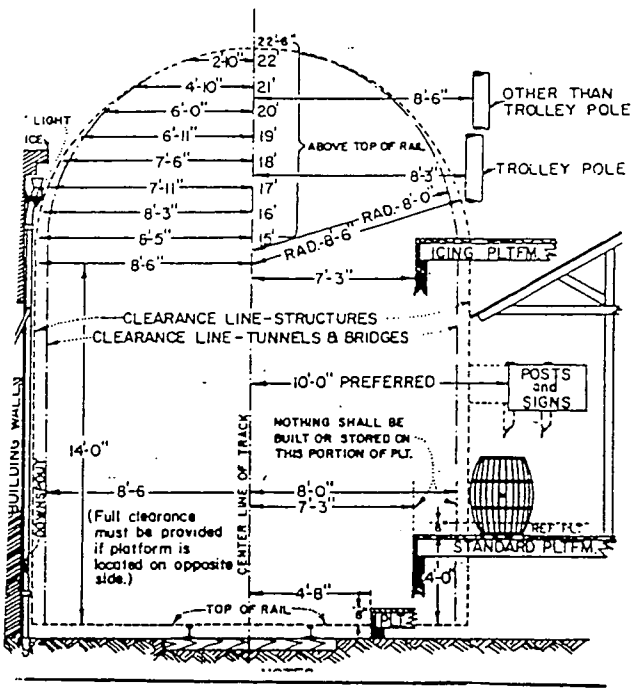
(2) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every railroad company operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-60-990 Illustration—Typical clearance of structures from railroad tracks.

TYPICAL CLEARANCE OF STRUCTURES FROM RAILROAD TRACKS





WSR 94-11-004
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Order R-414, Docket No. TG-940127—Filed May 4, 1994, 2:44 p.m.]

In the matter of amending WAC 480-70-250 relating to insurance requirements for solid waste collection companies.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-07-136, filed with the code reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-136, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by the commission staff.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted the rule as noticed.

In reviewing the entire record, the commission determines that WAC 480-70-250 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-70-250 is amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-70-250 Insurance. Within ten days after the date an applicant is notified ((~~his~~)) that its application has been granted, and before a certificate shall be issued, the applicant shall file with the commission evidence of liability and property damage insurance having been written by a company authorized to write such insurance in the state of Washington, or a surety bond written by a company of a company licensed to write surety bonds in the state of Washington, on each motor-propelled vehicle used or to be used in transporting garbage or refuse under the certificate granted, in the amount of not less than ((~~twenty-five thousand~~)) one hundred thousand dollars for recovery for personal injury by one person, and not less than ((~~one~~)) seven hundred fifty thousand dollars for recovery for all persons receiving personal injury by reason of one act of negligence, and not less than ten thousand dollars for damage to property of any person other than the insured, or combined bodily injury and property damage liability insurance or surety bond of not less than seven hundred fifty thousand dollars.

Failure to file and keep such insurance or surety bond in full force and effect shall be cause for cancellation of a certificate.

WSR 94-11-008
PERMANENT RULES
DEPARTMENT OF RETIREMENT SYSTEMS
[Filed May 5, 1994, 11:33 a.m.]

Date of Adoption: May 3, 1994.

Purpose: To clarify the department's method of actuarially recomputing the retirement allowance of judicial plan members who retire, reenter employment, causing their retirement allowance to be suspended, and then retire again.

Statutory Authority for Adoption: RCW 41.50.050.

Pursuant to notice filed as WSR 94-07-143 on March 23, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 4, 1994
Sheryl Wilson
Director

NEW SECTION

WAC 415-100-190 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a plan member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again.

(2) If a member initially retired at or after age sixty and reentered membership, upon the member's next retirement, the department shall recompute the member's retirement allowance pursuant to RCW 2.10.110. In recomputing the member's retirement allowance, the department shall include any additional service credit earned and any applicable increase in the member's average final compensation

resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 2.10.155 due to reemployment in an eligible position but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment including cost-of-living adjustments. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

WSR 94-11-009
PERMANENT RULES
DEPARTMENT OF RETIREMENT SYSTEMS
[Filed May 5, 1994, 11:35 a.m.]

Date of Adoption: May 3, 1994.

Purpose: To clarify the department's administrative practice in relation to the treatment of cash payments made in lieu of unused leave, calculation of retirement allowance pursuant to Boles v. Retirement Systems, interim retirement allowance, final computation of retirement allowance.

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-010, 415-108-510, 415-112-015, and 415-112-415.

Statutory Authority for Adoption: RCW 41.50.050.

Other Authority: Boles v. Retirement Systems, 121 Wn.2d 52 (1993).

Pursuant to notice filed as WSR 94-07-144 on March 23, 1974 [1994].

Changes Other than Editing from Proposed to Adopted Version: Rule number change from WAC 415-112-840 to 415-112-850.

Effective Date of Rule: Thirty-one days after filing.

May 4, 1994
Sheryl Wilson
Director

AMENDATORY SECTION (Amending WSR 93-11-077, filed 5/18/93, effective 6/18/93)

WAC 415-108-010 Definitions. (1) All definitions in RCW 41.40.010 apply to terms used in this chapter, unless a different meaning is plainly required by the context.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

"Level of union organization" means a union or a lodge or division of a union;

"Union" means a labor guild, labor association, and/or labor organization;

"Union employer" means a union or a union lodge or other division of the union which has verified that it meets the definition of a Plan I employer in RCW 41.40.010.

AMENDATORY SECTION (Amending Order DRS 87-08, filed 8/19/87)

WAC 415-108-510 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions. (1) Cash compensation in lieu of unused annual or sick leave may be considered compensation earnable for Plan I members subject to the provisions of RCW 41.40.010 (8)(a) and WAC 415-108-450. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.40.010 (8)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.40.010 (8)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned, ((~~unless~~)) and when or whether the leave was used or cashed out, with the following exceptions:

(a) As otherwise provided in WAC 415-108-530 and *Bowles v. Department of Retirement Systems,* 121 Wn.2d 52 (1993); and

(b) The employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-108-010, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer from one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

NEW SECTION

WAC 415-108-530 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure. Pursuant to *Bowles v. Retirement Systems,* 121 Wn.2d 52 (1993), the department is required to calculate certain Plan I members' retirement allowances without regard to percentage or ceiling limitations on leave cash outs. *Bowles v. Retirement Systems* does not change the terms contained in collective bargaining agreements negotiated by employers and employees or leave policies promulgated by employers, nor does it apply to state and school district employees who cash out sick leave pursuant to RCW 28A.400.210 or 41.04.340, or annual leave pursuant to RCW 43.01.040 through 43.01.044.

(1) Certain Plan I members' retirement allowances shall be calculated pursuant to this section if they meet the following criteria:

(a) Retire on or after March 11, 1993, from Plan I, or be a surviving spouse or beneficiary of a member who retired or died after March 11, 1993; and

(b) Have average final compensation that is:

(i) Based on employment with a nonstate agency or political subdivision employer; and

(ii) Subject to employer percentage or ceiling limitations on leave cash outs.

(c) If a person meets the eligibility requirements for calculation under (a) and (b) of this subsection, the department shall determine whether the person is entitled to the calculation provided under subsection (2) of this section.

(2) For persons who are eligible under subsection (1) of this section, the department shall calculate the retirement allowance as follows:

(a) Calculate average final compensation twice:

(i) First, by including the amount of leave actually cashed out that is accruable within the member's two year average final compensation period, not taking into consideration any employer percentage or ceiling cash out limitations; and

(ii) Second, by including accrued leave as specified in (a)(i) of this subsection but taking into consideration any employer percentages and ceiling cash out limitations.

(b) Calculate the difference between the retirement allowance under (a)(i) and (ii) of this subsection. The department shall calculate the present value of this difference using its actuarial tables and retain eight percent of the present value of this amount to restore pension fund moneys expended in paying *Bowles* plaintiff class attorney fees. Each member's *Bowles* attorney fee payment shall be made in a one-time deduction from the member's first retirement allowance payment after the final computation of the member's benefit; and

(c) Pursuant to RCW 41.50.150, assess the member's employer for any additional excess compensation added to the member's retirement allowance.

NEW SECTION

WAC 415-108-540 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. (1) At the time of a member's application for retirement, the department does not have all information necessary to make a final computation of the member's retirement allowance. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in the interim between the member's date of retirement and the department's final computation of the member's retirement allowance. The interim retirement allowance is an initial, estimated computation of the retiree's retirement allowance subject to adjustment by the department based upon subsequent review of information provided by the member's employer.

(2) In computing the interim retirement allowance, the department shall, subject to later correction, consider only the amount of the member's salary actually reported by the employer up to the date of the interim computation, but shall impute the member's earned service credit for the same period.

(3) Every employer of a member who applies for retirement shall provide the department with a final compensation report for that member. The report shall be completed on a form provided or approved by the department.

(4) Following the department's computation of the interim benefit and receipt of the employer final compensation report, leave cash out information for Plan I retirees, earnings history, and copies of the employment contract and employer compensation policies, the department shall complete a final computation of the member's retirement allowance. The department's final computation may either increase or decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may subsequently adjust a member's retirement allowance to correct any error in retirement system records. For purposes of this subsection, errors in retirement system records include, but are not limited to, the following:

(a) Applying an incorrect retirement allowance formula in computing the retirement allowance;

(b) Including service that is not creditable to the member;

(c) Including payments that do not constitute earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

PERMANENT

(d) Benefit overpayments and underpayments;

(e) Including an individual in the membership of the retirement system who is not entitled to such membership.

AMENDATORY SECTION (Amending WSR 93-20-021, filed 9/24/93, effective 10/25/93)

WAC 415-112-015 Definitions. (1) All definitions in RCW 41.32.010 apply to terms used in this chapter, unless a different meaning is plainly required by the context.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness, as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

"Contract period" for Plan I members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.

"Day" for purposes of administering RCW 41.32.570 means seven compensated hours. "Seventy-five days" means five hundred twenty-five cumulative compensated hours;

"Duly executed" means that all required forms or documents have been completed, signed and notarized, and filed with the department;

"Insurable interest" means a reasonable expectation of monetary benefit from the continued life of the member; or a relation of the parties to each other by blood or marriage;

"Pension benefit" means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers;

"Public educational institution" means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community colleges;

"School year" for Plan I members means the fiscal year running from July 1 to June 30;

"Single life annuity" means an annuity based solely on the expected remaining life of the member, without regard to any benefits for the member's designated beneficiary or spouse;

"Spousal consent" means written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, when such application is duly executed and filed with the department, shall constitute "spousal consent";

"Survivor" means a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement.

AMENDATORY SECTION (Amending Order DRS 87-07, filed 8/19/87)

WAC 415-112-415 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions. (1) Cash compensation in lieu of unused annual or sick leave may be considered earnable compensation for Plan I members subject to the provisions of RCW 41.32.010 (10)(a) and WAC 415-112-410. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.32.010 (10)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.32.010 (10)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned and when or whether the leave was used or cashed out, unless the employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-112-015, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer of one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

NEW SECTION

WAC 415-112-850 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. (1) At the time of a member's application for retirement, the department does not have all information necessary to make a final computation of the member's retirement allowance. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in

the interim between the member's date of retirement and the department's final computation of the member's retirement allowance. The interim retirement allowance is an initial, estimated computation of the retiree's retirement allowance subject to adjustment by the department based upon subsequent review of information provided by the member's employer.

(2) In computing the interim retirement allowance, the department shall, subject to later correction, consider both the amount of salary projected by the member for periods of employment through the date of the member's retirement and the amount of salary as previously reported by the employer.

(3) Every employer of a member who applies for retirement shall provide the department with a final compensation report for that member. The report shall be completed on a form provided or approved by the department.

(4) Following the department's computation of the interim benefit and receipt of the employer final compensation report, the department shall complete a final computation of the member's retirement allowance. In computing the final computation of the member's retirement allowance, the department may also require the employer to provide the department with leave cash out information for Plan I retirees, earnings history, and copies of the employment contract or contracts and employer compensation policies. The department's final computation may either increase or decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may subsequently adjust a member's retirement allowance to correct any error in retirement system records. For purposes of this subsection, errors in retirement system records include, but are not limited to, the following:

(a) Applying an incorrect retirement allowance formula in computing the retirement allowance;

(b) Including service that is not creditable to the member;

(c) Including payments that do not constitute earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

(d) Benefit overpayments and underpayments;

(e) Including an individual in the membership of the retirement system who is not entitled to such membership.

WSR 94-11-010
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed May 5, 1994, 1:12 p.m.]

Date of Adoption: April 26, 1994.

Purpose: To modify the rules and regulations for radiation protection, fees to maintain a self-supporting x-ray control program as directed by the legislature.

Citation of Existing Rules Affected by this Order: Amending WAC 246-254-053.

Statutory Authority for Adoption: RCW 43.70.110 and [43.70.]250, chapter 70.98 RCW.

Pursuant to notice filed as WSR 94-07-108 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 4, 1994
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-053 Radiation machine facility registration fees. (1) Persons owning and/or leasing and using radiation-producing machines shall submit an eighty-five dollar registration fee to the department at the time of application and every two years thereafter. In addition:

(a) For dentists, veterinarians, and podiatrists, add:

(i) ((~~Eighty-five~~)) Ninety dollars for the first tube; and

(ii) Thirty-((~~five~~)) seven dollars for each additional tube.

(b) For hospitals and medical or chiropractic facilities, add:

(i) Two hundred ((~~thirty~~)) forty-four dollars for the first tube; and

(ii) One hundred six dollars for each additional tube.

(c) For industrial, research, and other uses, add:

(i) One hundred thirty-eight dollars for the first tube; and

(ii) Thirty-((~~five~~)) seven dollars for each additional tube.

(2) The department shall charge a maximum total fee of five thousand three hundred dollars for any facility or group of facilities where an in-house, full-time staff of at least two or more is devoted entirely to in-house radiation safety.

(3) For any facility with a mammographic x-ray machine, add a biennial surcharge of two hundred fifty dollars.

(4) A penalty fee of eighty-five dollars shall be charged for late registration or late reregistration.

WSR 94-11-011
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed May 5, 1994, 1:15 p.m.]

Date of Adoption: April 26, 1994.

Purpose: To modify the rules and regulations for radiation protection, fees to maintain a self-supporting radioactive materials program as directed by the legislature.

Citation of Existing Rules Affected by this Order: Amending WAC 246-254-070, 246-254-080, 246-254-090, 246-254-100, and 246-254-120.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250, chapter 70.98 RCW.

Pursuant to notice filed as WSR 94-07-107 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 4, 1994
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) ((~~Three~~)) Four thousand ((~~eight hundred thirty~~)) sixty dollars for operation of a single nuclear pharmacy.

(b) Six thousand ((~~five~~)) nine hundred ((~~sixty~~)) fifty-five dollars for operation of a single nuclear laundry.

(c) Six thousand ((~~five~~)) nine hundred ((~~sixty~~)) fifty-five dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Two thousand ((~~three~~)) four hundred forty dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Six hundred thirty-five dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) Four thousand ((~~three~~)) six hundred ((~~eighty~~)) forty dollars for a license authorizing decontamination services operating from a single facility.

(g) Two thousand ((~~eighty~~)) two hundred five dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) Nine hundred ((~~thirty~~)) eighty-five dollars for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) One thousand ((~~seven~~)) eight hundred fifty-five dollars for a license authorizing health physic services, leak testing, or calibration services.

(j) One thousand ((~~ninety~~)) one hundred fifty-five dollars for a civil defense license.

(k) Three hundred ((~~thirty~~)) fifty dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) Thirteen thousand ((~~one~~)) nine hundred ((~~thirty~~)) twenty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Six thousand ((~~twenty~~)) three hundred eighty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) ((~~Four~~)) Five thousand ((~~nine~~)) two hundred ((~~twenty~~)) fifteen dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of eighty-five dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise nonrefundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Three thousand ((~~five~~)) seven hundred ten dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Two thousand ((~~four~~)) five hundred ((~~ten~~)) fifty-five dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) Two thousand ((~~eighty~~)) two hundred five dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) Three thousand ((~~two~~)) four hundred ((~~eighty~~)) seventy-five dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) One thousand ((~~seven~~)) eight hundred fifty-five dollars for a license authorizing groups VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) One thousand ((~~ninety~~)) one hundred fifty-five dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) One thousand ((~~six~~)) seven hundred forty dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand three hundred ((~~ten~~)) ninety dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) ((~~Nine hundred eighty~~)) One thousand forty dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) ((~~Eight~~)) Nine hundred ((~~seventy~~)) twenty dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Five hundred ((~~fifty~~)) eighty-five dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Four thousand ((~~fifty~~)) two hundred ninety-five dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Five thousand ((~~one~~)) four hundred ((~~fifty~~)) sixty dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Two thousand ((~~five~~)) six hundred ((~~twenty~~)) seventy dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Five hundred ((~~fifty~~)) eighty-five dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Six hundred thirty-five dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in gas chromatograph at a single facility.

(f) ((~~Three~~)) Four hundred ((~~eighty~~)) five dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand ((~~forty~~)) one hundred dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) Five thousand ((~~five~~)) eight hundred thirty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) ((~~Four~~)) Five thousand ((~~eight~~)) one hundred ten dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) One thousand ((~~five~~)) six hundred ((~~thirty~~)) twenty dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Two hundred ((~~fifty~~)) sixty-five dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of fifty-((~~five~~)) eight dollars to the department.

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Two thousand ((~~six~~)) seven hundred ((~~thirty~~)) ninety dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

(i) One millicurie of I-125 or I-131; or

(ii) One hundred millicuries of H-3 or C-14; or

(iii) Ten millicuries of any single isotope.

(b) One thousand three hundred ((~~ten~~)) ninety dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or

(ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or

(iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand ((~~ninety~~)) one hundred fifty-five dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or

(ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or

(iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) ((~~Three~~)) Four hundred ((~~eighty~~)) five dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

(i) Less than or equal to 0.01 millicurie of I-125 or I-131; or

(ii) Less than or equal to one millicurie of H-3 or C-14; or

(iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) Five hundred thirty dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcuries per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of fifty-((~~five~~)) eight dollars to the department.

AMENDATORY SECTION (Amending Order 372, filed 6/8/93, effective 7/9/93)

WAC 246-254-120 Fees for licensing and compliance actions. (1) In addition to the fee for each radioactive material license as described under WAC 246-254-070, 246-254-080, 246-254-090, and 246-254-100, a licensee shall pay a service fee for each additional licensing and compliance action as follows:

(a) For a second follow-up inspection, and each follow-up inspection thereafter, a fee of eighty-five dollars per hour of direct staff time associated with the follow-up inspection, not to exceed eight hundred fifty dollars per follow-up inspection. Hours are calculated in half-hour increments.

(b) For each environmental cleanup monitoring visit, a fee of eighty-five dollars per hour of direct staff time associated with the environmental cleanup monitoring visit, not to exceed two thousand one hundred twenty-five dollars per visit. Hours are calculated in half-hour increments.

(c) For each new license application, the fee of one hundred fifty dollars in addition to the required annual fee.

(d) For each sealed source and device evaluation, a fee of eighty-five dollars per hour of direct staff time associated with each sealed source and device evaluation, not to exceed two thousand ((~~four~~)) five hundred fifty dollars per evaluation.

(e) For review of air emission and environmental programs and data collection and analysis of samples, and review of decommissioning activities by qualified staff in those work units, a fee of eighty-five dollars per hour of direct staff time associated with the review. The fee does not apply to reviews conducted by the radioactive materials section staff and does not apply unless the review time would result in a special service charge exceeding ten percent of the licensee's annual fee.

(f) For expedited licensing review, a fee of eighty-five dollars per hour of direct staff time associated with the review. This fee only applies when, by the mutual consent of licensee and affected staff, a licensing request is taken out of date order and processed by staff during nonwork hours and for which staff is paid overtime.

(2) The licensee or applicant shall pay any additional service fees at the time of application for a new license or within thirty days of the date of the billing for all other licensing and compliance actions.

(3) The department shall process an application only upon receipt of the new application fee and the annual fee.

(4) The department may take action to modify, suspend, or terminate the license or sealed source and device registration if the licensee fails to pay the fee for additional licensing and compliance actions billed by the department.

WSR 94-11-013
PERMANENT RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed May 5, 1994, 3:32 p.m.]

Reviser's note: The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

CERTIFICATE AND ORDER FOR FILING PERMANENT ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER

I hereby certify that the copy shown below is a true, full and correct copy of permanent rule(s) adopted on April 26, 1994, by the Columbia River Gorge Commission to become effective May 16, 1994.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of intended action published in code reviser's register.

Now therefore, it is hereby ordered that the following action to be taken: Adopted 350-60, Appeals from decisions under county ordinances as administrative rules of the Columbia River Gorge Commission.

Dated this 3rd day of May, 1994.

Statutory Authority: RCW 43.97.015 to 43.97.035, chapter 499, Laws of 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

Summary: The rule sets forth the process in which an affected party may appeal to the Columbia River Gorge Commission a decision made by a county governing body implementing the Columbia River Gorge national scenic area management plan through county land use ordinances. The commission is the proponent of the proposed rule.

Statement of Need: The National Scenic Area Act contemplates the gorge commission shall act in an appellate role once land use ordinances have been adopted by counties in the gorge or, when the gorge commission has adopted such ordinances to implement the act. The public needs a detailed process for appeals to the Columbia River Gorge Commission.

Statutory Authority: Authority to adopt the rule as proposed derives from the Scenic Area Act (16 U.S.C. § 544 et seq.) and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The proposed rule is necessary as a result of federal law, 16 U.S.C § 544 et seq. as well as state law.

Statute or Law Rule Implements: The proposed rule is necessary to implement the Scenic Area Act (16 U.S.C. § 544 et seq.) and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196-150 and RCW 43.97.015.

Documents Relied Upon: The proposed rule is based on the Columbia River Gorge national scenic area management plan and the National Scenic Area Act (16 U.S.C § 544 et

seq.). Copies of these documents are available at the Columbia River Gorge Commission office.

Statement of Anticipated Effects: The proposed rule provides an appeal process from decisions made by a county governing body in implementing the management plan for the Columbia River Gorge National Scenic Area Act through land use ordinances as required by the National Scenic Area Act.

Fiscal Impact Statement: The proposed rule will not have an adverse fiscal impact on the public or local government. The rule provides a process for appeals from decisions of a county governing body which will ensure an efficient review process consistent with the act.

Advisory Body: The proposed rule was not reviewed by an advisory body specifically appointed to review rules developed by the commission. However, the commission has gone through a process whereby the rule was submitted to interested parties, including both states and six counties, for their comments. Two workshops were held with interested parties to obtain input on the rule and a workshop was held with the commission to obtain its input. Because the commission has chosen to use a workshop type format and solicit comments prior to filing the rule for rulemaking it feels the use of an advisory body review is not necessary.

Jonathan Doherty
Executive Director

Reviser's note: The material contained in this filing will appear in the 94-12 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 94-11-016
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed May 5, 1994, 3:43 p.m.]

Date of Adoption: April 26, 1994.

Purpose: Adopt and amend rules to implement Initiative 134, WAC 390-16-071, 390-16-309, 390-17-320, 390-20-148, 390-16-207, 390-16-308, 390-16-310, and 390-20-052.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-207, 390-16-308, 390-16-310, and 390-20-052.

Statutory Authority for Adoption: RCW 42.17.390.

Pursuant to notice filed as WSR 94-07-035 on March 9, 1994; and WSR 94-07-088 on March 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 2, 1994
Melissa Warheit
Executive Director

NEW SECTION

WAC 390-16-071 Annual report of major contributors and persons making independent expenditures. Any person, other than an individual (1) who made contributions to federal, state and local candidates, political committees registered in Washington state, and statewide and local ballot issue committees totaling more than $10,000 in the aggregate during the preceding calendar year, or (2) who made independent expenditures regarding federal, state and local candidates and statewide and local ballot issues totaling more than $500 in the aggregate during the preceding calendar year, shall file with the commission the report required pursuant to RCW 42.17.180. This report shall not be required of a candidate's authorized committee or a political committee provided the information has been properly reported pursuant to RCW 42.17.080 and .090.

NEW SECTION

WAC 390-16-309 Identification of affiliated entities. (1) Two or more entities are treated as a single person and share one contribution limit under RCW 42.17.640 if one of the entities is:

(a) A corporation and the other is a subsidiary, branch or division of the corporation;

(b) A national or international labor union, or state body of such national or international labor union, and the other is a local union or other subordinate organization of such national or international labor union or state body;

(c) A trade association or state body of such trade association and the other is a branch or local unit of such trade association;

(d) A national or state collective bargaining organization and the other is a branch or local unit of such national or state collective bargaining organization;

(e) A national or international federation of labor unions, or a state federation of labor unions, and the other is a local body of such federation;

(f) A membership organization and the other is a local unit or branch of such membership organization;

(g) Any entity referenced in (a) through (f) above and a political committee established, financed, maintained or controlled by that entity.

(2) For purposes of RCW 42.17.640, two entities shall not be treated as a single entity solely because one of the entities is a dues paying member of the other entity.

(3) In addition to paragraph (1) above, two or more entities shall be treated as one entity and share a contribution limit under RCW 42.17.640 if one of the entities is established, financed, maintained or controlled by the other, as evidenced by any one of the following factors:

(a) Whether one entity owns a controlling interest in the voting stock or securities of another entity; or

(b) Whether one entity has authority or the ability to direct or participate, other than through a vote as a member, in the governance of another entity through provisions of constitution, bylaws, contract or other formal or informal procedure or has authority or the ability to hire, appoint, demote or otherwise control, other than through a vote as a member, the officers or other decision making employees or members of another entity; or

(c) Whether (i) one entity has a common or overlapping membership with another which indicates either a formal or ongoing relationship between the two organizations or the creation of a successor entity and (ii) the entity has an active or significant role in the formation of the other entity and (iii) the entities have similar patterns of contributions or contributors which indicate a formal or ongoing relationship between the entities; or

PERMANENT

(d) Whether one entity provides, causes or arranges, funds, services or goods in a significant amount or on an ongoing basis, through direct or indirect means to the other entity, for less than full consideration. Full consideration includes the payment of membership dues.

NEW SECTION

WAC 390-17-320 Contributions from corporations, businesses, unions and political committees. Pursuant to RCW 42.17.640(10), entities prohibited from contributing to a candidate for state office, a state official against whom recall charges have been filed or a political committee having the expectation of making expenditures in support of the recall of the official shall not earmark or otherwise direct a contribution to one of these recipients through a political committee.

NEW SECTION

WAC 390-20-148 Lobbyist direction or control of employer contributions. For purposes of RCW 42.17.670, a lobbyist shall be deemed to be exercising direction or control over the choice of the recipient state office candidate, state official against whom recall charges have been filed or a political committee if the lobbyist:

(1) officially decides to which state office candidates, state officials against whom recall charges have been filed or political committees the lobbyist employer or the employer's political committee contributes; or

(2) has the ability, on his or her own initiative, to execute or authorize payment of a contribution by the lobbyist employer or the employer's political committee to a state office candidate, a state official against whom recall charges have been filed or a political committee.

AMENDATORY SECTION (Amending WSR 93-22-002, filed 10/20/93)

WAC 390-16-207 In-kind contributions and expenditures—Reporting. (1) Whenever a candidate or a political committee makes one or more in-kind expenditures which (i) directly or indirectly, in whole or in part, benefit another identifiable candidate or political committee and (ii) in the aggregate amount to a value of fifty dollars or more in the reporting period, then, for the purpose of complying with the provisions of RCW 42.17.090 (1)(f);

(a) Such candidate or political committee shall identify the candidate or political committee benefitted by such expenditure and state the value thereof; and

(b) The candidate or political committee that receives benefit of such expenditure or expenditures shall report a corresponding amount as a contribution received and as an expenditure made by such candidate or political committee.

(2) Whenever a candidate or a political committee makes an in-kind expenditure which supports or opposes more than one candidate or ballot proposition, the person making such expenditure shall identify each candidate or ballot proposition to which such support or opposition is directed and, if the aggregate expenditure amounts to fifty dollars or more, shall state the prorated amount of the expenditure or expenditures properly attributable to each such candidate or ballot proposition.

(3) Whenever a candidate or political committee provides its equipment, property or other facilities owned, retained, leased or controlled by it to another candidate or political committee, the fair market value of the use of such equipment, property or other facilities, if it amounts to fifty dollars or more, shall be reported as follows:

(a) By the candidate or political committee providing the equipment, property or other facilities, by attaching to its form C-4, Schedule B, a statement setting forth the name of the candidate or political committee benefitted and the date, description and value of the in-kind contribution made by it;

(b) By the candidate or political committee benefitting from the use of such equipment, property or other facilities, by reporting the value of such use in its form C-4, Schedule B, both as a contribution and as an expenditure.

(4) ((~~Corporations, unions and other entities not prohibited from making contributions by RCW 42.17.640(10) may make available their facilities for volunteer services such as telephone banks without incurring an in-kind contribution so long as the service does not exceed four hours per month in the aggregate for all recipient candidates and political committees. More frequent use of such facilities will constitute an in-kind contribution which must be valued at the fair market value of comparable facilities. "Volunteer services" does not include the production of political advertising, holding fundraising events or providing transportation to candidates or campaign workers of candidates, political parties or caucus committees.~~)) Notwithstanding subsections (1) through (3) of this section, whenever a candidate or political committee subject to the contribution limits of RCW 42.17.640 receives an in-kind contribution from any person valued at more than $25 in the aggregate during the election cycle, or year for political committees, the contribution is reportable pursuant to RCW 42.17.090 and subject to limits provided in RCW 42.17.640.

AMENDATORY SECTION (Amending WSR 93-04-072, filed 1/29/93)

WAC 390-16-308 Identification of source of contribution. Any person who makes a contribution shall inform the candidate or treasurer, at the time the contribution is made, of the true and actual source of funds from which the contribution is made. To identify the source of a contribution received by check or other written instrument in the absence of other information, a candidate or treasurer shall apply the following:

Provided, that in cases where the source of the contribution is known and differs from the guidelines set forth below, the known source of the contribution shall be reported;

Provided further, that contributions made ((~~by or~~)) through an intermediary or conduit or transmitted by an intermediary ((~~lobbyist~~)) shall identify the true and actual source of the funds ((~~for whom the contribution was made~~)).

(1) A contribution drawn upon a single account shall be attributed to the account holder as identified by the name printed on the face of the check or negotiable instrument.

(2) A contribution drawn upon a joint account shall be attributed in equal proportion to each of the account holders as identified by the names printed on the face of the check or negotiable instrument unless the candidate or treasurer is

notified in writing that the contribution should be allocated in different proportions.

(3) A contribution made by a sole proprietor or drawn upon the account of a business which is a sole proprietorship shall be attributed to the owner of the business entity.

(4) A contribution drawn upon the account of a partnership shall be attributed to the partnership as a separate entity except that;

Any check drawn upon the partnership account but which is to be paid from the capital account of one or more individual partners shall identify at the time of transmittal to the candidate or treasurer the name(s) of the contributing partner(s) and shall be attributed to the contributing partner(s).

(5) A contribution drawn upon the account of a corporation, union, association or other organization, shall be attributed to the corporation, union, association or other ((~~similar~~)) organization as a separate entity, unless that entity is affiliated with another entity pursuant to WAC 390-16-309 in which case a contribution from one of those entities is attributed to both entities. ((~~except that;~~

~~(a) A Contribution drawn upon the account of a wholly owned or controlled subsidiary shall identify the name of the parent or controlling corporation and the contribution shall be attributed to the parent or controlling corporation;~~

~~(b) A Contribution drawn upon the account of a controlled union subdivision shall identify the name of the controlling union and the contribution shall be attributed to the controlling union;~~

~~(c) A contribution drawn upon the account of a controlled subdivision of an association or other similar organization shall name the controlling association or other similar organization and the contribution shall be attributed to the controlling association.~~

~~(d) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by another entity if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by:~~

~~(i) Whether the corporation or organization owns a controlling interest in the voting stock or securities of the subsidiary or subdivision;~~

~~(ii) Whether the corporation or organization has the authority or ability to direct or participate in the governance of the subsidiary or subdivision through provisions of constitutions, bylaws, contracts or other rules, or through formal or informal practices or procedures;~~

~~(iii) Whether the corporation or organization has the authority or ability to hire, appoint, demote or otherwise control the officers or other decision making employees or members of the subsidiary or subdivision;~~

~~(iv) Whether the corporation or organization has common or overlapping membership with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities.~~

~~(v) Whether a corporation, organization or entity has common or overlapping members, officers or employees with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities or which indicates the creation of a successor entity;~~

~~(vi) Whether the corporation, organization or entity has common or overlapping officers or employees with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities;~~

~~(vii) Whether the corporation, organization or entity provides funds or goods in a significant amount or on an ongoing basis through direct or indirect payments to the subsidiary or subdivision;~~

~~(viii) Whether the corporation, organization or entity causes or arranges for funds in a significant amount or on an ongoing basis to be provided to a subsidiary, subdivision or another entity, but not including the transfer to an organization of its allocated share of proceeds jointly raised;~~

~~(ix) Whether the corporation, organization or entity or its agent had an active or significant role in the formation of another corporation, organization or entity;~~

~~(x) Whether the corporation, organization or entity has similar patterns of contributions or contributors which indicates a formal or ongoing relationship with the subdivision or subsidiary.~~

~~(6) Contributions made by political committees established, financed, maintained, or controlled by any corporation, organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such person, shall be considered to have been made by a single political committee.~~))

Reviser's note: 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 93-16-064, filed 7/30/93)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17.-105(8) and RCW 42.17.640 shall be as follows:

(1)(a) The limitation on contributions in RCW 42.17.640 shall not apply to a "candidate" as that term is defined in RCW 42.17.020(5) and 42.17.630(3) when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17.640 shall apply to contributions to the candidate from the candidate's spouse or other immediate family members.

(2) The limitations on contributions shall apply separately to the contributions made by each spouse.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions ((~~if~~)) and the contribution is properly attributed to the emancipated minor child ((~~and~~)) if;

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another ((~~individual~~)) person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemanci-

PERMANENT

pated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to the parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under to RCW 42.17.105(8) and 42.17.640.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership from the contributions made by an individual partner except that;

Contributions made from or charged against the capital account of an individual partner shall be aggregated with the partner's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(6) The limitations on contributions shall apply separately to the contributions made by an entity (corporation, ((~~union, association or~~)) subsidiary ((~~corporation, or subdivision of the union, association or other similar organization except that;~~

~~(a) A contribution from a wholly owned or controlled subsidiary corporation or subdivision of a union, association or other similar organization shall be aggregated with the contributions of the parent or controlling corporation or organization for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.~~

~~(b) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by another entity, if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by the factors set forth in WAC 390-16-308 (5)(d)(i) through (x).~~

~~(7) The limitations on contributions shall apply separately to political committees except that; Political committees which are established, financed, maintained or controlled by any corporation, organization or any other person, including any parent, subsidiary, branch, division, department, or local unit of such persons shall be aggregated and considered as having been made by a single political committee for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.~~)) or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and their local units) pursuant to the standards set forth in WAC 390-16-309.

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

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

AMENDATORY SECTION (Amending WSR 91-16-072, filed 8/2/91)

WAC 390-20-052 Application of RCW 42.17.190—Reports of agency lobbying. Pursuant to the authority granted in RCW 42.17.190(8), the commission adopts the following interpretations regarding the reporting of lobbying by public agencies pursuant to RCW 42.17.190:

(1) The phrase "in-person lobbying" contained in RCW 42.17.190 (5)(d)(v)(B) includes activity which is intended to influence the passage or defeat of legislation, such as testifying at public hearings, but does not include activity which is not intended to influence legislation, such as attending a hearing merely to monitor or observe testimony and debate.

(2) The phrase "a legislative request" contained in RCW 42.17.190 (5)(d)(ii) includes an oral request from a member of the legislature or its staff.

(3) Pursuant to RCW 42.17.190(6), certain local agencies may elect to have lobbying activity on their behalf reported by their elected officials, officers and employees in the same manner as lobbyists who register and report under RCW 42.17.150 and 42.17.170:

(a) When any subagency (i.e. department, bureau, board, commission or agency) within a state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district (i.e. primary agency) has independent authority to expend public funds for lobbying, that subagency may file a separate L-5 reporting the information required by RCW 42.17.190(5).

(b) When a subagency elects to file its own, separate L-5, it shall notify the commission and the administrative head of the primary agency of its intentions in writing. The primary agency shall not thereafter include information for the subagency in its L-5, and shall have no legal obligation for the filings of the subagency.

(c) Whenever such a local agency makes such an election, it shall provide the commission with a written notice.

((~~(b)~~)) (d) After such an election, those who lobby on behalf of such local agency shall register and report all lobbying activity reportable under RCW 42.17.190(5) in the same manner as lobbyists who are required to register and report under RCW 42.17.150 and 42.17.170. Such a local agency shall report pursuant to RCW 42.17.180.

((~~(c)~~)) (e) In order to terminate such an election, such a local agency shall provide the commission with a written notice and it shall report pursuant to RCW 42.17.190(5) thereafter.

((~~(d)~~)) (f) The exemptions from reportable lobbying activity contained in RCW 42.17.190 (5)(d) apply to all agencies, whether or not they have exercised the election to report in the same manner as lobbyists who report under RCW 42.17.150, 42.17.170 and 42.17.180. The exemptions contained in RCW 42.17.160 (1), (3) and (4) do not apply to any agency.

(4) Unless an agency has elected to report its lobbying pursuant to RCW 42.17.190(6) and subsection (3) of this section, an agency shall include the reportable lobbying activity on its behalf by an elected official in its quarterly report. Such an elected official does not file any separate report of that activity.

(5) Reportable in-person lobbying by elected officials, officers and employees:

(a) An elected official does not engage in reportable in-person lobbying on behalf of this agency unless and until that elected official has expended in excess of fifteen dollars of nonpublic funds in connection with such lobbying for or

on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington during any three-month period as provided in RCW 42.17.190 (5)(d)(v)(B).

(b) Other officers and employees do not engage in reportable in-person lobbying on behalf of their agency unless and until they have, in the aggregate, expended in excess of fifteen dollars of nonpublic funds in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington or they have, in the aggregate, engaged in such lobbying for more than four days or parts thereof during any three month period as provided in RCW 42.17.190 (5)(d)(v)(B).

(c) When limits in (a) or (b) of this subsection have been exceeded, the agency shall report such elected official, officer, or employee as a "person who lobbied this quarter" on the front of PDC Form L-5 and include a listing of those excess expenditures as noted on that form.

WSR 94-11-017
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed May 5, 1994, 3:45 p.m.]

Date of Adoption: April 26, 1994.

Purpose: Adopt two rules to implement Initiative 134, new WAC 390-16-311 and 390-17-405.

Statutory Authority for Adoption: RCW 42.17.390.

Pursuant to notice filed as WSR 94-07-142 on March 23, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 2, 1994
Melissa Warheit
Executive Director

NEW SECTION

WAC 390-16-311 Automatically affiliated entities maintaining separate contribution limits. (1) If two or more entities are affiliated pursuant to WAC 390-16-309(1), the parent corporation, national or international labor union or state body of such national or international labor union, trade association or state body of such trade association, national or state collective bargaining organization or national or state membership organization (hereinafter called the parent or umbrella organization) automatically shares a single contribution limit with each of its subsidiary corporations, corporate branches or departments or with each of its local units. However, absent satisfying one of the affiliation factors set forth in WAC 390-16-309(3), a subsidiary corporation or local unit shall maintain its own contribution limit if the parent or umbrella organization does not participate in an election campaign with respect to a candidate defined in RCW 42.17.630(3). If the parent or umbrella organization engages in any of the following activities, a subsidiary corporation or local unit shares the contribution limit with the parent or umbrella organization with respect to a candidate:

a) Making either a monetary or in-kind contribution to a candidate;

b) Making an independent expenditure in support of or opposition to a candidate;

c) Endorsing a candidate prior to a contribution being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

d) Making a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

e) Directly or indirectly collaborating or consulting with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, if any, will be made or should be made in support of or opposition to a candidate.

(2) If the parent or umbrella organization participates in an election campaign, a subsidiary corporation or local unit, which shares a contribution limit with the parent or umbrella organization pursuant to WAC 390-16-309(1), may nevertheless contribute to any candidate regarding whom the parent or umbrella organization has not engaged in any of the activities set forth in subsection (1) of this section up to the contribution limits set forth in RCW 42.17.640.

NEW SECTION

WAC 390-17-405 Volunteer services. (1) In accordance with RCW 42.17.630 (5)(b)(viii), an individual may perform services or labor for a campaign, without incurring a contribution subject to the limits under RCW 42.17.640 or RCW 42.17.105(8), so long as the individual is not compensated by any person for the services or labor rendered, the services or labor are performed outside the hours for which the employer has scheduled the employee to work and the services are of the sort commonly performed by the volunteer campaign workers, including:

(a) office staffing;

(b) doorbelling or leaflet drops;

(c) mail handling (folding, stuffing, sorting and postal preparation);

(d) political or fund raising event staffing;

(e) telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);

(f) construction and placement of yard signs, hand-held signs or in-door signs;

(g) chauffeuring for candidate or candidate staff;

(h) scheduling of campaign appointments and events;

(i) transporting voters to polling places on election day;

(j) the services of any individual, except an attorney or accountant, provided that the services donated are solely for the purpose of ensuring compliance with state election or public disclosure laws;

(k) campaign consulting and management services, polling and survey design, public relations and advertising, or fundraising performed by any individual, so long as the individual is not a professional in that field who ordinarily charges a fee or receives compensation for providing those services, and

(l) all similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services in accordance with RCW 42.17.630 (5)(b)(ix), if the attorney or accountant is:

(a) employed and his or her employer is paying for the services rendered;

(b) self-employed; or

(c) performing services for which no compensation is paid by any person.

WSR 94-11-018
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed May 5, 1994, 3:48 p.m.]

Date of Adoption: April 26, 1994.

Purpose: Amending WAC 390-05-235.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-235.

Statutory Authority for Adoption: RCW 42.17.390.

Pursuant to notice filed as WSR 94-07-088 on March 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 2, 1994
Melissa Warheit
Executive Director

AMENDATORY SECTION (Amending WSR 93-22-002, filed 10/20/93)

WAC 390-05-235 Definition—Fair market value. (1) "Fair market value" or "value" when used in the act or rules is the amount in cash which a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and which a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of this or her business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

(2)(a) Any person who donates an item for sale, raffle, auction or awarding at a fund raising event is making a contribution to the recipient candidate or political committee in an amount equal to the fair market value of the item donated.

(b) Any person who buys a donated item makes a contribution equal in value to the difference between the purchase or auction price and the fair market value of the donated item.

(c) If the purchase or auction price is the same as the fair market value, the buyer's contribution is zero. If the purchase or auction price is less than the fair market value, the buyer's contribution is zero and the donor's contribution is reduced to the amount of the sale or auction price.

(3) The value of any in-kind contribution donated to any candidate or political committee subject to contribution limits pursuant to RCW 42.17.640 shall not, when combined with other contributions to that candidate or political committee, exceed the donor's applicable contribution limit as set forth in RCW 42.17.640. The value of an in-kind contribution donated as an exempt contribution to a bona fide political party committee or other political committee eligible to receive exempt funds is only subject to the limit imposed by 42.17.105(8).

(4)(a) Except as provided in WAC 390-16-207, if a person permits a candidate, a candidate's authorized committee or a political committee to use the telephones of a business, union, organization or other entity without charge for the purpose of making local campaign-related calls, the telephone usage is an in-kind contribution and shall be valued at its fair market value or, if no fair market value is ascertainable, $1 per telephone per calendar day or part thereof.

(b) If toll calls are permitted, the toll charges are also an in-kind contribution unless the candidate, the candidate's authorized committee or the political committee reimburses the person in full within 30 days of making the toll calls.

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 94-11-021
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION
[Order R-415, Docket No. TC-940123—Filed May 5, 1994, 4:16 p.m.]

In the matter of amending WAC 480-30-032, 480-30-050, and 480-30-095 relating to applications for auto transportation certificates, notice requirements for fare increases, auto transportation equipment safety and operation of motor vehicles.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-07-137, filed with the Code Reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-137, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by Jack Davis and by the commission staff. The phrase "absent a showing of good cause" was added to the amendatory language in WAC 480-30-032 to address Mr. Davis' concern that the language of the noticed version was too rigid.

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted the WAC 480-30-032 as modified in response to written comment, and WAC 480-30-050 and 480-30-095 as noticed.

In reviewing the entire record, the commission determines that WAC 480-30-032, 480-30-050, and 480-30-095 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-30-032, 480-30-050, and 480-30-095 are amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-351, Docket No. A-910835, filed 10/30/91, effective 11/30/91)

WAC 480-30-032 Notice of application; protests; contemporaneous applications. (1) Notice shall be made of the filing of applications for authority to provide auto transportation service in identified territory by sending notice of the application, with a description of its terms, to all persons presently authorized to provide auto transportation service under this chapter in the territory of the application, all present applicants for such service, and any other person who has requested, in writing, to receive such notices. Interested persons shall have twenty days from the date of mailing of the notice in which to file a protest with the commission stating opposition to the application. Protests should set forth specifically the grounds on which they are made and contain a concise statement of the interest of the protestant in the proceeding. Any person who is eligible to file a protest to an application but fails to do so, absent a showing of good cause, is precluded from participating in any hearing upon the application or in any further stage of the proceeding.

(2) If any person wishes to seek authority which overlaps, in whole or in part, that sought in any pending application, it must apply for that authority within thirty days after the mailing of the notice of filing of the initial application in order for the applications to be considered jointly by the commission. During the thirty-day period, pending applications will be on file and available for inspection in the commission headquarters office in Olympia.

(3) The commission may consolidate overlapping pending applications, pursuant to WAC 480-09-610, for joint consideration.

(4) Overlapping applications which are not filed within thirty days after mailing of the notice of filing of the initial application will not be jointly considered with the initial application and will not be decided until after the conclusion of proceedings resolving the pending application and any other application which qualifies for joint consideration.

(5) The commission may consider and decide, on any schedule, portions of an overlapping application when:

(a) The portions to be heard do not overlap a prior pending application; and

(b) The overlapping portions may appropriately be severed from the portions to be heard.

AMENDATORY SECTION (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

WAC 480-30-050 Tariff, naming rates and fares. (1) Every auto transportation company shall file with the commission two copies of its tariff, and any amendments thereto, showing all fares, rates and charges for the transportation of persons, and for auto transportation companies baggage and express between all points on its line; or in the case of a joint tariff, shall show all fares, rates and charges applicable between points on its line and all affected points on the line of the concurring carrier or carriers. Tariffs, or supplements thereto, must be issued and filed in accordance with the commission's Tariff Circular No. 6 or reissues thereof.

(2) In the event that a new tariff or amendment will effect an increase in fares, rates or charges, or will in any respect restrict the service offered under said tariff, a notice must be given to the public at least thirty days before the effective date thereof, unless the commission has granted authority for a lesser period, by posting a copy or copies of said notice in conspicuous places at each station, also at each passenger facility and on each vehicle continuously assigned to the route or routes affected. The notice must plainly indicate that the notice has been posted "in compliance with regulations of the Utilities and Transportation Commission, ((~~1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-8002~~)) (stating the commission's mailing address)."

(3) Where through ticketing arrangements are in effect between two or more auto transportation companies for the transportation of persons over routes authorized by certificates of public convenience and necessity duly granted by the commission, interline settlements must be made between such carriers within thirty days after the close of the month in which such settlements are due. If any carrier fails to make full settlement with its connecting lines within thirty

days such connecting carriers shall immediately report each failure to do so to the commission in writing, giving the names of the defaulting carriers together with the amounts outstanding.

(4) Auto transportation companies shall be governed by the provisions of chapter 81.68 RCW, and by such other portions of Title 81 RCW as may be applicable to auto transportation companies.

(5) No auto transportation company shall pay any commission to any individual, firm, association or corporation, their lessees, trustees or receivers, for the sale of any ticket or fare, or for transportation by express unless upon a contract or agreement, the form of which has previously been approved by the commission.

AMENDATORY SECTION (Amending Order R-357, Docket No. TC-900481, filed 12/31/91, effective 1/31/92)

WAC 480-30-095 Equipment—Safety. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.68 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, part 393, part 396, and part 397, are adopted and prescribed by the commission to be observed by all auto transportation companies operating under chapter 81.68 RCW. Exceptions: All auto transportation companies operating exclusively in intrastate commerce shall be exempt from the provisions of sections 392.2((,)) and 393.76((, ~~396.17 through 396.23, and 397.21~~)). Further, with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found.

(2) Whenever the designations "director, office of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

WSR 94-11-022
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Order R-411, Docket No. TV-940122—Filed May 5, 1994, 4:17 p.m.]

In the matter of amending WAC 480-12-045, 480-12-050, 480-12-190, and 480-12-990, relating to applications for motor carrier authority, safety of drivers and motor carrier equipment, drivers hours of service and the classification of carriers.

The Washington Utilities and Transportation commission takes this action under Notice No. WSR 94-07-135, filed with the code reviser on March 23, 1994. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 94-07-135, for 9:00 a.m., Wednesday, April 27, 1994, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 18, 1994.

Written comments were presented by Clyde H. MacIver (WAC 480-12-045), Jack R. Davis (WAC 480-12-045, 480-12-050), James Sells (WAC 480-12-045), and by the commission staff.

Mr. MacIver, Mr. Davis, and Mr. Sells objected to the inclusion of applications for waiver of WAC 480-12-085 among the applications for which the commission staff proposed expedited treatment. The commission rejects the proposed changes because removing this application from the docketing requirement will reduce regulatory lag and burdensome paperwork. Comments also addressed inclusion of those carriers which seek reinstatement of their permits within 30 days of being canceled. The commission views reinstatement under this provision as continuation of an existing permit, which does not require docketing. Mr. Sells also objected to removal from the docket of applications for authority to haul recoverable materials. The commission supports the proposed change, noting that such applications are not subject to protest and are granted upon the carrier's showing that they are fit, willing and able to provide the service. No changes to the noticed version of WAC 480-12-045 were made.

Mr. Davis commented on the proposed changes to WAC 480-12-050 relating to the transfer of Washington intrastate authority by the Interstate Commerce Commission. He was concerned that many of the proceedings before the ICC are not labeled "applications" and, thus, could be construed as not being included under the proposed amendment. The commission agrees that this is a valid concern and added the following sentence to WAC 480-12-050(6): "For purposes of this subsection, the term application means transfer or acquisition of control of Washington intrastate authority."

The rule change proposal was considered for adoption at the commission's regularly scheduled open public meeting on April 27, 1994, before Chairman Sharon L. Nelson and Commissioner Richard Hemstad. Oral comments were made by commission staff. After considering the written and oral comment, the commission adopted WAC 480-12-045, 480-12-190 and 480-12-990 as noticed, and WAC 480-12-050 with amendments.

In reviewing the entire record, the commission determines that WAC 480-12-045, 480-12-050, 480-12-190, and 480-12-990 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

ORDER

THE COMMISSION ORDERS That WAC 480-12-045, 480-12-050, 480-12-190, and 480-12-990 are amended to read as set forth in Appendix A, as a rule of the Washington

Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 3rd day of May, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-325, Docket No. TV-900022, filed 8/10/90, effective 9/10/90)

WAC 480-12-045 Application for authority, docketing—Protests—Hearings. For the purposes of this rule, applications for authority shall include applications for original or extended common or contract carrier authority, applications to transfer existing common or contract carrier authority or to acquire control of common or contract carrier authority. Applications for temporary authority are governed by WAC 480-12-033.

(1) All applications for authority ((~~(except applications for combination of services by log contract carriers, filed under the provisions of RCW 81.80.060),~~)) will be published in the commission's weekly application docket, which is mailed on the first business day of each week: *Provided,* That the following applications shall not be published in the docket and are not subject to protest:

(a) Applications to transfer or acquire existing common or contract carrier authority, to the extent excluded from docketing and protest in WAC 480-12-050(2).

(b) Applications for combination of services contract carrier authority to transport logs, filed under RCW 81.80.060. The commission finds such service to be consistent with the public interest.

(c) Applications for primary haul agricultural authority, filed under RCW 81.80.175. The commission finds such service to be consistent with the public interest.

(d) Applications under WAC 480-12-085 to transport the carrier's own property.

(e) Applications for transportation of recovered materials, pursuant to WAC 480-12-510.

(f) Applications for reinstatement of canceled permits under WAC 480-12-065, if filed within thirty days after cancellation.

(2) The weekly application docket will publish the name and address of the applicant and the name and address of the applicant's attorney or representative, if any, and a description of the authority sought. The docket shall be mailed to the applicant, and, upon written request to any other person having a valid interest in application proceedings.

(3)(a) Any person having a valid interest adverse to the application may file a protest with the commission. Note: Any eligible person who fails to file a timely protest, in substantial compliance with this section, will be precluded from participating at the hearing or at any further stage of the proceeding.

(b) Protests to applications for temporary authority are governed by WAC 480-12-033.

(c) Protests may be filed on a form provided by the commission, or in a similar format, specifying the grounds for the protest and defining the protestant's interest in the proceeding.

(i) The protest shall identify that portion of the requested authority to which the protestant objects, or that portion of the authority alleged to be inactive in a transfer or acquisition of control proceeding pursuant to RCW 81.80.270.

(ii) When a protestant has a limited interest in an application, which could be eliminated by a restrictive amendment, the protest shall describe the amendment. If the applicant and the commission accept the proposed amendment, then the protest will be dismissed pursuant to subsection (4)(d) of this section. The commission will reject amendments it finds unacceptable.

(iii) Protests shall state the approximate number of witnesses to be presented by the protestant and an estimate of the hearing time required for the presentation.

(iv) Protests must be signed either by the protesting party or by the protestant's attorney or representative. Protests shall contain the name and address of each person on whose behalf the protest is filed, and include that person's permit number ((~~and~~)), a copy of the permit, and identification of the specific portion or portions of their permit that is the basis for the protest.

(d) Within thirty days following publication of the application in the weekly docket, the protestant must file one original and two copies of the protest with the commission. The protestant must also serve one copy each upon the applicant and the applicant's attorney or representative named in the docket. The protest and each copy must include a certificate of service executed according to WAC 480-09-120.

(e) A protest also may be filed in the name of a transportation industry organization, association, or conference on behalf of its members; such group protest shall specify the group's mailing address. A group protest shall contain a list of all currently active group members and be signed by an authorized representative of the organization, association, or conference. Service upon the protesting group shall be made by serving its contact person and the group's attorney, and need not be made upon any member who does not file a protest in that individual member's own name.

(4)(a) Notice of the time, date, and place of hearing will be served upon all parties pursuant to WAC 480-09-700 (1)(a).

(b) A request by any party for a change in the time, date, or place of an assigned hearing must be made pursuant to WAC 480-09-440, generally at least five days before the assigned hearing date. Notice of a change in the time, date, or place of hearing will be served upon all parties of record by the commission or the office of administrative hearings, in accordance with WAC 480-09-700 (1)(b).

PERMANENT

(c) An application shall be dismissed without further notice if the applicant fails to appear at the hearing or if the applicant appears and fails to present supporting evidence. The order of dismissal may provide that the application may not be refiled for a period of ninety days thereafter. Application fees are not refundable.

(d) By filing a protest, the protestant agrees to appear at the hearing if an oral hearing is held. If an applicant adopts a restrictive amendment that satisfies the interests of a protestant, and the protestant files a withdrawal at least five days prior to the hearing, that protestant need not appear at the hearing. If the commission rejects the proposed amendment, a new notice will issue.

(e) A penalty may be assessed, pursuant to WAC 480-09-700, against any party who fails to appear at the hearing. Failure to appear may also result in dismissal or default, which would include the loss of the right to participate further in the proceeding.

(5) The commission may require a hearing in any proceeding, pursuant to RCW 34.05.413 and WAC 480-09-400.

(a) If the protest period expires without any protest being filed, or if all protests are withdrawn or dismissed, the commission may allow the application to proceed without hearing.

(b) If the application is processed without hearing, the applicant shall, upon request, submit verified statements of its witnesses, containing the facts to which the witnesses would testify at a hearing if one were held. If no verified statements are submitted, the application shall be dismissed.

(c) An application may be denied, or it may be granted in part or in full, based upon the sufficiency of the statements presented. The applicant may request a review of full or partial denial through a brief adjudicative proceeding, pursuant to WAC 480-09-500.

AMENDATORY SECTION (Amending Order R-260, Cause No. TV-1963, filed 5/29/86)

WAC 480-12-050 Transfer of permit rights. (1) For purposes of this section applications for transfer of permit rights shall include requests for authority to transfer outstanding common or contract carrier permits or portions thereof, and requests for authority to acquire control of common or contract carriers holding permits through ownership of their stock or through purchase, lease or contract to manage the business, or otherwise, as provided in RCW 81.80.270.

(2) Applications for transfer of permit rights shall be subject to the docketing, hearing, and protest provisions of WAC 480-12-045: *Provided,* That applications need not be published in the commission's weekly application docket subject to protest, and the commission may grant the requested authority without hearing in the following cases:

(a) Transfers authorized by the proviso of RCW 81.80.270 and transfers authorized by RCW 81.80.272.

(b) A transfer by an individual to a corporation established to incorporate the transferor's business, ((~~where~~)) when the transferor is the majority stockholder, or by an individual to a partnership, when the transferor is the majority partner, or a transfer by a corporation to the majority shareholder or by a partnership to the majority partner, unless the acquisition of majority interest has not otherwise been approved upon application.

(c) A transfer by a partnership to a corporation established to incorporate the partnership business, ((~~where~~)) when the partners are the majority stockholders.

(d) A transfer by a corporation to another corporation where both corporations are wholly owned by the same stockholders.

(3) The transferor (seller) or someone familiar with the details of ((~~his~~)) the business will be required to be present if a hearing is held on the application. The transferee (buyer) is also required to be present at the hearing. In case either of these parties is a corporation, a duly authorized representative familiar with the details of the corporation's business will suffice, as will one of the partners having familiarity with the business of the partnership. Transferee will be required to establish ((~~his, or~~)) its((~~,~~)) fitness, willingness, and ability to conduct operations under the authority sought to be transferred.

(4)(a) If a hearing is held on the application, the permit holder will be required to produce proof that ((~~said permit holder~~)) it was ready, able and willing, and so held ((~~himself~~)) itself out to the public to handle the traffic in question within the territory involved.

(b) Bills of lading or other records, as evidence of freight movements, if available, shall be produced by the permit holder and must be segregated by commodity groups and territory. A summary sheet shall be offered in evidence which lists, by commodity groups and territory, each bill of lading or other shipping document by number, date, commodity, weight, point of origin, point of destination, consignor and consignee. The summary sheet shall show whether it contains all shipments or only representative shipments. If representative shipments are shown, the basis for selection shall be explained, and be representative of the traffic handled, throughout the one year test period hereinafter described.

(c) A period of one year immediately prior to the date on which the application was filed shall be examined for evidence of operations. Where effective control of the operations of the permit holder has passed to the transferee prior to the date on which the application was filed, a period of one year immediately prior to the date that effective control passed to the transferee shall be examined for evidence of operations. Upon a finding that unusual circumstances existed the commission may use a different period, prior to the date the application was filed.

(d) The parties to a transfer may offer, and if offered, the commission shall give consideration to the nature of operating authority, the amount of traffic that is available in the territory in question, the type of equipment the carrier has had in his or its possession and suitability of the equipment for the traffic in question, the extent of active solicitation of such traffic, and the type of solicitation, whether the operation in question is one of regular or irregular route, whether scheduled or nonscheduled, whether the traffic demands employees having special skills and whether the permit holder had such skilled employees, and all other facts and circumstances tending to show whether or not the permit holder was at all times ready, able and willing and so held ((~~himself~~)) itself out to the public, to handle such traffic in question within the territory involved.

(e) In the event a cessation of operations occurred during the test year when service would normally be expected, the proposed transfer or acquisition of control will be denied unless the permit holder shows that such cessation was caused by circumstances over which ((~~he~~)) it had no control.

(5) In the case of applications to transfer outstanding permit rights or acquire control of a carrier holding a permit, if any rights in the subject permit are not authorized to be transferred or acquired, the application shall be denied in its entirety unless applicants consent to the elimination from the permit of such rights in writing within 30 days of a final determination of the application. If the application is for transfer of a part only, of a right or rights in a permit, it will be denied if it is found that the partition would create duplicative rights, would divide rights at a point other than along clearly defined geographical or political lines, or permit minute or multiple division of operating rights, or would permit the separation of a commodity or commodities from a class of substantially related commodities or from a commodity classification set forth in Appendix "A" herein, entitled "Classification of brokers, forwarders and motor carriers of property."* The commission will not accept restrictive amendments to applications for the transfer of a permit or a portion thereof nor will it impose restrictive conditions on such a transfer where it is found that the restrictive amendment or conditions requested by the parties would divide rights at a point other than along clearly defined geographical or political lines, or would permit the separation of a commodity or commodities from a class of substantially related commodities or from a commodity classification set forth in Appendix "A" herein entitled "Classification of brokers, forwarders and motor carriers of property."* The commission will not approve the transfer of a permit or a portion thereof ((~~where~~)) when the transferee does not intend to engage in bona fide motor carrier operations under the operating rights or if the transferor acquired the operating rights for the purpose of reselling said permit rights or otherwise trafficking therein for profit. No transfer will be authorized of rights to a transferee ((~~where~~)) when an affiliate of the transferee already has substantially duplicating territorial and commodity rights. Transfers except those involving acquisition of control, will not be authorized until all claims for loss and damage against a transferor are settled or until all C.O.D. collections made by the transferor are remitted. If authorized, transfer will include identification stamps, tariffs, and regulatory fees.

(6) This subsection governs the transfer of Washington intrastate authority by the Interstate Commerce Commission under its authority to preempt intrastate regulatory authority while effecting transfers of interstate authority. For the purposes of this subsection, the term application means transfer or acquisition of control of Washington intrastate authority.

(a) Any person who applies to the Interstate Commerce Commission for preemptive transfer of Washington intrastate motor carrier authority as part of an interstate transaction shall file an application with the Washington Utilities and Transportation Commission for implementation of the intrastate transfer, within five business days after submitting the ICC application. The Washington application shall be on the form for transfers supplied by the commission and shall be accompanied by the required fee.

(b) In addition to information required of all applicants for transfer, an applicant for ICC-exempted transfer shall submit a copy of the application that it submitted to the ICC. The applicant shall also file with the commission a copy of every document, order, or other correspondence to or from the ICC that is relevant to the proposed intrastate transfer, within five days after sending or receiving the document.

(c) The application for preemptive transfer shall be docketed for informational purposes but is not subject to intrastate protest. The commission may express its view of the proposal directly to the Interstate Commerce Commission.

(d) As soon as administratively feasible following receipt of proof of ICC action approving the transaction and preempting transfer of intrastate motor carrier authority, the commission will enter an order in the intrastate proceeding to transfer such intrastate authority as required by the Interstate Commerce Commission under its preemptive authority and to adjust any retained authority as necessary to reflect the transfer. The commission may require an applicant to submit a copy of the ICC action that is certified by an authorized official of the Interstate Commerce Commission to be a true and correct copy of that commission's action.

(e) A party to a preemptive transfer proceeding who is aggrieved by a commission action in a preempted transfer may request review of the decision in an adjudication or in a brief adjudication under WAC 480-09-500.

*In the case of the commodity classification "general freight" where such authority was issued prior to May 1, 1944, the commission construes such authority to include all other commodity classifications and will permit the separation of a commodity classification from such general freight authority provided such separation meets the other requirements of subsection (5).

AMENDATORY SECTION (Amending Order R-355, Docket No. TV-900483, filed 12/18/91, effective 1/18/92)

WAC 480-12-190 Hours of service—On duty—Adoption of federal safety regulations. The rules and regulations adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 395 are adopted and prescribed by the commission to be observed by all common, contract, ((~~and~~)) private, registered and registered exempt carriers operating under chapter 81.80 RCW, except:

(1) A driver who is driving a motor vehicle in the hauling of logs from the point of production or in dump truck operations, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

(2) A driver who is driving a motor vehicle in the hauling of agricultural products from the point of production on farms, exclusively in intrastate commerce, shall not drive nor be permitted to drive more than twelve hours following eight consecutive hours off duty. Such driver shall not be on duty nor be permitted to be on duty more than ninety hours in any period of seven consecutive days.

PERMANENT

(3) The rules and regulations governing driver's daily logs prescribed in Title 49, Code of Federal Regulations, section 395.8 and adopted in this section, do not apply to a driver who drives exclusively in intrastate commerce and wholly within a radius of one hundred miles of the terminal or garage at which he or she reports for work, if the motor carrier who employs the driver maintains and retains for a period of one year accurate and true records showing the total number of hours of driving time and the time that the driver is on duty each day and the time at which the driver reports for, and is released from, duty each day. A tacograph showing the required driver hourly information may be substituted for the required records.

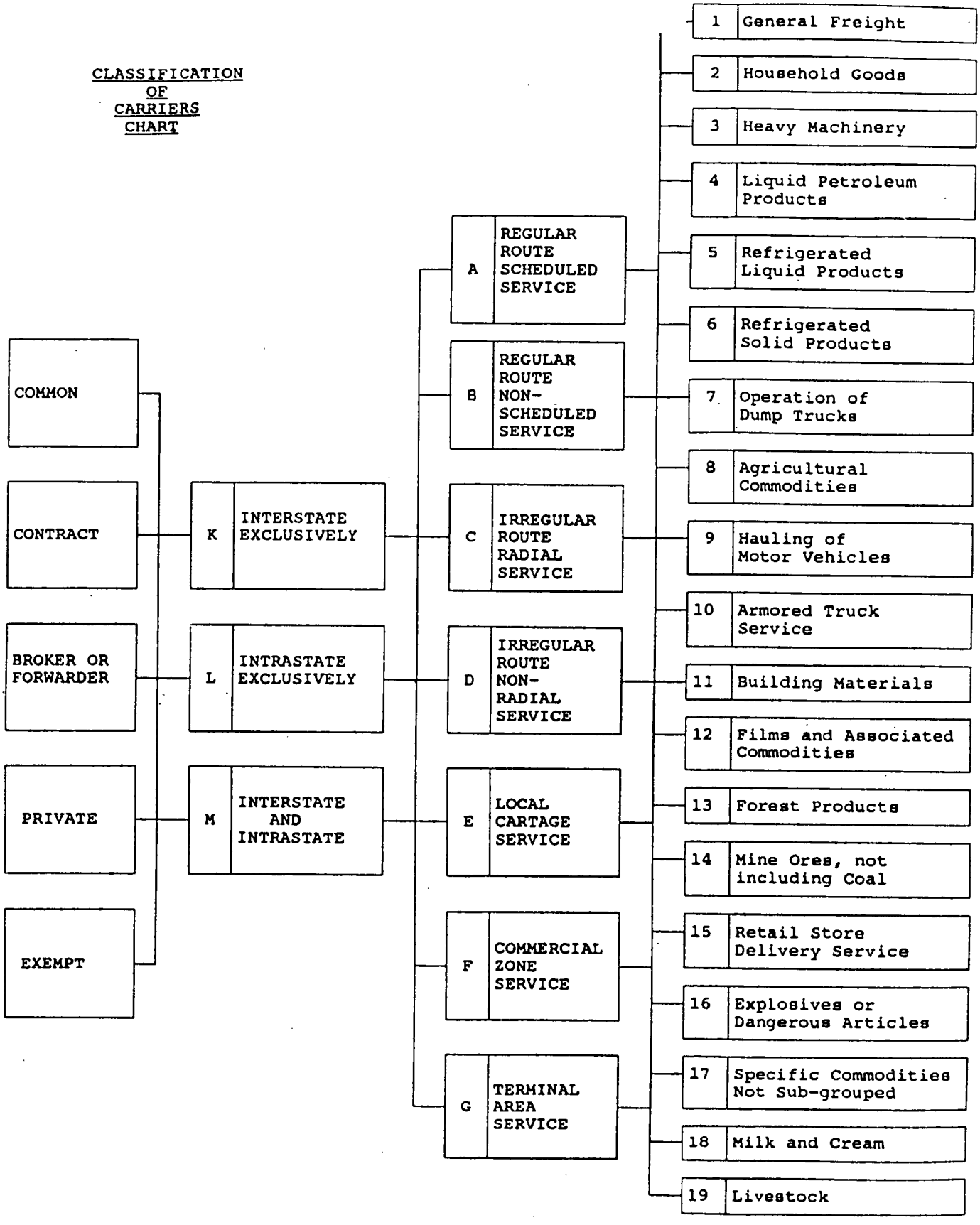
(4) Carriers operating exclusively in intrastate commerce operating vehicles with a manufacturer's gross vehicle weight rating (GVWR) of less than ten thousand one pounds shall not be subject to the provisions of part 395 unless the vehicle is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

AMENDATORY SECTION (Amending Order R-124, Cause No. TV-985, filed 6/20/79)

WAC 480-12-990 Appendix A—Classification of brokers, forwarders and motor carriers of property.

APPENDIX A Classification of brokers, forwarders and motor carriers of property

CLASSIFICATION CHART


CLASSIFICATION OF CARRIERS CHART
COMMON
CONTRACT
BROKER OR FORWARDER
PRIVATE
EXEMPT
K INTERSTATE EXCLUSIVELY
L INTRASTATE EXCLUSIVELY
M INTERSTATE AND INTRASTATE
A REGULAR ROUTE SCHEDULED SERVICE
B REGULAR ROUTE NON-SCHEDULED SERVICE
C IRREGULAR ROUTE RADIAL SERVICE
D IRREGULAR ROUTE NON-RADIAL SERVICE
E LOCAL CARTAGE SERVICE
F COMMERCIAL ZONE SERVICE
G TERMINAL AREA SERVICE
1 General Freight
2 Household Goods
3 Heavy Machinery
4 Liquid Petroleum Products
5 Refrigerated Liquid Products
6 Refrigerated Solid Products
7 Operation of Dump Trucks
8 Agricultural Commodities
9 Hauling of Motor Vehicles
10 Armored Truck Service
11 Building Materials
12 Films and Associated Commodities
13 Forest Products
14 Mine Ores, not including Coal
15 Retail Store Delivery Service
16 Explosives or Dangerous Articles
17 Specific Commodities Not Sub-grouped
18 Milk and Cream
19 Livestock

The preceding page is a chart which outlines three steps taken in a breakdown of each motor carrier operation. These three steps are the analytical factors which are used to determine the carrier's classification. They include (1) type of carrier, (2) type of carrier's service, and (3) type of commodities transported. Each class is a composite of these three factors. The chart includes a symbol system through which class may be identified by code letter and number.

The first division of the chart identifies the type of operation, as fixed by chapter 81.80 RCW. There are five such types of property operators.

Common carrier of property
Contract carrier of property
Forwarder or broker of property transportation
Private carrier of property
Exempt carrier

The second division on the chart identifies the type of service in which the carrier is engaged as determined by:

(a) Regular route, scheduled service
(b) Regular route, nonscheduled service
(c) Irregular route, radial service
(d) Irregular route, nonradial service
(e) Local cartage service
(f) Commercial zone service
(g) Terminal area service

The third division on the chart describes the type of commodities transported by the carrier. There are nineteen such commodity groups which are of sufficient importance at this time to warrant individual identification. Additional groups may be added as the need therefor is shown.

(1) Carriers of general freight
(2) Carriers of household goods
(3) Carriers of heavy machinery
(4) Carriers of liquid petroleum products
(5) Carriers of refrigerated liquid products
(6) Carriers of refrigerated solid products
(7) Carriers engaged in dump trucking
(8) Carriers of agricultural commodities
(9) Carriers of motor vehicles
(10) Carriers engaged in armored truck service
(11) Carriers of building materials
(12) Carriers of films and associated commodities
(13) Carriers of forest products
(14) Carriers of mine ores not including coal
(15) Carriers engaged in retail store delivery service
(16) Carriers of explosives or dangerous articles
(17) Carriers of specific commodities, not subgrouped
(18) Carriers of milk and cream
(19) Carriers of livestock

The symbol system of code identification is derived from the foregoing three groups. Illustration: A common carrier may be engaged in transporting household goods over irregular routes in radial services. Such a carrier would be classed as a **common carrier** Class C-2.

Appropriate definitions or explanations of each class or group appear on the following pages in the order shown above.

Types of carriers

DEFINITIONS

RCW Section 81.80.010 (of the "Motor Carrier Act") defines carriers by motor vehicle and brokers and forwarders as follows:

MOTOR CARRIER

The term "motor carrier" means and includes "common carrier," "contract carrier," "private carrier" and "exempt carrier," as herein defined.

COMMON CARRIER

The term "common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

CONTRACT CARRIER

The term "contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined, and further shall include any persons who under special and individual contracts or agreements transport property by motor vehicle for compensation.

PRIVATE CARRIER

A "private carrier" is a person who, in ((~~his~~)) its own vehicle, transports only property owned or being bought or sold by ((~~him~~)) it in good faith and only when such transportation is purely an incidental adjunct to some established private business owned or operated by ((~~him~~)) it in good faith.

BROKER AND FORWARDER

The terms "common carrier" and "contract carrier" shall include persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

EXEMPT CARRIER

The term "exempt carrier" means any person operating a vehicle exempted from certain provisions of the act under section RCW 81.80.040 thereof.

Interpretation of permits

Commodity descriptions and the right to serve certain routes or territories described in a carrier's permit where ambiguity exists shall be interpreted according to general custom and trade usage of the common carrier motor freight industry, and the usual Commission administrative practice.

((~~Where~~)) When the terms Olympic Peninsula, Eastern Washington, ((~~and~~)) Western Washington, and Southwest Washington are used in common or contract carrier permits, ((~~these~~)) the terms shall define ((~~the~~)) territory ((~~embraced therein~~)) as follows:

Olympic Peninsula: The Olympic Peninsula area comprises all points in Clallam County, Jefferson County, Mason County (points north of an east-west line through Shelton only), Kitsap County, Vashon Island and the northern portion of Pierce County, north and west of Tacoma and Steilacoom.

Eastern Washington and Western Washington: The dividing line between Eastern Washington and Western Washington is the summit of the Cascade Range, which is also the county boundary, starting at the Canadian border and running south as far as Mt. Adams; from Mt. Adams running south to the Columbia River the dividing line shall be between the eastern boundary of Skamania County and the western boundaries of Yakima and Klickitat Counties.

Southwest Washington: Southwest Washington shall comprise all of Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Lewis and Thurston Counties, and that portion of Pierce, Mason and Grays Harbor Counties lying south of a westerly extension of the King-Pierce County lines, extended directly west from Dash Point.

Types of property carrier service

EXPLANATION

(A) REGULAR ROUTE, SCHEDULED SERVICE

A regular route scheduled service carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation between fixed termini and over a regular route or routes upon established or fixed schedules.

(B) REGULAR ROUTE, NONSCHEDULED SERVICE

A regular route nonscheduled service carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation between fixed termini and over a regular route or routes at intermittent intervals and not upon an established or fixed schedule.

(C) IRREGULAR ROUTE, RADIAL SERVICE

An irregular route radial service carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation over irregular routes from a fixed base point or points to points or places located within such radial area as shall have been fixed and authorized by the Commission, or from any point located within such radial area to such carrier's fixed base point or points.

(D) IRREGULAR ROUTE, NONRADIAL SERVICE

An irregular route nonradial service carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation over irregular routes between points or communities located within such general territory as shall have been defined geographically and authorized in a permit, and any other points or communities located within the same general territory without respect to a hub community or a fixed base point of operation.

(E) LOCAL CARTAGE SERVICE

A local cartage carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation when such transportation is performed wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities.

(F) COMMERCIAL ZONE SERVICE

A commercial zone carrier is any carrier of general freight who has acquired authority to operate within a commercial zone, pursuant to RCW 81.80.400 or 81.80.410 and WAC 480-12-081.

(G) TERMINAL AREA SERVICE

A terminal area carrier is any carrier of general freight who has acquired authority to pick up and deliver intercity shipments within a terminal area, pursuant to RCW 81.80.400 or 81.80.410 and WAC 480-12-082.

Types or groups of commodities

EXPLANATION

(1) CARRIERS OF GENERAL FREIGHT

(a) This group comprises both common and contract carriers transporting general freight except such commodities as require special equipment or service.

(b) Common or contract carriers authorized to transport general freight prior to May 1, 1944 may transport any commodity without restriction as to type of equipment required or special service rendered.

(2) CARRIERS OF HOUSEHOLD GOODS AS A COMMODITY

Household goods carriers include carriers, both common and contract, engaged in the transportation of property commonly used in a household when a part of such household equipment or supply; furniture, fixtures, equipment, and the property usual in an office, museum, institution, hospital, or other similar establishment when a part of the stock, equipment, or supply of such office, museum, institution, hospital, or other similar establishment; furniture, fixtures, and equipment of a store; works of art, furniture, musical instruments, display exhibits, and articles requiring the specialized handling and special equipment usually employed in moving household goods.

Note: This type of carrier renders a specialized service requiring skilled workmen. Such special service includes removing furniture from the higher stories of large office buildings when freight elevator service is not available, the proper placing of furniture in the home or office upon delivery at destination, the laying of rugs, hanging of pictures, and other services in connection with the removal of furniture or fixtures from one location to another. A household goods carrier is usually a Class C-2 operator, but such a carrier may be a Class D-2 operator. When the operation is that of a D-2 operator it embraces the transportation of household goods to, from and between unlimited points of origin and unlimited points of destination within the territory served by such carrier, over irregular routes, in either direction, outbound, or back haul, or in cross movements.

Note: For further definition of Household Goods see Administrative Ruling No. 7 dated December 10, 1959.

PERMANENT

(3) CARRIERS OF HEAVY MACHINERY

This commodity group designates the transportation of heavy machinery or other articles which, because of their weight or size, require the use of special vehicle equipment for transportation, special equipment for loading or unloading, or specialized carrier-supplied auxiliary or accessorial services as described below.

The words "special equipment" as used in this definition mean equipment not ordinarily used in the loading, unloading or transportation of items defined in the other types or groups of commodities classified or customarily utilized by carriers of specific commodities.

This commodity description includes articles weighing in excess of 2,000 pounds each, such as prestressed concrete beams, heavy steel or iron ingots and bars, ships' propellers and anchors, structural steel, oil field rigs and oil field equipment. Items weighing less than 2,000 pounds may fall within this classification when their size or other nature requires the specialized services of these carriers or specialized equipment.

This commodity description does not, however, include aggregations of items not defined above, which have been bundled, palletized, or placed in bins, barrels or other containers, or otherwise aggregated, merely because of convenience, economy or industry preference; the classification does include articles which are aggregated when the aggregation is required by the inherent nature of the article and the aggregation actually constitutes the minimum shipping quantity or package for the article. Articles fall within this exception (1) when their inherent nature requires aggregation — e.g., when they are susceptible to damage if not so bundled — (2) when industry practice is to bundle in such quantities, and (3) when the aggregated bundle is of a size, weight, or nature to require the specialized equipment or ancillary service that carriers of this classification customarily provide and which are not customarily provided by carriers of other commodities.

Note: These commodities are grouped together because of the equipment required for their transportation, loading or unloading or the nature of the services performed by the carriers. Certain auxiliary or accessorial services may be necessary in the transportation of these commodities, such as the dismantling and resetting of machinery, often requiring use of rigging, skidding, or similar devices. A carrier of this classification may find that all of ((~~his~~)) its facilities are employed for a considerable period of time in a locality which is only part of the territory in which ((~~he~~)) it is authorized to serve. This type of carrier is usually a Class D-3 operator. The territorial scope of this service is usually similar to that of the household goods carrier. The movement involves and embraces transportation to, from, and between unlimited points of origin and destination within the territory served by such carrier over irregular routes.

(4) CARRIERS OF LIQUID PETROLEUM PRODUCTS

Carriers of liquid petroleum products include those carriers who transport such petroleum products as gasoline and other liquid motor fuel, road oil, crude oil, fuel oil, kerosene, and like products in tank vehicles. Such vehicles include solo trucks, semi-trailers, and full-trailers. Carriers of butane, propane and other derivatives of petroleum are included in this group when such products are transported in tank vehicles. The group also includes carriers of edible oils, coal tar products, and chemicals, if transported in tank vehicles but does not include the transportation of milk, fruit juices, or other perishable liquid products which require temperature control.

Note: Carriers who fall within this group may be either common or contract carriers. In either case the service involves special tank transport equipment.

(5) CARRIERS OF REFRIGERATED LIQUID PRODUCTS

This group comprises carriers, both common and contract, which specialize in the transportation of refrigerated or temperature controlled perishable liquid products, such as fruit juices and various beverages in tank vehicles, including solo trucks, semi-trailers, or full-trailers. Those liquid products such as milk which are classified in other commodity groups are not included in this class.

Note: The production area of fruit juices and beverages and the transportation of these products by tank truck is largely restricted to the territories where they are manufactured. While the shipments originate in a restricted area the transportation is usually over long distances and requires operation both day and night. The matter of public health is particularly involved in this type of carriage in view of the nature of the commodity.

(6) CARRIERS OF REFRIGERATED SOLID PRODUCTS

This group includes that class of carriers, both common and contract, which engages in the transportation of commodities of a perishable nature, including fresh fish, meats and meat products, fruits and vegetables, dairy products, etc., requiring the use of special refrigeration or temperature control. It does not include refrigerated or temperature controlled liquid products, otherwise classified herein.

Note: Specially designed and constructed refrigerator equipment is usually necessary for this operation. Dry ice is often used. Extra care in handling shipments must be exercised on account of the danger of spoiling. This operation is the same as that of the ordinary general commodity carrier except as to refrigeration requirements.

(7) CARRIERS ENGAGED IN DUMP TRUCKING

This group includes both common and contract carriers engaged in the operation of dump trucks and similar vehicles used in the transportation of sand, gravel, dirt, debris, and other similar commodities except garbage, cement in bulk, and coal.

Note: The operations of this group are usually carried on during the daytime and are local in character. The activities of carriers in this group are somewhat seasonal, especially in connection with building or construction projects. The value of the commodity hauled is usually low.

(8) CARRIERS OF AGRICULTURAL COMMODITIES

This group includes carriers engaged exclusively in the transportation of unmanufactured or unprocessed agricultural commodities including the return of empty containers. It does not include carriers of milk and cream or livestock, which is dealt with in a separate classification, regardless of the type of vehicle used, and does not include carriers engaged in the transportation of fruit juices or other processed agricultural commodities.

Note: While both common and contract carriers are included in this group, it is composed principally of irregular route radial service common carriers. Most commercial agricultural commodities are also handled as general commodities, especially when hauled

in small lots as fruit, vegetables, produce, poultry, grains in sacks, etc. In some instances, special vehicle equipment is required for the movement of small grains in bulk, grass feeds, hay, etc.

(9) CARRIERS OF MOTOR VEHICLES

This group consists of motor carriers engaged in the transportation of new and used motor vehicles, including automobiles, trucks, trailers, chassis, bodies, and automotive display vehicles, wholly or partially assembled. In this group are included:

(a) Carriers engaged in the transportation of motor vehicles by truck away method, involving the use of special equipment such as trucks, tractors, trailers, semi-trailers, 4-wheel trailers, and various combinations of the above in or upon which such motor vehicles are loaded.

(b) Carriers engaged in the transportation of motor vehicles by driveaway method, involving the utilization of the motive power, in whole or in part, of the vehicles being transported, either in single driveaway or in combinations of two or more vehicles by use of towbar mechanism, saddle or bolster mount mechanism, or any combinations of the above.

Note: The transportation of new automobiles, trucks, and trailers is usually a Class C-9 movement. The transportation of used automobiles, trucks, and trailers and new or used chassis, bodies and automotive display vehicles is usually a Class D-9 movement. In either case, the operation may be that of a common or contract carrier. When classified as a Class D-9 movement, the scope of the operation is territorial in character and includes the transportation of motor vehicles to, from, and between unlimited points of origin and unlimited points of destination within the territory served by such carrier, over irregular routes, in either direction, outbound, or back haul, or in cross movements.

(10) *CARRIERS ENGAGED IN ARMORED TRUCK SERVICE

This group includes motor carriers, either common or contract, which by reason of the commodity transported, i.e., gold, silver, currency, valuable securities, jewels and other property of very high value, use specially constructed armored trucks and provide policy protection to safeguard the commodity while it is being transported and delivered. It also includes carriers which operate ordinary equipment in the carriage of high value commodities when guards are necessary to accompany the shipment.

Note: This is a highly specialized type of service and is usually confined to larger cities and industrial areas. It is used by financial institutions for the transfer of funds including bullion, currency, valuable securities and jewels from dock to vault, pay rolls to industries, bank to bank, etc. It is frequently performed under a specific contract, although there are some carriers engaged in the service that hold themselves out as common carriers. Where the service is entirely local, the operation may be regarded as local cartage within a municipality. Where routes or territory beyond a municipal area are served, the operation becomes that of an irregular route, radial carrier.

(11) CARRIERS OF BUILDING MATERIALS

This group includes carriers engaged in transporting any commodity which at the time of transportation is, without further processing or manufacture, in a form and condition to be used in the construction, modification or repair of a structure; which is at the time of the transportation intended with reasonable certainty to be so used; and which does not require the use of specialized equipment other than ordinary van or flatbed equipment. The classification does not include bulk sand, gravel, crushed stone or other building materials ordinarily transported in dump trucks.

Some articles can be transported under this classification without specific inquiry by the carrier as to their intended future use, provided the carrier does not at the time of movement have knowledge of an intended use other than as a building material. Such articles include (1) lumber, cut stone, slate, tile, brick, cement in sacks, plaster in sacks, or other similar materials usually transported on flatbed equipment; (2) any commodity designed especially for use in the construction, modification or repair of a structure and having virtually no other use; and (3) any commodity whose predominant use is as a building material.

Commodities having general utility in many lines of work may be transported under this classification providing the carrier affirmatively establishes before shipment that the commodity, at the time of movement is specifically intended, at the immediate or ultimate destination, to be used as a building material.

Note: Usually no special equipment is required, except in the case of the lumber hauler, who uses vehicles equipped with a special unloading device or that of the concrete hauler, who mixes en route. Most building materials can be and are hauled in small lots as general commodities. The movement of these commodities is usually in connection with a construction project, in truck loads, and for comparatively short distances. The transportation of lumber between manufacturing plants and from mill to retail yard is an important service rendered by carriers in this classification.

(12) CARRIERS OF FILMS AND ASSOCIATED COMMODITIES

This group, composed of both common and contract carriers, includes those carriers which are engaged in the transportation of motion-picture and sound-reproducing films, recording, reproducing, and amplifying devices, supplies and accessories for the operation of motion picture theaters or places of exhibition, including the transportation of tickets, advertising matter, displays, and exhibits, such as are found in lobbies of motion picture theaters, and furnishing and supplies necessary in the maintenance and operation of such theaters. This type of operation requires unusual delivery schedules and special personal service.

Note: This group is not authorized to engage in the transportation of general freight unless specifically so authorized in permit.

(13) CARRIERS OF FOREST PRODUCTS

This group includes both common and contract carriers engaged principally in the transportation of forest products, i.e., logs, poles, piling, fence posts, shingle bolts, pulp-wood, and fuel from the forest to processing plants or to market.

Note: In those areas where the timber is large, special truck equipment is required for the transportation of logs. Such equipment includes bunks, reaches, 2- and 4-wheel trailers, special braking arrangements, and other incidental special equipment. Similar equipment is also frequently used in the transportation of poles and piling. Ordinary vehicles are used to transport the other items referred to herein. This group does not include carriers who are engaged in the transportation of rough or finished lumber or processed products derived from raw forest products nor does it include such operations as are grouped under "carriers of building materials."

Note: For definition of short logs see Administrative Ruling No. 6 dated December 30, 1957.

PERMANENT

(14) CARRIERS OF MINE ORES NOT INCLUDING COAL

This group comprises both common and contract carriers, engaged principally in the transportation of mining products in the rough, such as iron, copper, or other ores from the mine to the smelter or from the mine to bunkers located on the routes of connecting carriers. It also includes the transportation of products of smelters to refineries or foundries. It does not include coal or coal products or refined or manufactured products of ores which are classified herein under other groupings.

(15) CARRIERS ENGAGED IN RETAIL STORE DELIVERY SERVICE

This group includes carriers who render a specialized delivery service for retail store establishments. This service is usually confined to municipal areas, and where that is the case, may be regarded as a city cartage operation. In some instances, however, the service extends beyond municipal areas and in that case the operation may be classified in accordance with the service rendered.

(16) CARRIERS OF EXPLOSIVES OR DANGEROUS ARTICLES

Carriers of certain explosives or dangerous articles, except liquid petroleum products as described in commodity Group 4, and films as described in commodity Group 12, are those carriers which engage in transporting dangerous, less dangerous, or relatively safe explosives, including nonexplosive materials such as fuses, cartridge cases, dummy cartridges, etc., inflammable oxidizing materials, corrosive liquids, compressed gases, poisonous articles, and other acceptable dangerous articles other than inflammable liquids in tank vehicles.

Note: The transportation of the commodities classed in this group involves unusual hazards and requires special precautions in the matter of safety. The carriage is usually rendered under special agreement but is also rendered by common carriers when the volume of the movement is not sufficient to warrant a contract operation.

(17) CARRIERS OF SPECIFIC COMMODITIES, NOT SUBGROUPED

Throughout the State there are individual truck operators who engage in the transportation of some specific commodity or commodities which do not fall within any of the commodity subgroups included in this classification.

Note: Usually such transportation is carried on in conjunction with a local industry or local situation and is not of sufficient importance to warrant subgrouping. In order to provide, however, for the general classification of such operations, miscellaneous commodity Group 17 has been included in this classification. The specific commodity or commodities transported by carriers who may be classified in this group are shown in the carrier's permit. Commodity Group 17 carriers will be the subject of further study and if need therefor is shown, additional commodity groups will be established from time to time from this miscellaneous group to meet the administrative requirements of the Commission.

(18) CARRIERS OF MILK AND CREAM

This group composed of both common and contract carriers includes those carriers who are engaged in the transportation of milk and cream, primarily from point of production to creameries and primary markets. It includes carriers of milk and cream regardless of the type of vehicle used.

(19) CARRIERS OF LIVESTOCK

The term livestock is defined to include, and carriers of livestock may transport, all cattle, swine, sheep, goats, horses, burros, asses, and mules, except such as are chiefly valuable for breeding, racing, show purposes or other special uses.

Exceptions to and changes in classification

These classifications and groupings are prescribed for general purposes. The operation of individual carriers may fall within more than one grouping, in which event they become subject to the rules and regulations of each group into which they fall.

Any group of carriers, or any carrier member of a group, may, upon proper notice, petition the commission to alter, amend, or otherwise modify any part of this classification or any grouping prescribed herein. Unless exceptions are specifically granted, the general rules and regulations of the commission shall govern.

Emergencies

In case of emergencies or unforeseen conditions over which the motor carrier affected has no control, which require immediate and extraordinary treatment, the commission may, without notice, modify, amend, suspend or vacate any or all classifications or groupings herein prescribed and substitute in lieu thereof such classification groupings or regulations as may be necessary during the period of such emergency.

WSR 94-11-023
PERMANENT RULES
WASHINGTON STATE LIBRARY
[Filed May 6, 1994, 12:00 noon]

Date of Adoption: December 10, 1993.

Purpose: To be more responsive to the continuing education needs of all library personnel.

Citation of Existing Rules Affected by this Order: Amending WAC 304-12-030.

Statutory Authority for Adoption: RCW 27.04.030.

Pursuant to notice filed as WSR 93-22-043 on October 28, 1993.

Effective Date of Rule: Thirty-one days after filing.

December 11, 1993
Nancy Zussy
State Librarian

AMENDATORY SECTION (Amending WSR 92-08-023, filed 3/23/92, effective 4/23/92)

WAC 304-12-030 Washington council on continuing education created—Appointments—Terms—Expenses. A Washington council on continuing education is hereby created which shall consist of fifteen persons appointed for ((~~two~~)) three-year terms. ((~~Six~~)) Seven persons shall be appointed by the Washington state library commission. The appointments shall reflect representation from a variety of types of library personnel, related persons, including public library trustees, librarians, and at least one nonlibrarian.

Nine organizations shall also be represented, each to designate one person assigned responsibility. Those organizations shall be as follows: Washington state library, University of Washington graduate school of library and information science, Washington library association, Washington library media association, community college library and media specialists, Pacific Northwest chapter of the special library association, council of Spokane area libraries, Pacific Northwest health sciences library service, and the Washington chapter of the association of college and research libraries. Initial terms for organizational representatives will be three years and then two years thereafter. Members may be reappointed; however, no member shall serve more than two terms consecutively. Vacancies shall be filled by appointment for the unexpired term. The council members shall serve without compensation, but will be reimbursed for subsistence, lodging, and travel expenses for council meetings and approved business of the council in accordance with the provisions of the Washington state travel regulations.

WSR 94-11-027
PERMANENT RULES
LOTTERY COMMISSION
[Filed May 6, 1994, 3:00 p.m.]

Date of Adoption: May 6, 1994.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 122 (High Card), 123 (Holiday Cash), 124 (Queen of Hearts), 125 (Windfall), and 126 (Megamoney II); and to amend WAC 315-04-180, 315-04-210, and 315-11A-117.

Citation of Existing Rules Affected by this Order: Amending WAC 315-04-180, 315-04-210, and 315-11A-117.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 94-07-116 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-11A-122 Instant Game Number 122 ("High Card"). (1) Definitions for Instant Game Number 122.

(a) Play symbols: The following are the "play symbols": "9"; "10"; "J"; "Q"; "K"; and "A." One of these play symbols appears in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column in the playfield on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The number 1, 2 or 3 precedes each play symbol caption to indicate the location of the play symbol in Game (row) 1, Game 2 or Game 3. For Instant Game Number 122, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
9	NIN
10	TEN
J	JAC
Q	QUE
K	KNG
A	ACE

(c) Prize symbols: The following are the "prize symbols": "$1.00"; "$2.00"; "$6.00"; "$9.00"; "$40.00"; and "$4,000." One of these prize symbols appears for each game in the prize column on the front of the ticket.

(d) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under each prize symbol. The number 1, 2 or 3 precedes each prize symbol caption to indicate the location of the prize symbol in Game 1, Game 2 or Game 3. For Instant Game Number 122, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 6.00	SIX DOL
$ 9.00	NIN DOL
$ 40.00	$FORTY$
$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered with latex.

(f) Pack-ticket number: The twelve-digit number of the form 12200001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 122 constitute the "pack number" which starts at 12200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 and less. For Instant Game Number 122, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
TWO	$ 2.00	($1 AND $1)
SIX	$ 6.00	($2, $2 AND $2; $6)
TLV	$ 12.00	($6 AND $6; $9, $2 AND $1)
EGN	$ 18.00	($6, $6 AND $6; $9 AND $9)

PERMANENT

FRY	$ 40.00	
ETY	$ 80.00	($40 AND $40)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 122.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "your card" column that is superior to the play symbol in the "dealer's card" column in the same game shall win the prize shown in the prize column for that game. The bearer of a ticket having winning play symbols in more than one game shall win the sum of the prizes in each winning game. Play symbols in different games may not be combined to win a prize.

(c) For purposes of this game, the "A" shall be the play symbol with the highest superiority followed by "K," "Q," "J," "10," and "9" in that order.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 122 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 122; and/or

(ii) Vary the number of tickets sold in Instant Game Number 122 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 122.**

(a) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 122 shall comply with all of the following validation requirements.

(i) Exactly one play symbol must appear in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column under the latex covering on the front of the ticket.

(ii) Each of the six play symbols must have a caption below and each must agree with its caption.

(iii) Exactly one prize symbol for each of the three games must appear under the latex covering in the prize column on the front of the ticket.

(iv) Each of the three prize symbols must have a caption below it and each must agree with its caption.

(v) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(vi) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(vii) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section, each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-123 Instant Game Number 123 ("Holiday Cash"). (1) **Definitions for Instant Game Number 123.**

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 123, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$10.00," "$24.00," "$40.00," and "$500.00." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 123, the prize

symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 3.00	THR DOL
$ 4.00	FOR DOL
$ 10.00	TEN DOL
$ 24.00	TTF DOL
$ 40.00	$FORTY$
$ 500.00	FIVHUND

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12300001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 123 constitute the "pack number" which starts at 12300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 or less. For Instant Game Number 123, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
THR	$ 3.00	($2 AND $1; $3)
EGT	$ 8.00	($2, $2, $2 AND $2; $4 AND $4)
SXT	$ 16.00	($4, $4, $4 AND $4; $10, $4, $1 AND $1)
TTF	$ 24.00	($10, $10, $2 AND $2; $24)
FRY	$ 40.00	
FVH	$500.00	

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 123.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 123 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 123; and/or

(ii) Vary the number of tickets sold in Instant Game Number 123 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 123.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 123 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

PERMANENT

NEW SECTION

WAC 315-11A-124 Instant Game Number 124 ("Queen of Hearts"). (1) **Definitions for Instant Game Number 124.**

(a) Play symbols: The following are the "play symbols": "8," "9," "10," "J," "Q♡" "K," and "A." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 124, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
8	EGT
9	NIN
10	TEN
J	JAC
Q♡	QNH
K	KNG
A	ACE

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$7.00," "$11.00," "$25.00," "$50.00," and "$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 124, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 3.00	THR DOL
$ 7.00	SVN DOL
$ 11.00	ELV DOL
$ 25.00	TWF DOL
$ 50.00	$FIFTY$
$ 5,000	FIVTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12400001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 124 constitute the "pack number" which starts at 12400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 or less. For Instant Game Number 124, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
TWO	$ 2.00	($1 AND $1; $2)
SVN	$ 7.00	($3, $3 AND $1; $7)
ELV	$ 11.00	($7, $3 AND $1; $11)
TWF	$ 25.00	($11, $11 AND $3; $25)
FTY	$ 50.00	
OHN	$100.00	($50 AND $50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 124.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the three play symbols matches exactly one of the play symbols labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has a "Q♡" play symbol shall be entitled to the prize shown below the "Q♡."

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 124 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 124; and/or

(ii) Vary the number of tickets sold in Instant Game Number 124 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 124.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 124 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning card" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-125 Instant Game Number 125 ("Windfall"). (1) Definitions for Instant Game Number 125.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 125, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$6.00," "$9.00," "$18.00," "$24.00," "$50.00," and "$10,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 125, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 3.00	THR DOL
$ 6.00	SIX DOL
$ 9.00	NIN DOL
$ 18.00	EGN DOL
$ 24.00	TTF DOL
$ 50.00	$FIFTY$
$ 10,000	TENTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12500001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 125 constitute the "pack number" which starts at 12500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 or less. For Instant Game Number 125, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
THR	$ 3.00	($1, $1 AND $1; $2 AND $1)
NIN	$ 9.00	($3, $3, $2 AND $1; $6 AND $3; $9)
EGN	$ 18.00	($6, $6, $3 AND $3; $18)
TTF	$ 24.00	($6, $6, $6 AND $6; $24)
FTY	$ 50.00	
OHN	$100.00	($50 AND $50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 125.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly one of the two play symbols labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 125 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 125; and/or

(ii) Vary the number of tickets sold in Instant Game Number 125 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 125.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 125 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-126 Instant Game Number 126 ("Megamoney II"). (1) Definitions for Instant Game Number 126.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 126, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$5.00," "$10.00," "$20.00," "$50.00," "$100.00," and "$10,000." One of these play symbols appear below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and correspond with and verify that prize symbol. The prize symbol caption is a spelling out in full or abbreviated form of the prize symbol. For Instant Game Number 126, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 3.00	THR DOL
$ 5.00	FIV DOL
$ 10.00	TEN DOL
$ 20.00	TWY DOL
$ 50.00	$FIFTY$
$ 100.00	ONEHUND
$ 10,000	TENTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 12600001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 126 constitute the "pack number" which starts at 12600001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 or less. For Instant Game Number 126, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
TWO	$ 2.00	($2; $1 AND $1)
THR	$ 3.00	($3; $1, $1 AND $1)
SIX	$ 6.00	($2, $2 AND $2; $2, $2, $1 AND $1)
TEN	$ 10.00	($2, $2, $2, $2 AND $2; $5 AND $5)
TWY	$ 20.00	($10, $5 AND $5; $10, $5, $2, $2 AND $1)
FTY	$ 50.00	($20, $20 AND $10; $50)
FVH	$500.00	($100, $100, $100, $100 AND $100)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 126.**

(a) The price of each instant game ticket shall be $2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 126 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 126; and/or

(ii) Vary the number of tickets sold in Instant Game Number 126 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 126.**

(a) A valid instant game ticket for Instant Game Number 126 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations.

(i) Exactly one play symbol must appear in each of the six play spots under the removable latex covering on the front of the ticket.

(ii) Each of the six play symbols must have a caption below it, and each must agree with its caption. Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Retail Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vi) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending WSR 94-03-020, filed 1/7/94, effective, see (1) of this section)

WAC 315-04-180 Obligations of lottery retailers. (1)(a) The method of accounting for a retailer's payment to the director for instant ticket packs received prior to the lottery's instant ticket accounting system (ITAS) being fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect prior to ((~~February 9~~)) March 2, 1994.

(b) The method of accounting for a retailer's payment to the director for instant ticket packs received on or after the day ITAS becomes fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect on the day of ITAS' becoming fully operational((~~, which shall not be prior to February 9, 1994~~)).

(c) It is the intent of the Washington state lottery commission that those repeals and amendments filed with the state of Washington office of the code reviser to take effect no earlier than February 9, 1994, shall take effect when ITAS is fully operational. ((~~In the event that ITAS is not fully operational on February 9, 1994, Title 315 WAC shall~~

~~remain in effect as it was prior to February 9, 1994, and shall so remain until ITAS does become fully operational. When ITAS becomes fully operational, the director shall make an announcement to all concerned parties, thereby establishing the effective date of said repeals and amendments.~~))

(d) The instant ticket accounting system referred to above became fully operational on March 2, 1994.

(2)(a) Upon acceptance of a pack of instant tickets from the director, the retailer shall be responsible for the condition and security of the pack. The retailer shall hold the pack in its own safekeeping until it is ready to begin sale of the pack. Immediately prior to beginning sale, the retailer shall place the pack in "activated" status in the lottery's instant ticket accounting system (ITAS). Placement in activated status designates that the tickets in the pack may be sold, and prizes in the pack may be paid.

(b) In the event that instant tickets accepted by the retailer are lost, stolen or in any way unaccounted for prior to their being placed in activated status on ITAS, the retailer shall, upon discovery of their disappearance, immediately notify the director of each pack or portion of a pack so unaccounted for, lost or stolen. The retailer may be required to provide the director a police report or other evidence of the pack's disappearance. The retailer shall be charged twenty-five dollars for each pack or portion of a pack unaccounted for, lost or stolen.

(c) A retailer may return an unopened pack, at no charge, to the director at any time prior to the pack having been placed in activated status. Within thirty days of the official end of an instant game, a retailer shall return to the director all packs never activated in that game. Retailers shall be charged twenty-five dollars for each pack or portion thereof which was not returned to the director and not activated in accordance with this section.

(d) Upon placement of a pack in activated status, the retailer shall be liable to the director for payment for the pack, in the amount calculated under WAC 315-06-035. Payment for a pack shall be due to the director no later than twenty calendar days after the pack has been placed in activated status. The director shall not reimburse the retailer for any ticket losses which occur after activation of the pack from which the tickets came, except as allowed by WAC 315-04-210(2) or 315-06-190.

(e) Each lottery retailer and lottery license applicant shall sign and comply with a lottery instant retailer agreement. Failure to sign or to comply shall result in revocation or denial of a retailer's lottery license.

(3) Each lottery retailer shall abide by the law, these rules and all other directives or instructions issued by the director.

(4) Each lottery retailer grants to the director an irrevocable license to enter upon the premises of the lottery retailer in which tickets may be sold or any other location under the control of the lottery retailer where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.

(5) All property given, except tickets, to a lottery retailer remains the property of the director, and, upon demand, the lottery retailer agrees to deliver forthwith the same to the director.

(6) All books and records pertaining to the lottery retailer's lottery activities shall be made available for inspection and copying, during the normal business hours of the lottery retailer and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director.

(7) All books and records pertaining to the lottery retailer's lottery activities shall be subject to seizure by the director without prior notice.

(8) No lottery retailer shall advertise or otherwise display advertising in any part of the lottery retailer's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery and the lottery retailer shall remove any advertising forthwith if requested by the director.

AMENDATORY SECTION (Amending WSR 94-03-020, filed 1/7/94)

WAC 315-04-210 Procedure if license is terminated, suspended or revoked. (1) Upon termination, revocation or suspension of a lottery retailer's license for any reasons whatsoever, the lottery retailer must, by a date designated by the director, render a final lottery accounting and surrender all lottery property((,)), as well as unsold lottery tickets which have been placed in activated status, to the director.

(2) The director shall reimburse each retailer whose license is terminated, suspended or revoked for payments made for unsold tickets which had been placed in activated status prior to termination, suspension or revocation which the retailer returns to the director.

AMENDATORY SECTION (Amending WSR 94-03-019, filed 1/7/94, effective 2/7/94)

WAC 315-11A-117 Instant Game Number 117 ("Cash Crop"). (1) **Definitions for Instant Game Number 117.**

(a) Play symbols: The following are the "play symbols": " ," " ," "," " ," " ," " ," and "." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the five play spots shall be labeled "winning crop."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 117, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	LEMN
	CORN
	MELN
	APPL
	CHRS
	GRPS
	STBR

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$4.00," "$8.00," "$12.00," "$20.00," "$40.00," "$80.00," and "$8,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning crop."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 117, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 4.00	FOR DOL
$ 8.00	EGT DOL
$ 12.00	TLV DOL
$ 20.00	TWY DOL
$ 40.00	$FORTY$
$ 80.00	$EIGHTY
$ 8,000	EGTTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 11700001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 117 constitute the "pack number" which starts at 11700001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of less than $600.00. For Instant Game Number 117, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
FOR	$ 4.00	((~~($1, $1, $1, AND $1; $4)~~)) ($2 AND $2; $4)
EGT	$ 8.00	($4 AND $4; $8)
TLV	$ 12.00	($8 AND $4; $12)
TWY	$ 20.00	($12 AND $8; $12, $4, AND $4; $20)
FRY	$ 40.00	
ETY	$ 80.00	

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 117.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the three play symbols matches exactly one of the play symbols labeled "winning crop," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 117 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 117; and/or

(ii) Vary the number of tickets sold in Instant Game Number 117 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 117.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 117 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

PERMANENT

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

WSR 94-11-029
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed May 9, 1994, 4:44 p.m.]

PERMANENT

Date of Adoption: February 11, 1994.

Purpose: WAC 308-77-010, clarifies the special authorization to purchase untaxed fuel by farmers, logging companies and construction companies; WAC 308-77-060, defines publicly owned fire fighting equipment, farmer, logging company, construction company and contractor; WAC 308-77-095, modifies minimum tax payment to a more realistic level for cost efficiency; WAC 308-77-155, establishes rules for the use of onboard computers for the production of records; and WAC 308-77-250, establishes additional formulae for determining fuel usage by power take-off units.

Citation of Existing Rules Affected by this Order: Amending WAC 308-77-010, 308-77-060, 308-77-095, and 308-77-205; and new WAC 308-77-155.

Statutory Authority for Adoption: RCW 82.37.170.

Pursuant to notice filed as WSR 94-02-075 on January 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: Addition of one percentage exemption for log truck with self loader at 20% to those exemptions contained in WAC 308-77-250.

Effective Date of Rule: Thirty-one days after filing.

May 2, 1994
Kathy Baros Friedt
Director

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-010 Definitions. (1) "Highway" includes a way or place of whatever nature within the exterior boundaries of the state including a way or place within a federal area publicly maintained and open to the use of the public for purposes of vehicular travel notwithstanding private participation in the maintenance of the way or place. It shall be presumed that the way or place is dedicated and accepted as a highway when it is recognized as a part of its maintained highway system by a proper public authority.

A way or place within a national or state forest which is entirely privately constructed or maintained will not be considered a highway, notwithstanding the fact that it may be declared by the public authority to be a part of its road system.

A way or place is not a highway during such times as it is closed by the governmental authority to the use of the public regardless of the purpose for which it is closed. A highway is open to the use of the public if vehicular travel is permitted although subject to traffic controls.

Roads maintained exclusively by the United States within a national park are subject to the control of the Secretary of the Interior. When, in the exercise of that control, a permit and payment of a fee are required for the use of such roads, they are not highways open to the use of the public.

(2) "Special fuel" includes diesel fuel, propane, natural gas and any other combustible liquid or gas by whatever name the liquid or gas may be known or sold for the generation of power to propel a motor vehicle on the highways except fuel that is subject to the tax imposed by the motor vehicle fuel tax law, chapter 82.36 RCW. Four and one-quarter pounds of propane or one hundred cubic feet of natural gas shall be deemed the equivalent of one liquid gallon.

(3) "Publicly owned fire fighting equipment" means fire fighting equipment owned by any agency of the state of Washington, or by any city, town, county, or fire protection district of Washington state, and shall include fire engines, aid cars, ambulances, and vehicles used to transport fire fighting personnel to the fire scenes.

(4) "Farmer" means any person, firm, partnership or corporation engaged in the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (except forestry or forestry operations), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices performed on a farm as an incident to or in conjunction with such farming operations.

(5) "Logging company" means any person, firm, partnership or corporation engaged in the business of cutting and taking of timber.

(6) "Construction company" means any person, firm, partnership or corporation who or which is engaged in the business of a contractor.

(7) "Contractor" is any person, firm or corporation who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith or who installs or repairs roofing or siding.

AMENDATORY SECTION (Amending Order PFT 89-02, filed 1/6/89)

WAC 308-77-060 Special fuel dealers' liability for the tax. A special fuel dealer is required to collect and is liable for the amount of the tax on all gallonage of fuel sold and delivered except:

(1) When delivered into vehicles owned and operated by the United States government;

(2) When special authorization ((~~issued~~)) has been given by the department ((~~has been presented to the dealer by the purchaser~~)) to farmers, logging companies, and construction companies which will permit the special fuel dealer to sell and deliver fuel directly from keylock or cardlock pumps, unattended or otherwise, into the fuel tanks of ((~~a vehicle~~)) nonhighway equipment or into portable slip tanks for nonhighway use without collecting the tax from the user;

(3) When delivered into vehicles displaying a certificate authorizing the purchase of fuel free of the tax;

(4) Into bulk storage when the purchaser is the holder of a valid special fuel dealer or user license issued in his name; or when the purchaser is an agency of the federal government;

(5) Through an unattended keylock pump when the dealer has received authorization from the department permitting tax free sales to a specific purchaser;

(6) Into vehicle refrigeration units, mixing units, or other equipment powered by separate motors from separate fuel tanks;

(7) Into the fuel tanks of marine vessels when the purchaser supplies the dealer with the vessel's name and appropriate identification such as his commercial fishing license number, his ship document number or other verifiable identification. For the purpose of administration, foreign vessels will be considered to be operating in accordance with this paragraph upon presentation of the vessel's name and country of registry.

(8) To a new special fuel user who has applied for, but has not yet been issued, a special fuel user's license. At the option of the special fuel dealer the user may be allowed to purchase tax-exempt fuel in this manner for no more than thirty calendar days but he must display a special fuel user's license for any tax-exempt purchases after this period. The dealer shall note "License Applied For" on the sales invoice and shall be responsible for payment of all fuel taxes on fuel sold in this manner if the user does not subsequently receive a license from the department.

If the dealer collects from any user a greater amount of tax than that which is required to be collected, he shall remit the full amount collected to the department to enable the user to obtain his allowable credit or refund from the state.

The tax is deemed to have been collected at the time of the sale irrespective of when payment for the amount of the invoice including the tax is received by the special fuel dealer. Failure to collect the tax from the purchaser does not relieve the special fuel dealer from his liability to pay to the state the amount of the tax required to be collected except that bad debt losses are deductible under circumstances described in RCW 82.38.070 and rule WAC 308-77-100. Except as provided in items (1), (2) and (3) of this section, a special fuel dealer who sells and delivers fuel into the fuel tank of a motor vehicle shall collect the tax notwithstanding that the user may claim exemption from the tax in his reports to the department for any nontaxable use of the fuel.

((~~A special fuel dealer is required to collect the special fuel tax for all fuel dispensed through a pump equipped with a key-lock meter controlled by the special fuel dealer except as authorized under RCW 82.38.040.~~)) A serially numbered invoice covering multiple withdrawals of fuel from a pump with a key-lock meter for a stated period of time not to exceed a calendar month shall be accepted as an invoice issued at the time of sale under rule WAC 308-77-160.

All deliveries of special fuels into the storage facilities of an unlicensed service station (unlicensed special fuel dealer) are taxable regardless of whether the special fuel is delivered by consignment or otherwise. The tax attaches on the delivery.

A special fuel dealer who connects a retail outlet to a bulk plant facility from which fuel is dispensed for other purposes will be held liable for the special fuel tax on all unaccountable inventory losses of fuel from the facility.

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-095 Minimum tax payment. Each tax ((~~report transaction~~)) return that declares ((~~23 taxable gallons~~)) a tax liability of five dollars or less need not make remittance; conversely, each tax ((~~report transaction~~)) return that claims a refund ((~~for 23 gallons~~)) or credit of five dollars or less will not be allowed. ((~~Similarly, an error in the computation of taxable gallonage in the amount of 23 gallons or less will be accepted without penalty or credit. An error in the computation of the tax payable (or credit) in the amount of $1.09 or less will be accepted without penalty or credit.~~))

A computation error on the tax return which results in additional tax liability in the amount of five dollars or less will be accepted without further collection action. Similarly, a computation error on the tax return which results in a credit of five dollars or less will not be refunded nor credited to the licensee.

NEW SECTION

WAC 308-77-155 On board computers or recording devices. The use of on board computers or recording devices for the production of records required by chapter 82.38 RCW shall be governed by the requirements or procedures adopted by the International Fuel Tax Agreement (IFTA).

AMENDATORY SECTION (Amending WSR 91-03-017, filed 1/7/91, effective 2/7/91)

WAC 308-77-250 Power take-off use. (1) Tax refund may be claimed for special fuel purchased inclusive of tax which is used in a motor vehicle equipped with a power take-off unit to operate auxiliary equipment provided the fuel used for the power take-off operation is supplied from a tank which is not connected with a tank supplying fuel to propel the vehicle on the highway, or the fuel used to operate auxiliary equipment by the power take-off is accurately measured by metering device that has been specifically approved by the department, and in certain motor vehicles, when established by the following formula:

(a) For special fuel used in pumping propane, fuel or heating oils, or milk picked up from a farm or dairy storage tank by a power take-off unit on a delivery truck, at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered or milk picked up. Pumping of gasoline, or other refined petroleum products or any other product, is a taxable use and does not qualify for a refund. Propane and fuel oil delivery truck operators must maintain records which show the total gallons of propane, or fuel or heating oils pumped by each vehicle for which refund or credit is claimed together with supporting meter readings.

(b) For special fuel used in operating a power take-off unit on a cement mixer truck or a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of fuel used in each truck. Garbage trucks with power take-off units which operate a dump box, hoist or other type of lift do not qualify for a refund. Cement mixer truck and garbage truck operators must maintain records

PERMANENT

which show the total gallons of fuel used and the total miles traveled for each vehicle.

(c) For special fuel used in operating a power take-off unit when direct measurement is not feasible on the following vehicles at the rates specified as a percentage of the total taxable fuel used by the vehicles:

Fire trucks (private)	25%
Mobile cranes	25%
Sanitation trucks	25%
Sewer cleaning truck/jet vactor	25%
Super suckers	25%
Line truck with digger/derrick or aerial lift	20%
Log truck with self loader	20%
Refrigeration trucks	20%
Sweeper trucks (must be motor vehicle)	20%
Boom truck/block boom	15%
Bulk feed truck	15%
Dump trailers	15%
Dump trucks	15%
Hot asphalt distribution truck	15%
Leaf truck	15%
Lime spreader	15%
Pneumatic tank truck	15%
Salt spreader on dump truck	15%
Seeder truck	15%
Semi-wrecker	15%
Service truck with jack hammer/drill	15%
Snow plow	15%
Spray truck	15%
Tank transport	15%
Tank trucks	15%
Truck with PTO hydraulic winch	15%
Wrecker	15%
Car carrier with hydraulic winch	10%
Carpet cleaning van	10%
Others	7.5%

If any special fuel user can provide satisfactory documentation and records to show that the fuel consumed by the power take-off is greater than the percentages indicated, the department may grant the higher percentage on a case-by-case basis.

(2) Deduction may be claimed on the user's tax report for the gallons of special fuel exempt from tax as provided in subsections (1)(a) ((~~and~~)), (b) and (c) of this section.

(3) All claims must be accompanied by purchase invoices to cover the total gallons of special fuel purchased, except that invoices for special fuel used in propane or fuel oil delivery trucks or when measured by a metering device need only be equal to or greater than the gallons claimed as refundable.

(4) A schedule of vehicle operations shall support each claim for refund.

WSR 94-11-030
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 638—Filed May 10, 1994, 10:49 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To amend WAC 232-12-131 Permits for special hunting and trapping seasons.

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 [period] 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.

Explanation of Rule, its Purpose, and Anticipated Effects: There is no reason to have 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.

Impact of Rule: Resource: None; financial: None.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-131 Permits for special hunting and trapping seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-06-037 on February 25, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

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~~)) an elk permit for the next two years. Holders of Disabled Hunter Permits, or Blind/Visually Handicapped Hunter Permits, 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 cougar permit to apply for such a permit for the next two years. A person applying for a cougar permit during that period will be made ineligible for that year's drawing.

((~~(4)~~)) (5) 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~~)) made ineligible for that year's drawing.

(((~~5~~))) (6) 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 sheep permit during that period will be ((~~disqualified for an additional five years, in addition to any other penalty provided by law~~)) made ineligible for that year's drawing.

(((~~6~~))) (7) 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 94-11-031
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 639—Filed May 10, 1994, 10:50 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02201 Game management units (GMUs)—Special game areas—Boundary descriptions—Region one.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-022 Game management units (GMUs)—Special game areas—Boundary descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-055 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02201 Game management units (GMUs)—Special game areas—Boundary descriptions—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 Kettle Crest 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 Section 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 and 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 Section 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 High-

way 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 National 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

PERMANENT

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)

REPEALER

The following section of the Washington Administrative Code is repealed:

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

WSR 94-11-032
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 640—Filed May 10, 1994, 10:51 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-057 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—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 Wilderness 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-CHEWUCH (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 National 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 (Grant 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 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)

PERMANENT

WSR 94-11-033
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 641—Filed May 10, 1994, 10:52 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-056 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—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 Fish and 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 Fish and 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 (T20N, R22E); 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 Fish and 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 Fish and 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 north branch 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 Bradshaw Road; then west along Bradshaw Road to the elk fence; then west and north along the elk fence 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 Fish and 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 the elk fence; then southeast along the elk fence to Bradshaw Road; then east on Bradshaw Road 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-LITTLE NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; then east on USFS Road 1388 to USFS Road 1701 near the USFS fence; 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 973 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 Jeep Trail 1127 at Jump Off Lookout; then southeast on Divide Ridge Jeep Trail to DNR Road 1020 near Strobach Springs; then west on DNR Road 1020 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 DNR Road 1020 to Divide Ridge Trail 1127 near Strobach Springs; 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 94-11-034
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 642—Filed May 10, 1994, 10:53 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-058 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—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 417-BALD MOUNTAIN (Whatcom and Skagit counties): Beginning at the intersection of the Mosquito Lake Road and the Middle Fork Nooksack River Road (Section 11, T38N, R05E); then east on the Middle Fork Nooksack River Road to Clearwater Creek; then north and east up Clearwater Creek to the end of USFS 36 Road (Section 8, T38N, R07E); then north and east on USFS 36 Road to USFS 39 Road; then north along USFS 39 Road to SR 542 Road; then east and south along SR 542 Road to its southernmost point (Section 30, T39N, R09E); then approximately 0.5 miles along a straight line to Swift Creek; then south down Swift Creek to Baker Lake; then south along the west shoreline of Baker Lake and Lake Shannon to the lower Baker Dam; then south down the Baker River to SR 20; then west along SR 20 to Burpee Hill Road; then north along Burpee Hill Road to Baker Lake Road; then west along the Baker Lake Road to SW-HO-2400 Road; then north and west along the SW-HO-2400 Road, SW-HO-2000 Road, SW-HO-2800 Road, and SW-HO-2900 Road (Josephine Truck Trail) to the intersection with the Crown Pacific 100 Road (Hamilton Mainline); then north along the Crown Pacific 100 Road (approximately .25 miles) to the intersection with Crown Pacific 110 Road; then continue west and north along the Crown Pacific 110 Road to the Crown Pacific 130 Road; then continue north and west along the Crown Pacific 130 Road to the Crown Pacific 170 Road; then continue west along the Crown Pacific 170 Road to the Crown Pacific 171 Road; then continue west along the Crown Pacific 171 Road to the Crown Pacific 172 Road; then north to the end of the Crown Pacific 172 Road (Section 10, T36N, R05E); then north to the end of the Crown Pacific 175 Road (DNR Radio Repeater); then north along a straight line to the end of John Hancock Road No. 1; then north and east along John Hancock Road No. 1 to Christie Creek*; then east down Christie Creek to the South Fork Nooksack River; then down the South Fork Nooksack River to the mouth of Hutchinson Creek; then north up Hutchinson Creek to the Mosquito Lake Road; then continue north along Mosquito Lake Road to the Middle Fork Nooksack Road and the point of beginning. (See Washington Atlas & Gazetteer) *Map of this portion of GMU 417 available upon request at the Mill Creek regional office.

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 except GMU 417 (Bald Mountain) which is within GMU 418 (Nooksack). (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

PERMANENT

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 USFS Road 1590 (USFS Road 1590); then south on USFS Road 1590 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 Section 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 USFS Road 1590 (USFS Road 1590); then north on USFS Road 1590 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 Suiattle 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 USFS Road 7110 near Lynn Lake; then southwest on USFS 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 Trail 1172; then northwest on USFS Trail 1172 to the Champion Creek Road (USFS Road 7012); north on Champion 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 White River Ranger District map and North Bend Ranger District map of the Mt. Baker-Snoqualmie National Forest)

GMU 472-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (USFS 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 USFS Road 7110; then north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (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 East; 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 East (Kapowsin-Eatonville Road); then north on the Orville Road East to the Puyallup River bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (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 East; then south on the Orville Road East 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, except Private Lands Wildlife Management Area 401 (Champion). (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 posted boundary of the Green River Watershed; then along the southern boundary of the Green River Watershed 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 White River Ranger District map, and North Bend Ranger District map of the Mt. Baker-Snoqualmie National Forest)

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)

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WSR 94-11-035
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 643—Filed May 10, 1994, 10:54 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02205 Game management units (GMUs)—Boundary descriptions—Region five.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-059 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—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 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; then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12; then east on U.S. Highway 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 International Paper 1000 Road; then north on International Paper 1000 to the International Paper 1050 Road; then east on International Paper 1050 Road to the 2200 Road; then east and south to the 2000 Road; then south on the 2000 Road 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 U.S. 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 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then northwest on the USFS 85 Road 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 U.S. 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 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then north on USFS 85 Road 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 Road (Skate Creek Road); then southeast on USFS 52 Road 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 Road (Skate Creek) and the Cowlitz River (at Packwood); then northwest on USFS 52 Road 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 U.S. Highway 12 to USFS 1270 Road; then north on USFS 1270 Road to the Cowlitz River; then southwest down the Cowlitz River to the USFS 52 Road 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 Road (Midway G.S. Road); then east on the USFS 56 Road to the USFS 5603 Road; then east on the USFS 5603 Road 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 U.S. Highway 12 to USFS 1270 Road (Section 31, T14N, R10E); then north on USFS 1270 Road 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 U.S. Highway 12 to Bennet Road; then west on the Bennet Road to the C Line Road; then west to the USFS 23 Road (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 Road; then east on USFS 2612 Road to USFS 26 Road (Ryan Lake Road); then north on USFS 26 Road 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 U.S. Highway 12; then west on U.S. 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 Road; 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 Road; then north along USFS 99 Road to USFS 26 Road; 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 Road; 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 Road; 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 Road (Ryan Lake Road); then north on the USFS 26 Road to the USFS 2612 Road; then west on USFS 2612 Road 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 International Paper 1050 Road; then west on the International Paper 1050 Road to the International Paper 1000 Road; then south on the International Paper 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 International Paper 1000 Road; then north on the International Paper 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 Road; then south and east on the 4950 Road to the 235 Road; then south on the 235, 200, 245, 134, 133, 130 and 1680 Roads to the 1600 Road; then southeast along the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south along the

PERMANENT

1420 Road to the 1425 Road; then southwest along the 1425 Road to the 6400 Road; then southwest down the 6400 Road to the 6000 Road; then east to the 6450 Road; then southeast approximately one mile on the 6450 Road 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 State Highway 503 to 6690 Road (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 State 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 Road (Merril Lake Road) intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; 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 (Section 1, T8N, R4E); then north to the headwaters of South Fork Castle Creek; then down South Fork Castle Creek to Weyerhaeuser 3092 Road; then west on the 3092 Road to 3090 Road; 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 Road; 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 Road to the 1425 Road; then southwest along the 1425 Road to the 6400 Road; then southwest on the 6400 Road to the 6000 Road; then east up the 6000 Road to the 6450 Road; then southwest on the 6450 Road 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 Road (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 Road 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 Road intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; 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 USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then northeast on USFS 99 Road to USFS 25 Road; then south on USFS 25 Road 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 Road 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 Road; then north to USFS 17 Road (Mt. Adams Recreational Road); then northeast to USFS 82 Road; then northeast on the USFS 82 Road to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then north along reservation boundary (Cascade Crest) to USFS 5603 Road; then west to the USFS 56 Road; then west to the Cispus River; then northwest down the Cispus River to the USFS 26 Road (Ryan Lake Road); then west and south on the USFS 26 Road to USFS 99 Road; then northeast to the USFS 25 Road; then south to Muddy River; then south down the Muddy River to the North Fork Lewis River; then west to the USFS 90 Road bridge (Eagle Cliff); then east on USFS 90 Road to USFS 51 Road; then southeast to USFS 30 Road; then northeast on the USFS 30 Road to USFS 24 Road; 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 Avenue; then south on N.E. 412th Avenue 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 Avenue; 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 Road (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 State Highway 141 (B-Z Corners); then north to Trout Lake; then west on State Highway 141 to USFS 86 Road; then south to the USFS 1840 Road; then south on the USFS 1840 Road to the USFS 18 Road (Oklahoma Road); then south on the USFS 18 Road 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 U.S. 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 Road; then north to the USFS 17 Road; then northeast to USFS 82 Road; then northeast on USFS 82 Road, to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then south along the reservation boundary to King Mountain and the southwest corner of the reservation (Section 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 Section 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

PERMANENT

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 U.S. 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 U.S. Highway 97 (Satus Pass Highway); then south on U.S. Highway 97 to Maryhill and point of beginning. (See Washington Atlas & Gazetteer)

WSR 94-11-036
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 644—Filed May 10, 1994, 10:55 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—Region six.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-060 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—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 the Olympic National Park Boundary; then north along the Olympic National Park Boundary to U.S. Highway 101; then east, north, and west 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 Lake Cushman Road; then northwest on the Power Dam Road; then west on Power Dam Road to Upper Cushman Dam and the shore of 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 Admirality Inlet and Puget Sound; then south along the shore of Admirality Inlet and Puget Sound to Hood Canal; (including Marrowstone Island and excluding 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 Road; 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 Admirality 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 Hoodsport; 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 Road; then southeast on Lake Cushman Road to U.S. Highway 101 at Hoodsport; 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 (refers to USFS map, DeLorme lists as Fire Road 2302); then north on the 2204 and 2204-200 Road to Olympic National Park Boundary; then east on the Olympic National Park Boundary to the point of beginning. (See Washington Atlas & Gazetteer and Olympic National Forest map)

GMU 638-QUINAULT RIDGE (Grays Harbor and Jefferson counties): Beginning on the Olympic National Park Boundary at the northwest corner of Lake Quinault; then northeast on the Olympic National Park Boundary along the Quinalt River; then south and northeast on the Olympic National Park Boundary to the 2204-200 Spur Road and USFS 2204 Road (DeLorme Road 2302); 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 Quinault Indian Reservation Boundary; then northeast on the reservation boundary to Lake Quinault; then northeast along the south shore of Lake Quinault 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 Quinault 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 Quinault Indian Reservation Boundary; then east and northeast along the Quinault Indian

PERMANENT

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 (USFS Road 22) to its junction with the Donkey Creek-Grisdale Road; continuing east on this road (USFS Road 22) to Camp Grisdale (south of Wynoochee Lake); then south along the Grisdale-Montesano Road (USFS 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 (USFS Road 22) 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 north and 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 U.S. 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 U.S. 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 State Highway 510; then southeast on State 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 U.S. 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 U.S. 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 the Pacific Highway S.E. (Old Highway 99); then south on Pacific Highway to Waldrick Road; then east on Waldrick Road to the Stedman Road; then north and east on the Stedman Road to the Rainier Road; then southeast on the Rainier Road to the Spurgeon Creek Road; then north on the Spurgeon Creek Road to the Yelm Highway; then east and northeast on the Yelm Highway to State Highway 510; then northwest on State

Highway 510 to Pacific Highway (Mounts Road); then northeast on Pacific Highway S.E. (Mounts Road) 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 the Smith Creek Road to the North River Valley Road; then east on the North River Valley Road to the Oakville-Brook Road; then east on the Oakville-Brook Road to the Garrard Creek Road; then south on the 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 and Weyerhaeuser McDonald Tree Farm Hunting Map)

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 alternative 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")

PERMANENT

WSR 94-11-037
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 645—Filed May 10, 1994, 10:57 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—Deer area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-061 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—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 165; then south and east along State Highway 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 northeast 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, Section 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 Section 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 14 at Patterson; then west on Highway 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 221; then south on Highway 221 to Highway 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 U.S. 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 U.S. 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 94-11-038
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 646—Filed May 10, 1994, 10:58 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-062 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—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 Section 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 Fish and 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. 010 South Spokane (Spokane County) the following portion of game management units 127 and 130: Beginning at Tyler near the junction of Tyler Road (State Highway 904) and I-90; then northeast along I-90 to the Idaho state line; then south along the Washington-Idaho line to Elder Road; then west along Elder Road to Hangman Creek; then north along Hangman Creek to State Highway 195 at Hatch Road; then south along State Highway 195 to the Cheney Spangle Road; then west along the Cheney Spangle Road to Cheney; then west along Tyler Road (State Highway 904) to the point of beginning. (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 Section 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 Section 1, T13N, R9 E.W.M.; then southwest along the National Forest Boundary to the Skate Creek Road (first contact) in Section 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 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

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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 U.S. Highway 97; then north on U.S. 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 Fish and 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 (Section 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 (Section 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 GMU 514 (Tatoosh) lying east of Highway 123 and north of Highway 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 and Washington Atlas & Gazetteer)

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 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam-Wishkaw Cutoff Road in Section 21, T19N, R9 W.W.M; then east on the East Hoquiam-Wishkaw 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 Section 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkery 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 T20N and R19N; 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 Weyerhauser Clemons Tree Farm Hunting map)

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 Forest Protection map "Willapa Hills")

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 Wallacut River; then north along the Wallicut 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 and Forest Protection Hunting map "Willapa Hills")

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

WSR 94-11-039
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 647—Filed May 10, 1994, 10:59 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02230 Game management units (GMUs)—Special game areas—Boundary descriptions—Bow and arrow area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-063 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02230 Game management units (GMUs)—Special game areas—Boundary descriptions—Bow and arrow area descriptions.

Bow Area No. 802 Long Island (Pacific County): Long Island in Pacific County. (See Washington Atlas & Gazetteer)

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 USFS Trail 1114 to USFS Trail 981; then west along Trail 981 to USFS Trail 982; then northeast along USFS Trail 982 to USFS Trail 973; then northwest along USFS 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 USFS Road 1502 to USFS Road 1500; then east on USFS 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 DNR 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 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 9; then north along Highway 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 U.S. Highway 97 bridge at mouth of river; then west on U.S. 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 (Skagit County): Beginning at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); then east along the CP 132 Road to the CP 130 Road; then east and south along the CP 130 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 94-11-040
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 648—Filed May 10, 1994, 11:00 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-064 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—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 Granite Creek Trail 1326 to the top of South Cle Elum Ridge; then east along the ridge on Granite Creek 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 U.S. Highway 97; then north on U.S. 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 U.S. Highway 97; then north on U.S. Highway 97 to USFS 9738, Blue Creek; then west on USFS 9738 to USFS 9702 Dickey Creek; then west on USFS 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 South Fork 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 94-11-041
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 649—Filed May 10, 1994, 11:01 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02250 Game management units (GMUs)—Special game areas—Boundary descriptions—Goat units.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-065 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02250 Game management units (GMUs)—Special game areas—Boundary descriptions—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 T39N, R25EWM, 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

PERMANENT

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:

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 Titacaed 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. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23 to USFS Road 25; then north along USFS 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.

PERMANENT

WSR 94-11-042
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 650—Filed May 10, 1994, 11:01 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02260 Game management units (GMUs)—Special game areas—Boundary descriptions—Moose units.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-066 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02260 Game management units (GMUs)—Special game areas—Boundary descriptions—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.

PERMANENT

WSR 94-11-043
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 651—Filed May 10, 1994, 11:02 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02270 Game management units (GMUs)—Special game areas—Boundary descriptions—Bighorn sheep units.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-067 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02270 Game management units (GMUs)—Special game areas—Boundary descriptions—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 U.S. Highway 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 U.S. Highway 90.

Sheep Unit 8 Mountainview:

Permit Area: That part of Asotin County within the following described boundary: Beginning at Anatone; then west along the main Big Butte-Mount Misery Road to its junction with the Mountain Road (40); then south along the Mountain Road to the West Fork of Grouse Creek; then southeast down Grouse Creek to the Oregon-Washington boundary; then east along said boundary to State Highway 129; then north along State 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 129.

Sheep Unit 10 Mt. Hull:

Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. 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 94-11-044
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 652—Filed May 10, 1994, 11:03 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions—Cougar areas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-068 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions—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 145-168 and 170-185
6	Wenaha—GMU 169
7	Okanogan—GMUs 203, 209-242, and 300
8	Wenatchee—GMUs 301-368
9	Nooksack—GMUs 417, 418
10	Skagit—GMUs 426, 433, 440-448, and 450
11	Snoqualmie—GMUs 454, 460, 466, 472, and 490
12	North Olympic Peninsula—GMUs 601-615, that portion of GMU 621 north of the Dosewallips River, and GMU 624
13	South Olympic Peninsula—GMUs 618, 636, 638, 642, 648, and that portion of GMU 621 south of the Dosewallips River
14	Rainier—GMUs 478, 484, 505, 510, 512, 514, 516, and 667

15 South Puget Sound—GMUs 627, 633, 651, 663, and 666
16 Cowlitz—GMUs 520, 550, 556, and 558
17 Skamania—GMUs 560, 568, 572, 574, and 576
18 Pacific—GMUs 658, 660, 669, 672, 678, 681, and 684

WSR 94-11-045
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 653—Filed May 10, 1994, 11:03 a.m.]

Date of Adoption: March 12, 1994.

Purpose: To adopt WAC 232-28-02290 Game management units (GMUs)—Special game areas—Boundary descriptions—Private lands wildlife management areas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-069 on January 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-02290 Game management units (GMUs)—Special game areas—Boundary descriptions—Private lands wildlife management areas.

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.

PLWMA 401A - Kapowsin North (Buckley): That portion of PLWMA 401 description which includes the Buckley block.

PLWMA 401B - Kapowsin Central (King Creek): That portion of PLWMA 401 description which lies to the north of the Puyallup River, excluding the Buckley block.

PLWMA 401C - Kapowsin South (Kapowsin): That portion of PLWMA 401 description which lies to the south of the Puyallup River.

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WSR 94-11-046
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 654—Filed May 10, 1994, 11:05 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-226 1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-114 on February 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-240 differs from the version filed with the code reviser in the following specifics:

On pages 3 and 4 all early archery seasons except GMUs 203, 301, 302, 450, and Deer Areas 010, 040, and 060 were changed to Sept. 1-14 legal buck only and Sept. 15-30 legal buck and antlerless for 1994, 1995, and 1996.

On page four the early archery season dates for GMU 203, 301, 302, 450, and Deer Areas 010, 040, and 060 were changed to Sept. 15-30, 3 point minimum or antlerless for 1994, 1995, and 1996.

On page four, under Late Archery Deer, GMU 103 was extended to run from Nov. 14 to Dec. 15 in 1994, 1995, and 1996.

The early muzzleloader deer hunts in GMUs 209, 302, and 368 on page six were changed to read as follows:

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
209	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Either Sex
302, 368	Sept. 29-Oct 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Buck Only

On page seven, under Kapowsin Tree Farm Archery the dates and restrictions were amended to read:

	1994 Open Season	Special Restrictions
Archery	Sept. 1-14	2 Pt. Buck Min.
	Sept. 15-30	2 Pt. Buck Min. or Antlerless

On page eight under Placement of Bait, the sentence was amended to: "Baits for black bear may not be placed in an area until five days prior to the start of that area's established bear harvest season."

On page eight under "Bait Containers" the ten day requirement was amended to 48 hours in both sentence two and four of the second paragraph. The next paragraph was added to read as follows "All hunters who hunt bear with bait shall affix their bear tag number at their bear baiting sites."

Other bear baiting options on the bottom of page eight and top of page nine were not adopted.

On page eight under OPEN SEASON, Eastern Washington after the line "and Columbia counties outside of Umatilla National Forest," add the phrase: Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 4-Nov. 10, 1996 in GMUs 145-185.

The following sentence beginning Walla Walla and Columbia counties was amended to read: Bear season open on private lands to boot hunters only (no hounds or bait may be used to hunt bear), Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 21-Nov. 10, 1996; and CLOSED to hunting with hounds outside federal lands in GMUs 203, 218, 224, 231, 239, and 242.

On page nine in paragraph five the Department of Wildlife was amended to Department of Fish and Wildlife.

On page nine under Western Washington, the season dates were amended as follows: Aug. 1-Oct. 31, 1994, 1995, 1996 in Bow Area 802. CLOSED in GMUs 485 and 522.

Under Tooth Submittal and Report Cards the name Department of Wildlife was amended to Department of Fish and Wildlife and the premolar tooth from upper or lower jaw was requested.

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

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, 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				
405-572, 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. 1-24	Whitetail buck only

PERMANENT

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. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
127, 130 133	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or or antlerless
136-154, 160-169, 175-185, 231, 306	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 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. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
433, 478, 558, 574, 576, 584, 586, 588, 681	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
328-334, 480	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
203, 301, 302, 450	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
172	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
119, 242, 304, 360, 448, 484, 564, 603, 612, 624, 666, 672, 684	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
636	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
660	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless

501, 506	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
Deer Areas 010, 040, 060	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
Bow Area 802	Sept. 1-14 Sept. 15-30	Sept. 1-15 Sept. 15-30	Sept. 1-15 Sept. 15-30	Buck only Either sex

Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
103	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Whitetail only, either sex
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 Lands Wildlife Management Area 201.

PERMANENT

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, 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
209	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Either sex
302, 368,	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Buck only
304, 360, 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 Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	Special Restrictions
Archery	Sept. 1-14	2 pt. min.
	Sept. 15-30	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.

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 pcluding fruit, inedible parts of legally obtained game fish, and 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, steel, 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 five 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 48 hours 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 48-hour period (except that tree stands may be left on private property with landowner's permission).

All hunters who hunt bear with bait shall affix their bear tag number at their bear baiting sites.

OPEN SEASON
(Bear may be killed.)
Eastern Washington*
Sept. 7-Oct. 31, 1994, Sept. 6-Oct. 31, 1995, Sept. 4-Oct. 31, 1996 throughout eastern Washington except CLOSED to hunting with hounds outside federal lands in GMUs 203, 218, 224, 231, 239, and 242.

Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 4-Nov. 10, 1996 in GMUs 145-185, except in Walla Walla and Columbia counties, bear season outside of Umatilla National Forest is open to boot hunters only (no hounds or bait may be used to hunt bear).

* 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

PERMANENT

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.

Hunting black bear with the use or aid of bait is prohibited in the (D) NCGBRZ within the recommended Situation 1 areas, which include all wilderness areas of the National Forests and of the North Cascades National Park Complex.

During the 1994 season, hunters may bait for black bear outside of wilderness areas of the (D)NCGBRZ. 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 within the NCGBRZ but outside of designated Situation 1 areas will be required to be an Advanced Hunter Education graduate (AHE), or to obtain a bait hunter education certificate from the Washington Department of Fish and Wildlife.

Western Washington
Aug. 1-Oct. 31, 1994; Aug. 1-Oct. 31, 1995; Aug. 1-Oct. 31, 1996, EXCEPT Sept. 1-Oct. 31, 1994, Sept. 1-Oct. 31, 1995, and Sept. 1-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 or lower jaw for age determination. Tooth envelopes are available from Department of Fish and Wildlife regional offices.

REPORT CARDS
Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Fish and Wildlife within ten days after taking a deer or bear.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-226	1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations

WSR 94-11-047
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 655—Filed May 10, 1994, 11:06 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-241 1994-95, 1995-96, 1996-97 Official hunting hours and small game seasons.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-228 1991-92, 1992-93, 1993-94 Official hunting hours and small game seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-115 on February 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-241 differs from the proposed version filed with the code reviser in the following specifics:

On page one, the 1994-95 Official Hunting Hours table with two time zones has been replaced with the following two tables with four time zones and the title changed to:

1994-95 OFFICIAL HUNTING HOURS FOR MIGRATORY BIRDS

September 1, 1994 to January 31, 1995

Dates (Inclusive)					West Slope Zone (Seattle times) A.M. to	P.M.	Coastal Zone (Tatoosh Is. times) A.M. to	P.M.
					Daylight Savings Time			
Thurs.	Sept. 1	-	Sun.	Sept. 4	6:00	7:45	6:10	8:00
Mon.	Sept. 5	-	Sun.	Sept. 11	6:05	7:35	6:15	7:45
Mon.	Sept. 12	-	Sun.	Sept. 18	6:15	7:20	6:25	7:30
Mon.	Sept. 19	-	Sun.	Sept. 25	6:25	7:10	6:35	7:20
Mon.	Sept. 26	-	Sun.	Oct. 2	6:35	6:55	6:45	7:05
Mon.	Oct. 3	-	Sun.	Oct. 9	6:45	6:40	6:55	6:50
Mon.	Oct. 10	-	Fri.	Oct. 14	6:55	6:25	7:05	6:35
Opening			Sat.	Oct. 15	7:00	6:20	7:10	6:30
Weekend**			Sun.	Oct. 16	7:00	6:20	7:10	6:30
Mon.	Oct. 17	-	Sun.	Oct. 23	7:05	6:10	7:15	6:20
Mon.	Oct. 24	-	Sat.	Oct. 29	7:15	6:00	7:25	6:10
					Pacific Standard Time			
Sun.	Oct. 30				6:20	4:55	6:30	5:00
Mon.	Oct. 31	-	Sun.	Nov. 6	6:25	4:50	6:40	4:55
Mon.	Nov. 7	-	Sun.	Nov. 13	6:35	4:40	6:50	4:45
Mon.	Nov. 14	-	Sun.	Nov. 20	6:45	4:30	7:00	4:40
Mon.	Nov. 21	-	Sun.	Nov. 27	6:55	4:25	7:10	4:30
Mon.	Nov. 28	-	Sun.	Dec. 4	7:05	4:20	7:20	4:25
Mon.	Dec. 5	-	Sun.	Dec. 11	7:15	4:20	7:25	4:25
Mon.	Dec. 12	-	Sun.	Dec. 18	7:20	4:20	7:35	4:25
Mon.	Dec. 19	-	Sun.	Dec. 25	7:25	4:20	7:40	4:25
Mon.	Dec. 26	-	Sun.	Jan. 1	7:25	4:25	7:40	4:30
Mon.	Jan. 2	-	Sun.	Jan. 8	7:25	4:30	7:40	4:40
Mon.	Jan. 9	-	Sun.	Jan. 15	7:25	4:40	7:35	4:45
Mon.	Jan. 16	-	Sun.	Jan. 22	7:20	4:50	7:30	4:55
Mon.	Jan. 23	-	Sun.	Jan. 29	7:15	5:00	7:25	5:10
Mon.	Jan. 30	-	Tues.	Jan. 31	7:10	5:05	7:20	5:15

September 1, 1994 to January 31, 1995

Dates (Inclusive)					East Slope Zone (Yakima times) A.M. to	P.M.	Far East Zone (Spokane times) A.M. to	P.M.
					Daylight Savings Time			
Thurs.	Sept. 1	-	Sun.	Sept. 4	5:55	7:40	5:40	7:30
Mon.	Sept. 5	-	Sun.	Sept. 11	6:00	7:30	5:50	7:15
Mon.	Sept. 12	-	Sun.	Sept. 18	6:10	7:15	5:55	7:05
Mon.	Sept. 19	-	Sun.	Sept. 25	6:20	7:00	6:05	6:50
Mon.	Sept. 26	-	Sun.	Oct. 2	6:30	6:45	6:15	6:35
Mon.	Oct. 3	-	Sun.	Oct. 9	6:35	6:30	6:25	6:20
Mon.	Oct. 10	-	Fri.	Oct. 14	6:45	6:20	6:35	6:05
Opening			Sat.	Oct. 15	6:50	6:15	6:40	6:00
Weekend**			Sun.	Oct. 16	6:50	6:15	6:40	6:00
Mon.	Oct. 17	-	Sun.	Oct. 23	6:55	6:05	6:45	5:55
Mon.	Oct. 24	-	Sat.	Oct. 29	7:05	5:55	7:55	5:40
					Pacific Standard Time			
Sun.	Oct. 30				6:10	4:50	6:00	4:35
Mon.	Oct. 31	-	Sun.	Nov. 6	6:15	4:45	6:05	4:30
Mon.	Nov. 7	-	Sun.	Nov. 13	6:25	4:35	6:15	4:20
Mon.	Nov. 14	-	Sun.	Nov. 20	6:35	4:25	6:30	4:10
Mon.	Nov. 21	-	Sun.	Nov. 27	6:45	4:20	6:40	4:05
Mon.	Nov. 28	-	Sun.	Dec. 4	6:55	4:15	6:45	4:00
Mon.	Dec. 5	-	Sun.	Dec. 11	7:00	4:15	6:55	4:00
Mon.	Dec. 12	-	Sun.	Dec. 18	7:10	4:15	7:00	4:00
Mon.	Dec. 19	-	Sun.	Dec. 25	7:15	4:20	7:05	4:00
Mon.	Dec. 26	-	Sun.	Jan. 1	7:15	4:20	7:10	4:05

Mon.	Jan. 2	- Sun.	Jan. 8	7:15	4:30	7:10	4:15
Mon.	Jan. 9	- Sun.	Jan. 15	7:15	4:40	7:05	4:20
Mon.	Jan. 16	- Sun.	Jan. 22	7:10	4:45	7:00	4:30
Mon.	Jan. 23	- Sun.	Jan. 29	7:00	4:55	6:55	4:40
Mon.	Jan. 30	- Tues.	Jan. 31	7:00	5:05	6:50	4:50

PERMANENT

Beneath the table the statement, "These are the lawful hours for all game animals and game birds during established seasons," was changed to "The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset."

Subsection (3) on page one was deleted.

Subsection (4) was changed to (3), and the last word of the sentence (sunset) replaced with "one-half hour after sunset."

Subsection (5) was renumbered subsection (4).

The time zones are defined as:

Coastal Zone: From the west coast of Washington eastward to I-5.

West Slope Zone: East from I-5 to the Cascade Crest.

East Slope Zone: East from the Cascade Crest to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: East from the East Slope Zone (Highway 21 from the Canadian border to its junction with Highway 395, south on Highway 395 to the Oregon border) to the Idaho border.

The 1995-96 and 1996-97 Official Hunting Hours tables and the five sections beneath the tables were deleted.

On page four the section titled "Options To Be Considered" was deleted.

On page five under coyote, the sentence was amended to read, "Coyote may be taken year around EXCEPT that coyote may be killed and/or pursued with hounds only during the following periods:"

On the top of page six, under Eastern Washington, the Sept. 1-Jan. 31, 1994-95, 1995-96, 1996-97 season was amended by adding the phrase "except year around in Grant, Adams, Benton, and Franklin counties."

On page seven under valley and bobwhite quail, the bag and possession limits was amended to: "Ten (10) quail per day with a total of thirty (30) quail in possession at any time, straight or mixed bag."

On page seven, immediately preceding Western Washington add the season: "Yakama Indian Reservation: The 1994-95 Upland Bird Season within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation."

On page seven, the sentence in the second to last paragraph should read, "A hunter shall select one valid option at the time they purchase their Western Washington Upland Bird Permit."

On page eight, under Asotin, Columbia, Garfield, and Walla Walla turkey season, the name Department of Wildlife should be Department of Fish and Wildlife.

On page eight under Official Hunting Hours/Bag Limits the Tag Sale Cutoff paragraph was amended to read: "To purchase multiple turkey tags, hunters shall send the appropriate tag fee (resident or nonresident) for each additional tag and their original 1995, 1996, or 1997 turkey tag to: Upland Bird Program, Washington Department of Fish and 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.

On page nine under Special Regulations the name Department of Wildlife should be Department of Fish and Wildlife.

On page nine under Dog Training Season, the third line of the second paragraph was amended as follows: ... Murray Wildlife Area, Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area and Snoqualmie . . . .

On page nine under Steel Shot Requirement, the sentence was amended to read, "No person shall hunt in the open area of the September Canada Goose season while using or possessing shotshells loaded with metal other than steel."

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

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 FOR MIGRATORY BIRDS*
September 1, 1994 to January 31, 1995

Dates (Inclusive)					West Slope Zone (Seattle times) A.M. to	P.M.	Coastal Zone (Tatoosh Is. times) A.M. to	P.M.
					Daylight Savings Time			
Thurs.	Sept. 1	-	Sun.	Sept. 4	6:00	7:45	6:10	8:00
Mon.	Sept. 5	-	Sun.	Sept. 11	6:05	7:35	6:15	7:45
Mon.	Sept. 12	-	Sun.	Sept. 18	6:15	7:20	6:25	7:30
Mon.	Sept. 19	-	Sun.	Sept. 25	6:25	7:10	6:35	7:20
Mon.	Sept. 26	-	Sun.	Oct. 2	6:35	6:55	6:45	7:05
Mon.	Oct. 3	-	Sun.	Oct. 9	6:45	6:40	6:55	6:50
Mon.	Oct. 10	-	Fri.	Oct. 14	6:55	6:25	7:05	6:35
Opening			Sat.	Oct. 15	7:00	6:20	7:10	6:30
Weekend**			Sun.	Oct. 16	7:00	6:20	7:10	6:30
Mon.	Oct. 17	-	Sun.	Oct. 23	7:05	6:10	7:15	6:20
Mon.	Oct. 24	-	Sat.	Oct. 29	7:15	6:00	7:25	6:10
					Pacific Standard Time			
Sun.	Oct. 30				6:20	4:55	6:30	5:00
Mon.	Oct. 31	-	Sun.	Nov. 6	6:25	4:50	6:40	4:55
Mon.	Nov. 7	-	Sun.	Nov. 13	6:35	4:40	6:50	4:45
Mon.	Nov. 14	-	Sun.	Nov. 20	6:45	4:30	7:00	4:40
Mon.	Nov. 21	-	Sun.	Nov. 27	6:55	4:25	7:10	4:30
Mon.	Nov. 28	-	Sun.	Dec. 4	7:05	4:20	7:20	4:25
Mon.	Dec. 5	-	Sun.	Dec. 11	7:15	4:20	7:25	4:25
Mon.	Dec. 12	-	Sun.	Dec. 18	7:20	4:20	7:35	4:25
Mon.	Dec. 19	-	Sun.	Dec. 25	7:25	4:20	7:40	4:25
Mon.	Dec. 26	-	Sun.	Jan. 1	7:25	4:25	7:40	4:30
Mon.	Jan. 2	-	Sun.	Jan. 8	7:25	4:30	7:40	4:40
Mon.	Jan. 9	-	Sun.	Jan. 15	7:25	4:40	7:35	4:45
Mon.	Jan. 16	-	Sun.	Jan. 22	7:20	4:50	7:30	4:55
Mon.	Jan. 23	-	Sun.	Jan. 29	7:15	5:00	7:25	5:10
Mon.	Jan. 30	-	Tues.	Jan. 31	7:10	5:05	7:20	5:15

Dates (Inclusive)					East Slope Zone (Yakima times) A.M. to	P.M.	Far East Zone (Spokane times) A.M. to	P.M.
					Daylight Savings Time			
Thurs.	Sept. 1	-	Sun.	Sept. 4	5:55	7:40	5:40	7:30
Mon.	Sept. 5	-	Sun.	Sept. 11	6:00	7:30	5:50	7:15
Mon.	Sept. 12	-	Sun.	Sept. 18	6:10	7:15	5:55	7:05
Mon.	Sept. 19	-	Sun.	Sept. 25	6:20	7:00	6:05	6:50
Mon.	Sept. 26	-	Sun.	Oct. 2	6:30	6:45	6:15	6:35
Mon.	Oct. 3	-	Sun.	Oct. 9	6:35	6:30	6:25	6:20
Mon.	Oct. 10	-	Fri.	Oct. 14	6:45	6:20	6:35	6:05
Opening			Sat.	Oct. 15	6:50	6:15	6:40	6:00
Weekend**			Sun.	Oct. 16	6:50	6:15	6:40	6:00
Mon.	Oct. 17	-	Sun.	Oct. 23	6:55	6:05	6:45	5:55
Mon.	Oct. 24	-	Sat.	Oct. 29	7:05	5:55	7:55	5:40
					Pacific Standard Time			
Sun.	Oct. 30				6:10	4:50	6:00	4:35
Mon.	Oct. 31	-	Sun.	Nov. 6	6:15	4:45	6:05	4:30
Mon.	Nov. 7	-	Sun.	Nov. 13	6:25	4:35	6:15	4:20
Mon.	Nov. 14	-	Sun.	Nov. 20	6:35	4:25	6:30	4:10
Mon.	Nov. 21	-	Sun.	Nov. 27	6:45	4:20	6:40	4:05
Mon.	Nov. 28	-	Sun.	Dec. 4	6:55	4:15	6:45	4:00
Mon.	Dec. 5	-	Sun.	Dec. 11	7:00	4:15	6:55	4:00
Mon.	Dec. 12	-	Sun.	Dec. 18	7:10	4:15	7:00	4:00
Mon.	Dec. 19	-	Sun.	Dec. 25	7:15	4:20	7:05	4:00
Mon.	Dec. 26	-	Sun.	Jan. 1	7:15	4:20	7:10	4:05
Mon.	Jan. 2	-	Sun.	Jan. 8	7:15	4:30	7:10	4:15
Mon.	Jan. 9	-	Sun.	Jan. 15	7:15	4:40	7:05	4:20

Mon.	Jan. 16	-	Sun. Jan. 22	7:10	4:45	7:00	4:30
Mon.	Jan. 23	-	Sun. Jan. 29	7:00	4:55	6:55	4:40
Mon.	Jan. 30	-	Tues. Jan. 31	7:00	5:05	6:50	4:50

West Slope Zone: East from I-5 to the Cascade Crest.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the Cascade Crest to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

* The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset.

** 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) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
4) 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.

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

	1994	1995	1996
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. 5-Nov. 1	Oct. 14-31	Oct. 12-29
Whitman and Lincoln counties.	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; Sept. 1-Jan. 31, 1995-96; Sept. 1-Jan. 31, 1996-97; except year around in Grant, Adams, Benton, and Franklin counties.

Western Washington

Aug. 1-Mar. 15, 1994-95; Aug. 1-Mar. 15, 1995-96; Aug. 1-Mar. 15, 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.

PTARMIGAN

Season closed statewide.

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, straight or mixed bag.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

PERMANENT

Yakama Indian Reservation: The 1994-95 Upland Bird Season within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

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.

Early season: Sept. 24-30, 1994; Sept. 23-29, 1995; and Sept. 21-27, 1996 for juvenile hunters under 15 and senior hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult.

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.

A Western Washington Upland Bird Permit is required to hunt pheasant, quail, and partridge in western Washington, in addition to a current hunting license. Pheasant kills only must be recorded. Upon taking a pheasant, the holder of a Western Washington Upland Bird Permit must immediately enter on the corresponding space the date and location of kill.

There are three 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 a Western Washington Upland Bird Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per person is not limited.

A hunter shall select one valid option 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 15-May 15, 1995; April 15-May 15, 1996; April 15-May 15, 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 Fish and 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 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 shall send the appropriate tag fee (resident or non-resident) for each additional tag and their original 1995, 1996, or 1997 turkey tag to: Upland Bird Program, Washington Department of Fish and 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 one-half hour after sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and 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, 1994, 1995, 1996.

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 - Fort Lewis Military Base, 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: No person shall hunt in the open area of the September Canada goose season while using or possessing shotshells loaded with metal other than steel.

BAND-TAILED PIGEON

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 1994; Sept. 1-15, 1995; and Sept. 1-15, 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-228	1991-92, 1992-93, 1993-94 Official hunting hours and small game seasons

WSR 94-11-048
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 656—Filed May 10, 1994, 11:07 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

PERMANENT

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-227 1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-116 on February 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-242 differs from the proposed version filed with the code reviser in the following specifics:

Under Spike Bull Restriction GMUs on page one the second line should read "... ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a ...

Under Spike Only GMUs: 340-368 should be 335-368.

Under Branched Antler Restriction GMUs the third line should read, "... antler points on the lower half of either main beam must be at least four (4) inches long measured from the antler tip to the nearest edge of beam. All other antler points ...

On page one add GMU 512 to the 3 Point GMUs.

Delete "Options To Be Considered" section from the bottom of page one.

Delete "Options To Be Considered" section from page two.

Under Yakima season on page two, GMUs 335-368 instead of 340-368 are spike bull only except by permit.

On the top of page three, under Western Washington the second line should read ... "firearm restrictions in portion of GMU 660 ...

The early archery elk seasons on page four should be changed to Sept. 1-14 in 1994, 1995, and 1996 for all units designated with the following exceptions:

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
607	WA	No Season	Sept. 1-14	No Season	3 Pt. Min.
612	WA	Sept. 1-14	No Season	Sept. 1-14	Either Sex

The "Options To Be Considered" section at the top of page five should be deleted.

Under Late Archery Elk Seasons on page nine, GMU 335 should be added to the line with GMUs 336, 346, and 352.

On page six under Early Muzzleloader Elk Seasons GMU 607 should be added and GMU 612 amended as follows.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
607	WM	Oct. 6-12	No Season	Oct. 3-9	Antlerless Only
612	WM	No Season	Oct. 5-12	No Season	Bull Only

On page seven under Private Lands Wildlife Management Opportunities the archery season was amended from Oct. 1-12 to Sept. 1-14 and the following elk tags were identified as required for each hunt: WA, Sept. 1-14; WE Nov. 2-13; WL Nov. 5-13; and WM Nov. 23-Dec. 5.

On page eight on the last line Department of Wildlife should be changed to Department of Fish and Wildlife.

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

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, 335-368, 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, measured from tip to nearest edge of beam. 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, 512, 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.

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, 335-368, and 472 spike bull restrictions apply and in branched antler areas branched antler restrictions apply.

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 335-368 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 modern firearm restrictions in portion of GMU 660. 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

	1994	1995	1996
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	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
145-154, 160-169, 175, 181-185	BA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
300, 306, 308, 316	CA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
328, 329, 330	CA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
370	YA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
335, 356, 336, 340, 352, 364	YA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
405-410, 426-454, 504, 505, 510, 514, 516, 520, 550, 554, 560, 568, 574, 576, 586, 588, 615, 618, 642-658, 663, 667, 669, 678	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
460, 466, 478, 490, 512, 530, 558, 572, 601, 607, 638, 681	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min. or antlerless
472	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
484	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
418	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min.
607	WA	No Season	Sept. 1-14	No Season	3 pt. min.
612	WA	Sept. 1-14	No Season	Sept. 1-14	Either sex
660	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
Bow Area 802	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex

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
335, 336, 346, 352	YA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Spike or antlerless
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	Spike or antlerless
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 Wallicut 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	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Antlerless only
368	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull or Antlerless
603	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Bull only
607	WM	Oct. 6-12	No Season	Oct. 3-9	3 pt. min.
612	WM	No Season	Oct. 5-11	No Season	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	Spike bull or antlerless

* 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.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
130, 133, 136, 139	BM	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

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
944	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless

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, 139	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	Elk Tag	1994 Open Season	Special Restrictions
Archery	WA	Sept. 1-14	Spike Bull or Antlerless
Modern Firearm	WE	Nov. 2-13	Spike Bull Only
	WL	Nov. 5-13	Spike Bull
Muzzleloader	WM	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 Fish and Wildlife within 10 days after taking an elk.

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-227	1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations

WSR 94-11-049
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 657—Filed May 10, 1994, 11:07 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-243 1994-95 Special closures and firearm restriction areas.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-238 1993-94 Special closures and firearm restriction areas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-04-117 on February 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-243 differs from the proposed version filed with the code reviser in the following specifics:

The name Little Pend Oreille Wildlife Area was changed to Little Pend Oreille National Wildlife Refuge. The change occurs on lines one, two, and seven.

Under number four, the name Department of Wildlife was changed to Department of Fish and Wildlife.

On page four, the first sentence was changed to "The following restriction applies only during the modern firearm elk season."

Also on page four, the entire Quinault Valley closure was deleted.

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

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 National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge 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. The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons during September through December.
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 Fish and 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 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

PERMANENT

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, muzzleloaders or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

County	Area
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 Cranberry 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 restriction applies only during the modern firearm elk season: (South Bank) - 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; 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
Island	That portion of GMU 410 (Island) located on Camano and Whidbey Islands.
Jefferson	Indian and Marrowstone Islands.
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 outlined 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-238	1993-94 Special closures and firearm restriction areas

WSR 94-11-050
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
[Order 658—Filed May 10, 1994, 11:09 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-244 1994-95 Special species hunting seasons and regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-236 1993-94 Special species hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-05-079 on February 15, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-244 differs from the proposed version filed with the code reviser in the following specifics:

Page one and three, the name Department of Wildlife changed to Department of Fish and Wildlife.

On page two under Sheep Unit 3, an s is added to Permit to read 2 Special Permits will be issued.

On page six, the permit level for Goat Unit 6-2 (Quilcene) increased from 20 to 25.

On page six under Cougar General Permit Season, the season dates are amended to read, "Nov. 23, 1994-Jan. 31, 1995, except Nov. 23, 1994-Feb. 28, 1995 in Cougar Unit 5 (Blue Mountains)."

On page six, the last sentence under Who May Apply is amended to read, "Cougar permit applicants successfully drawing a 1994-95 cougar permit will be ineligible to apply for a cougar permit until the 1997-98 season."

On pages seven and eight, the "Options To Be Considered" was adopted in the rule and titled "Boot Hunting Opportunity for Cougar."

Effective Date of Rule: Thirty-one days after filing.

May 5, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-244 1994-95 Special species hunting seasons and regulations

PERMIT APPLICATION INSTRUCTIONS

You must have a valid 1994 Washington hunting license to apply for any special hunting season permit.

Application Deadline: Applications must be postmarked no later than July 1, 1994, or received not later than 5:00 p.m., July 1, 1994, at the Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, or any Department of Fish and Wildlife regional office.

Computer Drawing: Drawings for goat, bighorn sheep, moose, and cougar will be done by computer selection. All applicants will be notified by August 10, 1994.

Disqualification: Anyone who submits more than one application for each species will be disqualified for drawings for that species.

Incomplete Applications: To be eligible for the permit drawing, applications must contain hunt number and hunt name, date of birth, and hunting license number. Applicant's complete name and address including zip code must be included.

Permit Hunting Report: A hunter questionnaire report will be sent to each permittee. This questionnaire must be returned to the Department of Wildlife within ten days after the close of the hunting season.

MOOSE

Permit Season: Oct. 1 to Nov. 30, 1994, both dates inclusive.

Who May Apply: Anyone with a valid 1994 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

Bag Limit: One moose of either sex.

Moose Unit 1
GMU 113
6 Special Moose Permits will be issued.

Moose Unit 2
GMU 124
4 Special Moose Permits will be issued.

Moose Unit 3
GMU 118
4 Special Moose Permits will be issued.

Moose Unit 4
GMU 119
3 Special Moose Permits will be issued.

Moose Unit 5
GMU 111
2 Special Moose Permits will be issued.

MOUNTAIN SHEEP (BIGHORN)

Permit Seasons: Separate seasons are indicated for each bighorn sheep hunt.

Who May Apply: Anyone with a valid 1994 Washington hunting license; EXCEPT those who drew a bighorn permit during 1989, 1990, 1991, 1992, or 1993, or have been successful in taking a bighorn in Washington State.

Bag Limit for Permit Holders: One bighorn ram.

Any Legal Weapon

Sheep Unit 2
Vulcan Mountain:
Permit Season: Sept. 24-Oct. 11, both dates inclusive.
4 Special Permits will be issued.

Sheep Unit 3
Tucannon River:
Permit Season: Sept. 3-25, both dates inclusive.
2 Special Permits will be issued.

Sheep Unit 5
Umtanum:
Permit Season: Sept. 24-Oct. 11, both dates inclusive.
3 Special Permits will be issued.

Sheep Unit 8
Mountainview:
Permit Season: Sept. 3-25, both dates inclusive.
2 Special Permits will be issued.

Sheep Unit 9
Blackbutte:
Permit Season: Sept. 1-18, both dates inclusive.
2 Special Permits will be issued.

Sheep Unit 10
Mt. Hull:
Permit Season: Sept. 3-25, both dates inclusive.
1 Special Permit will be issued.

Sheep Unit 11
Wenaha Wilderness:
Permit Season: Sept. 3-25, both dates inclusive.
3 Special Permits will be issued.

MOUNTAIN GOAT

Permit Season: Sept. 17-Oct. 31, 1994, both dates inclusive, in all goat hunts.

Who May Apply: Anyone with a valid 1994 Washington hunting license; EXCEPT those who drew goat permits in 1989, 1990, 1991, 1992 or 1993.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. The Department of Fish and Wildlife urges hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1
Mount Chopaka:
1 Special Permit will be issued.

Goat Unit 2-2
Methow:
8 Special Permits will be issued.

Goat Unit 3-2
North Wenatchee Mountains:
1 Special Permit will be issued.

Goat Unit 3-4
Snoqualmie:
1 Special Permit will be issued.

Goat Unit 3-6
Naches Pass:
10 Special Permits will be issued.

Goat Unit 3-7
Bumping River:
3 Special Permits will be issued.

Goat Unit 3-9
Tieton River:
5 Special Permits will be issued.

Goat Unit 4-1
Ruth Creek:
10 Special Permits will be issued.

Goat Unit 4-3
Chowder Ridge:
2 Special Permits will be issued.

Goat Unit 4-4
Lincoln Peak:
2 Special Permits will be issued.

Goat Unit 4-6
Dillard Creek:
5 Special Permits will be issued.

Goat Unit 4-7
Avalanche Gorge:
5 Special Permits will be issued.

Goat Unit 4-8
East Ross Lake:
10 Special Permits will be issued.

Goat Unit 4-9

Jack Mountain:
2 Special Permits will be issued.

Goat Unit 4-32
Foss River:
10 Special Permits will be issued.

Goat Unit 4-34
Pratt River:
10 Special Permits will be issued.

Goat Unit 5-2
Tatoosh:
5 Special Permits will be issued.

Goat Unit 5-4
Goat Rocks:
10 Special Permits will be issued.

Muzzleloading Goat Hunts

Goat Unit 3-5
Cle Elum:
1 Special Permit will be issued.

Goat Unit 3-8
Bumping River:
3 Special Permits will be issued.

Goat Unit 4-24
Sloan Peak:
3 Special Permits will be issued.

Archery Goat Hunts

Goat Unit 3-3
Goat and Davis Mountains:
1 Special Permit will be issued.

Goat Unit 4-18
Sauk River:
4 Special Permits will be issued.

Goat Unit 4-21
Liberty Mountain:
4 Special Permits will be issued.

Goat Unit 4-23
Twin Peaks:
4 Special Permits will be issued.

Goat Unit 4-38
Corral Pass:
4 Special Permits will be issued.

Goat Unit 5-3
Smith Creek:
3 Special Permits will be issued.

Goat Unit 6-2
Quilcene River:
25 Special Permits will be issued.

Goat Unit 6-3
Hamma Hamma River:
10 Special Permits will be issued.

NATIVE CATS

A valid hunting license is required to hunt (including pursuit seasons) native cats. A hound stamp is required for all hunters if dogs are used to hunt any native cats.

COUGAR

Pursuit-Only Season (Cougar may not be killed or injured.): Sept. 1-30 and Nov. 23, 1994-Jan. 31, 1995 in the cougar units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 15, 1994.

Early Permit Season (Permit required. Permit holders may not kill cougar with the use of hounds during the early cougar permit season.): Oct. 15-Nov. 22.

General Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. 23, 1994-Jan. 31, 1995, EXCEPT Nov. 23, 1994-Feb. 28, 1995 in Cougar Unit 5.

Who May Apply: Anyone with a valid 1994 Washington hunting license may submit one special permit application for cougar during the 1994-95 season. Successful cougar applicants must purchase a cougar tag by October 1, 1994. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be voided and cougar permits will be issued to other applicants. Cougar permit applicants successfully drawing a 1994-95 cougar permit will be ineligible to apply for a cougar permit until the 1997-98 season.

Bag Limit: One (1) cougar during the 1994-95 hunting season except that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

Hunt No.	Unit	Description	General Permits Season Permits
01	1	Pend Oreille	35
9002	2	Colville	40
9003	3	Republic	40
9004	4	Spokane	25
9005	5	Blue Mountains	50
9006	6	Wenaha	15
9007	7	Okanogan	40
9008	8	Wenatchee	40
9009	9	Nooksack	5
9010	10	Skagit	10
9011	11	Snoqualmie	8
9012	12	North Olympic Peninsula	30
9013	13	South Olympic Peninsula	10
9014	14	Rainier	10
9015	15	South Puget Sound	3
9016	16	Cowlitz	2
9017	17	Skamania	2
9018	18	Pacific	0

Boot hunting opportunity for cougar: Hunters would have to specifically apply (by hunt number) for either an early permit season tag or a general permit season tag. The early permit season would be a boot only opportunity. The total number of early permit season tags would equal the number of general permit season tags.

Hunt No.	Unit	Description	Early Permit Season Permits
9019	1	Pend Oreille	35
9020	2	Colville	40

PERMANENT

9021	3	Republic	40
9022	4	Spokane	25
9023	5	Blue Mountains	50
9024	6	Wenaha	15
9025	7	Okanogan	40
9026	8	Wenatchee	40
9027	9	Nooksack	5
9028	10	Skagit	10
9029	11	Snoqualmie	8
9030	12	North Olympic Peninsula	30
9031	13	South Olympic Peninsula	10
9032	14	Rainier	10
9033	15	South Puget Sound	3
9034	16	Cowlitz	2
9035	17	Skamania	2
9036	18	Pacific	0

LYNX

Season closed statewide.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-236	1993-94 Special species hunting seasons and regulations

WSR 94-11-051
PERMANENT RULES
FISH AND WILDLIFE COMMISSION

[Order 659—Filed May 10, 1994, 11:12 a.m.]

Date of Adoption: April 8, 1994.

Purpose: To adopt WAC 232-28-245 1994-95 Deer and elk permit hunting seasons.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-237 1993-94 Deer and elk permit hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-05-078 on February 15, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-245 differs from the proposed version filed with the code reviser in the following specifics:

On page one, at the end of the paragraph titled: To apply for special deer permit," the following sentence was added: "If you were drawn for a modern firearm deer permit in 1994 you may not submit a deer permit application in 1995 or 1996 for the Blue Mountains Foothills A or Blue Mountains Foothills B hunts."

On page one, at the end of the paragraph titled: To apply for a special elk permit: The last sentence was amended as follows: "Disabled, blind/visually impaired, and muzzleloader special hunts are exempt from the two year waiting period."

The title "Open Season" was changed to "Permit Season" for all hunts.

On page one and two, deer permit numbers for the following hunts were amended as follows:

Curlew A	300	to	50
Boulder	250	to	50
Kellyhill	400	to	200
Douglas	800	to	400
Aladdin A	150	to	125
Selkirk	100	to	50
Chewelah	400	to	200
Boyer A	550	to	225
Huckleberry	1,750	to	875
Mt. Spokane	1,000	to	500

The Cheney hunt was designated Antlerless Only instead of Whitetail, Antlerless Only.

Dates for the east and west Okanogan hunts were changed from Dec. 8-14 to Dec. 7-14.

The permit level for the Pearrygin deer hunt was reduced from 250 to 200.

On pages two and three, proposed deer permits in the following units were deleted:

Entiat	100	to	0
Mission	50	to	0
Naneum	25	to	0
Quilomene	25	to	0
Teanaway	100	to	0
Taneum	25	to	0
Manastash	25	to	0
Umtanum	50	to	0

On page three, the permit level for Green River B was reduced from 35 to 30.

On page three, the Bear River hunt with 20 permits was deleted.

On page four, the following deer muzzleloader hunt was added: Stillaguamish; 100 permits, Dec. 3-11, Antlerless Only, GMU 448.

On page four, dates for the following youth permit hunts were changed as follows:

Big Bend A	Oct. 17-23	to	Oct. 15-23
Toutle	Oct. 22-31	to	Oct. 15-30

On page five, the following new hunts were added for senior hunters (applicants must be 65 years of age or older).

Hunt Name	No. Permits	Permit Season	Special Restriction	Boundary Description
Northeast B	300	Oct. 15-31	Whitetail, Either Sex	GMUs 100-124
Southcentral	300	Oct. 15-23	Either Sex	GMUs 127-142
Blue Mtns. Foothills E	100	Oct. 15-23	3-Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 166
Blue Mtns. Foothills F	100	Oct. 15-23	3-Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181

On page five, under Advanced Hunter Education Program Graduates, the Curlew hunt was deleted but the following two hunts were added:

Hunt Name	No. Permits	Permit Season	Special Restriction	Boundary Description
Wenatchee	10	Nov. 16-30	Either Sex	Portion of GMU 314*
Mt. Adams	5	Oct. 1-12	2-Pt. Min. or Antlerless	Elk Area 059

*Successful applicants will be mailed a map of the hunt boundary.

On page five, the title of Special Hunt for Disabled, Blind or Visually Handicapped was changed to Special Hunts for Disabled, Blind, or Visually Impaired.

The following hunts were added to the Special Hunts for Disabled, Blind, or Visually Impaired.

Hunt Name	No. Permits	Permit Season	Special Restriction	Boundary Description
Blue Mtns. Foothills G	10	Oct. 15-23	3-Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 166
Douglas	25	Nov. 23-27	Whitetail, Either Sex	GMU 108
Entiat	25	Nov. 1-15	Antlerless Only	GMU 308
Green River	5	Oct. 22-28	Antlerless Only	GMU 485
Bear River	20	Oct. 15-30	2-Pt. Min. or Antlerless	GMU 681

On page five, the name Private Land Management hunts was changed to Private Lands Wildlife Management hunts.

On page six, the season dates for the Wilson A hunt was changed from Oct. 1-31 to Oct. 1-Dec. 31.

The restriction for the Wilson D hunt on page six was changed from Antlerless Only, Disabled Only to Antlerless Only, Disabled Only, or Blind/Visually Handicapped Hunters Only.

The restriction for the Wilson E hunt was changed from Antlerless Only, to AHE Only to Antlerless Only, AHE Hunters Only.

On page six, under Champion's Kapowsin Tree Farm permit hunts, the restrictions on the Kapowsin South hunt were changed from Antlerless Only, Young, and Disabled to Antlerless Only, Young or Disabled or Blind/Visually Handicapped Hunters Only.

On page six, title Special Elk Hunting Seasons was changed to Special Elk Permit Hunting Seasons.

On pages seven and eight, permit levels for the following hunts were changed as follows:

Blue Creek A	50 to 40 permits
Blue Creek B	15 to 10 permits
Touchet	15 to 10 permits
Touchet, (Eckler), Marengo	50 to 25 permits and Eckler unit deleted.
Tucannon	20 to 10 permits
Wenaha A	5 to 4 permits
Wenaha B	15 to 12 permits
Mountain View B	15 to 10 permits
Couse A	75 to 40 permits
Naneun B	80 to 100 permits
Quilomene B	40 to 80 permits
Swauk	75 to 60 permits
Peaches Ridge	80 to 100 permits
Little Naches B	25 to 35 permits
Observatory	65 to 110 permits
Douglas	90 to 100 permits
Bethel B	50 to 100 permits
Rimrock B	20 to 25 permits
Cowiche B	35 to 30 permits

On pages eight and nine, the following hunts were added:

Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
Little Naches A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 346
Minot Peak	100	Oct. 8-13	Antlerless Only	WL or WM	GMU 660

The title Special Hunt for Disabled, Blind, or Visually Handicapped was changed to Special Hunts for Disabled, Blind, or Visually Impaired.

On page nine, under Special Hunts for Disabled, Blind, or Visually Impaired, the following hunts were added:

Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
Eckler	10	Dec. 15-Jan. 15, 1995	Antlerless Only	BL or BM	GMU 161*
Quilomene	10	Nov. 1-13	Antlerless Only	CL or CM	GMU 329
Manastash	10	Nov. 1-13	Antlerless Only	YL or YM	GMU 340

*Outside of Umatilla National Forest.

On page nine, under Special Hunts for Disabled, Blind, or Visually Impaired the following changes were made:

Naches D - changed from Either Sex to Any Elk
Centralia Mine A - changed from 11 to 6 permits
Centralia Mine B - changed from 11 to 7 permits
Centralia Mine C - changed from 8 to 7 permits

The elk tag prefix for all three Centralia Mine hunts changed from WL or WM or Any Elk Tag.

On page 10, the following section was added: Advanced Hunter Education (AHE) Program. Only hunters who have successfully completed the Department of Fish and Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt elk in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.

Hunt Name	No. Permits	Permit Season	Special Restriction	Boundary Description
South Spokane	25	Oct. 20-Nov. 20	Either Sex	Elk Area 010
Shushuskin	20	Dec. 16-30	Antlerless Only	Elk Area 031
Margaret	5	Oct. 1-12	3-Pt. Min. or Antlerless	GMU 524
Skookumchuck	5	Oct. 8-13	Either Sex	GMU 667

On page 10, permit levels for muzzleloader hunts were changed as follows:

Blue Creek C	50	to 40 permits
Mountain View C	50	to 25 permits
Mountain View D	6	to 20 permits
Mission	75	to 55 permits
Cle Elum A	30	to 75 permits
Cle Elum B	50	to 75 permits
Umtanum B	20	to 75 permits
Cowiche C	60	to 90 permits

On page ten, the following hunt was added to the muzzleloader hunts:

Coal Creek, 10 permits, Nov. 12-Dec. 12, Antlerless Only, WM Tag Prefix, Muzzleloader Are a 910

The Boistfort B hunt was changed from Either Sex to Antlerless Only.

The Minot Peak hunt for Muzzleloader Only was deleted.

Permit levels and season dates for the following archery hunts were changed as follows:

Blue Mountains West	22 to 16 permits;	Oct 1-12 to Sept. 1-14
Blue Mountains East	10 to 16 permits;	Oct 1-12 to Sept. 1-14
Colockum	21 to 130 permits;	Oct 1-12 to Sept. 1-14
Robinson	90 to 145 permits;	Oct. 1-12 to Sept. 1-14
Douglas	150 to 75 permits;	Oct. 1-12 to Sept. 1-14
Divide	60 to 35 permits	

PERMANENT

Cottonwood	175 to 90 permits; Oct. 1-12 to Sept. 1-14
White River	Oct. 1-12 to Sept. 1-14

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-245 1994-95 Deer and elk permit hunting seasons

Application Instructions

NOTE: Hunt numbers and GMU numbers are not the same.

A permit gives a hunter additional opportunity but it does not give him/her an extra deer or elk.

To apply for Special Deer Permit: You must have a valid 1994 Washington hunting license and a modern firearm or muzzleloader deer tag. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special deer permit application for 1994.

If you were drawn for a modern firearm deer permit in 1994, you may not submit a deer permit application in 1995 or 1996 for the Blue Mountains Foothills A or Blue Mountains Foothills B hunts.

To apply for Special Elk Permit: You must have a valid 1994 Washington hunting license and a valid late modern firearm, muzzleloader, or archery elk tag. Each hunter must have the proper tag (identified in the tables) to apply for an elk permit. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for the Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special permit application for elk. You may not submit an elk permit application if you were drawn for a modern firearm or archery elk permit during 1992 or 1993. Disabled, blind/visually impaired, and muzzleloader special hunts are exempt from the two-year waiting period. Permit hunters may hunt only with a weapon in compliance with their tag.

Application Deadline: To qualify for the drawing all applications must be postmarked no later than July 22, 1994 or received no later than 5:00 p.m. on July 22, 1994 at the Department of Fish and Wildlife headquarters in Olympia or at any of the regional Department of Fish and Wildlife offices.

- Permits will be drawn by random computer selection.
- There are no refunds or exchanges for deer or elk tags for persons applying for special permits.

Special Hunting Season Permits

You MUST have a valid hunting license and tag to apply for any special hunting season set by the Fish and Wildlife Commission. (Special hunting seasons do not include hunts open to all hunters.)

SPECIAL DEER PERMIT HUNTING SEASONS
(Open to Permit Holders Only)

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts.

Use the FOUR DIGIT HUNT-NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1001	Curlew A	50	Oct. 8-14	Whitetail, Antlerless Only	GMU 100
1002	Boulder	50	Oct. 8-14	Whitetail, Antlerless Only	GMU 103
1003	Kelly Hill	200	Oct. 8-14	Whitetail, Antlerless Only	GMU 105
1004	Douglas	400	Oct. 8-14	Whitetail, Antlerless Only	GMU 108
1005	Aladdin A	125	Oct. 8-14	Whitetail, Antlerless Only	GMU 111
1006	Aladdin B	25	Nov. 23-27	Whitetail, Either Sex	GMU 111
1007	Selkirk	50	Oct. 8-14	Whitetail, Antlerless Only	GMU 113
1008	Chewelah	200	Oct. 8-14	Whitetail, Antlerless Only	GMU 118
1009	Boyer A	275	Oct. 8-14	Whitetail, Antlerless Only	GMU 119
1010	Boyer B	25	Nov. 23-27	Whitetail, Either Sex	GMU 119
1011	Huckleberry	875	Oct. 8-14	Whitetail, Antlerless Only	GMU 121
1012	Mt. Spokane	500	Oct. 8-14	Whitetail, Antlerless Only	GMU 124
1013	Cheney	100	Oct. 8-14	Antlerless Only	GMU 130
1014	Roosevelt	500	Oct. 8-14	Antlerless Only	GMU 133
1015	Harrington	150	Nov. 9-20	Antlerless Only	GMU 136
1016	Steptoe	300	Nov. 9-20	Antlerless Only	GMU 139
1017	Almota	400	Nov. 9-20	Antlerless Only	GMU 142
1018	Mayview A	300	Oct. 15-23	Antlerless Only	GMU 145
1019	Mayview B	100	Oct. 15-23	Whitetail, Antlerless Only	GMU 145
1020	Starbuck	200	Nov. 9-20	Antlerless Only	GMU 148
1021	Blue Creek	150	Nov. 9-20	Whitetail, Antlerless Only	GMU 154
1022	Touchet	75	Nov. 9-20	Whitetail, Antlerless Only	GMU 160
1023	Eckler	75	Nov. 9-20	Whitetail, Antlerless Only	GMU 161

1024	Marengo A	125	Nov. 9-20	Whitetail, Antlerless Only	GMU 163
1025	Marengo B	175	Nov. 9-20	Antlerless Only	GMU 163
1026	Peola	200	Nov. 9-20	Antlerless Only	GMU 178
1027	Couse A	100	Nov. 9-20	Whitetail, Antlerless Only	GMU 181
1028	Blue Mtns. Foothills A	100	Nov. 9-22	Whitetail, 3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1029	Blue Mtns. Foothills B	100	Nov. 9-22	Whitetail, 3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1030	East Okanogan	50	Dec. 7-14	Whitetail, Either Sex	GMUs 200, 206
1031	West Okanogan	50	Dec. 7-14	Whitetail, Either Sex	GMUs 209, 218, 224, 231, 233
1032	Wannacut A	50	Oct. 31-Nov. 6	Antlerless Only	GMU 209
1033	Sinlahekin A	50	Oct. 31-Nov. 6	Whitetail, Antlerless Only	GMU 215
1034	Sinlahekin B	25	Dec. 7-14	Whitetail, Either Sex	GMU 215
1035	Chewuch	100	Oct. 31-Nov. 6	Antlerless Only	GMU 218
1036	Pearrygin	200	Oct. 31-Nov. 6	Antlerless Only	GMU 224
1037	Gardner	100	Oct. 31-Nov. 6	Antlerless Only	GMU 231
1038	Pogue	100	Oct. 31-Nov. 6	Antlerless Only	GMU 233
1039	Big Bend A	50	Oct. 17-23	Antlerless Only	GMU 248
1040	Badger	50	Oct. 17-23	Antlerless Only	GMU 266
1041	Moses Coulee A	50	Oct. 17-23	Antlerless Only	GMU 269
1042	Beezley	50	Oct. 17-23	Antlerless Only	GMU 272
1043	Wenatchee	200	Nov. 1-15	Antlerless Only	Portion of GMU 314*
1044	Douglas	100	Nov. 1-4	Either sex	GMUs 352, 356, 360
1045	Green River A	40	Oct. 22-28	Either Sex	GMU 485
1046	Green River B	30	Oct. 22-28	Antlerless Only	GMU 485
1047	Lincoln	200	Oct. 22-31	Either Sex	GMU 501
1048	Mossyrock	100	Oct. 22-31	Either Sex	GMU 505
1049	Willapa Hills	75	Oct. 22-31	Either Sex	GMU 506
1050	Stormking	50	Oct. 22-31	Either Sex	GMU 510
1051	Sawtooth	50	Oct. 22-31	Either Sex	GMU 512
1052	Packwood	30	Oct. 22-31	Either Sex	GMU 516
1053	Ryderwood	50	Oct. 22-31	Either Sex	GMU 530
1054	Coweeman	60	Oct. 22-31	Either Sex	GMU 550
1055	Lewis River	50	Oct. 22-31	Either Sex	GMU 560
1056	Siouxon	50	Oct. 22-31	Either Sex	GMU 572
1057	Hoko	50	Oct. 22-31	Either Sex	GMU 601
1058	Pysht	100	Oct. 22-31	Either Sex	GMU 603
1059	Soleduck	35	Oct. 22-31	Either Sex	GMU 607
1060	Goodman	50	Oct. 22-31	Either Sex	GMU 612
1061	Clearwater	70	Oct. 22-31	Either Sex	GMU 615
1062	Olympic	130	Oct. 22-31	Either Sex	GMU 621
1063	Coyle	100	Oct. 22-31	Either Sex	GMU 624
1064	Mason Lake	60	Oct. 22-31	Either Sex	GMU 633
1065	Skokomish	100	Oct. 22-31	2 Pt. Min. or Antlerless	GMU 636
1066	Wynoochee	75	Oct. 22-31	Either Sex	GMU 648
1067	North River	25	Oct. 22-31	Either Sex	GMU 658
1068	Minot Peak	75	Oct. 22-31	Either Sex	GMU 660
1069	Capitol Peak	30	Oct. 22-31	Either Sex	GMU 663
1070	Deschutes	75	Oct. 22-31	Either Sex	GMU 666
1071	Skookumchuck	200	Oct. 22-31	Either Sex	GMU 667
1072	Palix	25	Oct. 22-31	Either Sex	GMU 669
1073	Fall River	75	Oct. 22-31	Either Sex	GMU 672
1074	Nemah	25	Oct. 22-31	Either Sex	GMU 678

PERMANENT

*Successful applicants will be mailed a map of the hunt boundary.

DEER MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1075	Blue Creek B	50	Nov. 23-Dec. 4	Whitetail, 3 Pt. Min. or Antlerless	GMU 154
1076	Wannacut B	100	Nov. 12-20	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 209
1077	Chiliwist	200	Nov. 12-20	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 239
1078	Alta	150	Nov. 12-20	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 242
1079	Moses Coulee B	50	Nov. 26-Dec. 18	Antlerless Only	GMU 269
1080	Manson	100	Nov. 12-20	Either Sex	GMU 300
1081	Chiwawa	100	Nov. 12-20	Either Sex	GMU 304
1082	Stillaguamish	100	Dec. 3-11	Antlerless Only	GMU 448
1083	Yale	50	Nov. 23-Dec. 13	Either Sex	GMU 554

YOUTH HUNTER OPPORTUNITY

Applicants must be 16 years old or younger and must be accompanied by an adult during the hunt.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1084	Northeast A	500	Oct. 15-31	Whitetail Only, Either Sex	GMUs 100-124
1085	Mica, Cheney	100	Oct. 15-23	Either Sex	GMUs 127, 130
1086	Lincoln	100	Oct. 15-23	Either Sex	GMUs 133, 136
1087	Whitman	100	Oct. 15-23	Either Sex	GMUs 139, 142
1088	Big Bend B	25	Oct. 15-23	Antlerless Only	GMU 248
1089	Blue Mtns. Foothills C	125	Oct. 15-23	Either Sex	GMUs 148, 151, 154, 160, 161, 166
1090	Blue Mtns. Foothills D	125	Oct. 15-23	Either Sex	GMUs 145, 172, 175, 178, 181
1091	Toutle	25	Oct. 15-30	Either Sex	GMU 556
1092	Wind River	25	Oct. 22-Nov. 6	Either Sex	GMU 574
1093	Skookumchuck	40	Oct. 22-31	Either Sex	GMU 667

SENIOR HUNTER OPPORTUNITY

Applicants must be 65 years of age or older.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1094	Northeast B	300	Oct. 15-31	Whitetail Only,	GMUs 100-124
1095	Southcentral	300	Oct. 15-23	Either Sex	GMUs 127-142
1096	Blue Mtns. Foothills E	100	Oct. 15-23	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 166
1097	Blue Mtns. Foothills F	100	Oct. 15-23	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Only hunters who have successfully completed the Department of Fish and Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt deer in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1098	Roosevelt A	25	Nov. 23-27	Whitetail, Either Sex	GMU 133
1099	Almota	25	Nov. 23-27	Whitetail, Either Sex	GMU 142
1100	Wenatchee	10	Nov. 16-30	Either Sex	Portion of GMU 314*
1101	Mt. Adams	5	Oct. 1-12	2-Pt. Min. or Antlerless Only	Elk Area 059

In addition, other AHE permits are available on Private Lands Wildlife Management hunts.
*Successful applicants will be mailed a map of the hunt boundary.

SPECIAL HUNTS FOR DISABLED, BLIND OR VISUALLY IMPAIRED

Hunters must purchase a hunting license and modern firearm or muzzleloader deer tag prior to purchase of a special hunting season permit application. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for these permits.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1102	Blue Mtn. Foothills G	10	Oct. 15-23	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 166
1103	Douglas	25	Nov. 23-27	Whitetail, Either Sex	GMU 108
1104	Big Bend C	25	Oct. 20-25	Antlerless Only	GMU 248
1105	Entiat	25	Nov. 1-15	Antlerless Only	GMU 308
1106	Green River	5	Oct. 22-28	Antlerless Only	GMU 485
1107	Margaret	25	Oct. 15-30	Antlerless Only	GMU 524
1108	Bear River	20	Oct. 15-30	2 Pt. Min. or Antlerless	GMU 681

In addition, special permits for disabled, blind or visually handicapped are available on Private Lands Wildlife Management hunts.

DEER PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Wilson Creek Area

There will be up to 20 hunters authorized to participate in a special hunt for which an access fee will be charged. The hunter must have a valid hunting license, transport tag, and written authorization from the landowner to participate in this hunt. Only Modern Firearm hunters may apply for the hunts on PLWMA 201. All other hunting regulations apply.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
*	Wilson A	20	Oct. 1-Dec. 31	Buck Only	PLWMA 201
1109	Wilson B	2	Oct. 1-31	Buck Only, Young Hunters Only**	PLWMA 201
	Wilson C	50	Oct. 1-Dec. 31	Antlerless Only, Young Hunters Only**	PLWMA 201
	Wilson D	10	Oct. 1-Dec. 31	Antlerless Only, Disabled or Blind/Visually Handicapped Hunters Only	PLWMA 201
	Wilson E	10	Oct. 1-Dec. 31	Antlerless Only, AHE Hunters Only	PLWMA 201

* No hunt number because hunter must contact landowner, David Stevens, for access.

**Applicants must be 16 years old or younger and must be accompanied by an adult during the hunt.

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
1110	Kapowsin North	50	Dec. 9-13	Antlerless Only, Senior Hunters (Age 65+)	PLWMA 401A North
1111	Kapowsin Central	100	Dec. 9-13	Antlerless Only	PLWMA 401B Central
1112	Kapowsin South	100	Dec. 10, 11, 17, 18	Antlerless Only, Young or Disabled or Blind/ Visually Handicapped Hunters Only	PLWMA 401C South

Special Elk Hunting Seasons
(Open to Permit Holders Only)

Hunters must purchase a hunting license and elk tag prior to purchase of a permit application. Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see Elk Tag Prefix required to apply for each hunt). Hunters drawing a permit for a hunt after the first of the year can use their 1994 license and tag during the hunt.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2001	Aladdin	30	Oct. 29-Nov. 6	Either Sex	BL or BM	GMU 111
2002	Selkirk	50	Oct. 29-Nov. 6	Either Sex	BL or BM	GMU 113
2003	Mount Spokane	30	Oct. 29-Nov. 6	Antlerless Only	BL or BM	GMU 124
2004	Mica, Cheney	250	Oct. 29-Nov. 6	Either Sex	BL or BM	GMUs 127, 130
2005	Blue Creek A	40	Oct. 29-Nov. 6	Spike Bull or Antlerless	BL or BM	GMU 154
2006	Blue Creek B	10	Oct. 26-Nov. 6	Any Bull	BE	GMU 154
2007	Watershed	100	Oct. 29-Nov. 6	3 Pt. Min. or Antlerless	BL or BM	GMU 157
2008	Touchet	10	Oct. 26-Nov. 6	Any Bull	BE	GMU 160
2009	Eckler	10	Oct. 26-Nov. 6	Any Bull	BE	GMU 161
2010	Touchet, Marengo	25	Dec. 15-Jan. 15, 1995	Antlerless Only	BL or BM	GMUs 160*, 161*
2011	Tucannon	10	Oct. 26-Nov. 6	Any Bull	BE	GMU 166
2012	Wenaha A	4	Oct. 1-6	Any Bull	BE	GMU 169
2013	Wenaha B	12	Oct. 26-Nov. 6	Any Bull	BE	GMU 169
2014	Mountain View A	25	Dec. 15-Jan. 15, 1995	Antlerless Only	BL or BM	GMU 172
2015	Mountain View B	10	Oct. 26-Nov. 6	Any Bull	BE	GMU 172
2016	Couse A	40	Oct. 29-Nov. 6	Spike Bull or Antlerless	BL or BM	GMU 181
2017	Couse B	3	Oct. 26-Nov. 6	Any Bull	BE	GMU 181
2018	Joseph/Black Butte	1	Oct. 26-Nov. 6	Any Bull	BE	GMUs 184-185
2019	Chelan	40	Oct. 15-Nov. 1	Any Elk	CL or CM	GMUs 300, 301, 304, 306, 308, 316

2020	Naneum A	100	Oct. 23-25	Antlerless Only	CL or CM	GMU 328
2021	Naneum B	100	Oct. 26-Nov. 1	Any Bull	CL or CM	GMU 328
2022	Malaga A	150	Sept. 1-Oct. 6	Antlerless Only	CL or CM	Elk Area 032
2023	Malaga B	150	Nov. 2-Jan. 15, 1995	Either Sex	CL or CM	Elk Area 032
2024	Peshastin A	150	Sept. 1-Oct. 6	Antlerless Only	CL or CM	Elk Area 033
2025	Peshastin B	150	Nov. 2-Jan. 15, 1995	Either Sex	CL or CM	Elk Area 033
2026	Quilomene A	200	Oct. 23-25	Antlerless Only	CL or CM	GMU 329
2027	Quilomene B	80	Oct. 26-Nov. 1	Any Elk	CL or CM	GMU 329
2028	West Bar A	25	Oct. 23	Antlerless Only	CL or CM	GMU 330
2029	West Bar B	25	Oct. 24	Antlerless Only	CL or CM	GMU 330
2030	West Bar C	25	Oct. 25	Antlerless Only	CL or CM	GMU 330
2031	Swauk	60	Oct. 25-Nov. 13	Any Bull	CL or CM YL or YM	GMUs 302, 335
2032	Taneum	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 336
2033	Manastash	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 340
2034	Shushuskin	100	Nov. 23-Dec. 15	Antlerless Only	YL or YM	Elk Area 031
2035	Umtanum A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 342
2036	Peaches Ridge	100	Oct. 25-Nov. 13	Any Elk	YL or YM	GMUs 336, 346
2037	Little Naches A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 346
2038	Little Naches B	35	Oct. 1-Nov. 13	Any Elk	YL or YM	GMU 346
2039	Observatory	110	Nov. 5-13	Any Elk	YL or YM	GMUs 340, 342
2040	Douglas	100	Oct. 25-Nov. 13	Any Elk	YL or YM	GMUs 352, 356
2041	Nile	150	Nov. 1-4	Antlerless Only	YL or YM	GMU 352
2042	Bumping	600	Nov. 1-4	Antlerless Only	YL or YM	GMU 356
2043	Bethel A	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 360
2044	Bethel B	100	Nov. 5-13	Any Elk	YL or YM	GMU 360
2045	Rimrock A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 364
2046	Rimrock B	25	Oct. 25-Nov. 13	Any Elk	YL or YM	GMU 364
2047	Cowiche A	200	Nov. 1-4	Antlerless Only	YL or YM	GMU 368
2048	Cowiche B	30	Nov. 5-13	Any Elk	YL or YM	GMU 368
2049	White River A	25	Nov. 2-13	Any Bull	WE or WM	GMU 472
2050	Green River Cow A	25	Nov. 12-16	Antlerless Only	WL or WM	GMU 485
2051	Green River Bull	15	Nov. 12-16	3 Pt. Min. or Antlerless	WL or WM	GMU 485
2052	Green River Spike	5	Nov. 12-16	Spike or Antlerless Only	WL or WM	GMU 485
2053	Lincoln	25	Nov. 15-20	Antlerless Only	WL or WM	GMU 501
2054	Willapa Hills	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 506
2055	Packwood	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 516
2056	Margaret Cow	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 524
2057	Margaret Bull	30	Nov. 2-13	3 Pt. Min.	WL or WM	GMU 524
2058	Ryderwood	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 530
2059	Toutle Cow	75	Nov. 15-20	Antlerless Only	WL or WM	GMU 556
2060	Toutle Bull	200	Nov. 2-13	3 Pt. Min.	WL or WM	GMU 556
2061	Marble	60	Nov. 15-20	Antlerless Only	WL or WM	GMU 558
2062	Lewis River	125	Nov. 15-20	Antlerless Only	WL or WM	GMU 560
2063	Siouxon	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 572
2064	Dickey Bull A	10	Oct. 1-9	3 Pt. Min.	WL or WM	GMU 602
2065	Dickey Bull B	75	Nov. 1-13	3 Pt. Min.	WL or WM	GMU 602
2066	Soleduck	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 607

PERMANENT

2067	Goodman	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 612
2068	Matheny	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 618
2069	Quinault Ridge	5	Oct. 1-13	3 Pt. Min.	WL or WM	GMU 638
2070	Wynoochee	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 648
2071	Minot Peak	100	Oct. 8-13	Antlerless Only	WL or WM	GMU 660
2072	Palix	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 669
2073	Nemah	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 678
2074	Backbone	55	Nov. 24-Dec. 14	Either Sex	WL or WM	Elk Area 025
2075	Curtis	50	Dec. 20-31	Antlerless Only	WL or WM	Elk Area 050
2076	Boistfort A	50	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 054
2077	East Valley	25	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 055
2078	Carlton	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 057
2079	West Goat Rocks	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 058
2080	Mt. Adams	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 059
2081	Mt. Tebo	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 061
2082	South Willapa	10	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 067

*Outside of Umatilla National Forest.

SPECIAL HUNTS FOR DISABLED, BLIND OR VISUALLY IMPAIRED

Hunters must purchase a hunting license and modern firearm or muzzleloader elk tag prior to purchase of a special hunting season permit application. Note elk tag required. Only those hunters with a Washington Disabled Hunter Permit or a Washington Blind or Visually Handicapped Hunter Permit may apply.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
3001	Eckler	10	Dec. 15-Jan. 15, 1995	Antlerless Only	BL or BM	GMU 161*
3002	Naches D	10	Oct. 1-14	Any Elk	YL or YM	GMU 346
3003	Quilomene	10	Nov. 1-13	Antlerless Only	CL or CM	GMU 329
3004	Manastash	10	Nov. 1-13	Antlerless Only	YL or YM	GMU 340
3005	Green River Cow B	5	Nov. 12-16	Antlerless Only	WL or WM	GMU 485
3006	Centralia Mine A	6	Nov. 19-20	Antlerless Only	Any Elk Tag	Portion of GMU 667**
3007	Centralia Mine B	7	Nov. 26-27	Antlerless Only	Any Elk Tag	Portion of GMU 667**
3008	Centralia Mine C	7	Dec. 3-4	Either Sex	Any Elk Tag	Portion of GMU 667**

*Outside of Umatilla National Forest
**Successful applicants will be mailed a map of the hunt boundary.

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Only hunters who have successfully completed the Department of Fish and Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt elk in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Descriptions
2083	South Spokane	25	Oct. 20-Nov. 20	Either Sex	Elk Area 010
2084	Shushuskin	20	Dec. 16-30	Antlerless Only	Elk Area 031
2085	Margaret	5	Oct. 1-12	3 Pt. Min. or Antlerless Only	GMU 524
2086	Skookumchuck	5	Oct. 8-13	Either Sex	GMU 667

MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
4001	Blue Creek C	40	Dec. 1-Jan. 31, 1995	Antlerless Only	BM	GMU 154
4002	Mountain View C	25	Oct. 7-13	Spike Bull or Antlerless	BM	GMU 172
4003	Mountain View D	20	Oct. 7-13	Any Bull	BM	GMU 172
4004	Mission	55	Oct. 7-12	Any Bull	CM	GMU 314
4005	Cle Elum A	75	Oct. 1-12	Any Elk	YM	ML Area 910
4006	Cle Elum B	75	Nov. 16-Dec. 8	Any Elk	YM	ML Area 910
4007	Umtanum B	75	Oct. 8-12	Any Elk	YM	GMU 342
4008	Cowiche C	90	Oct. 8-12	Any Elk	YM	GMU 368
4009	Coal Creek	10	Nov. 12-Dec. 12	Antlerless Only	WM	ML Area 940
4010	Stella	50	Nov. 23-Dec. 13	Either Sex	WM	GMU 504
4011	Boistfort B	50	Jan. 16-31, 1995	Antlerless Only	WM	Elk Area 054
4012	Yale	75	Nov. 23-Dec. 13	Either Sex	WM	GMU 554
4013	Toledo	150	Jan. 2-16, 1995	Antlerless Only	WM	Elk Area 029
4014	Hoko River A	15	Jan. 1-15, 1995	Antlerless Only	WM	ML Area 961
4015	Hoko River B	15	Jan. 16-Feb. 15, 1995	Antlerless Only	WM	ML Area 961
4016	Chinook	5	Jan. 16-Feb. 15, 1995	Antlerless Only	WM	Elk Area 069
4017	North River	30	Nov. 19-Dec. 7	Antlerless Only	WM	GMU 658
4018	Elwha A	5	Dec. 15-Jan. 15, 1995	Antlerless Only	WM	ML Area 962

ARCHERY ONLY

Hunters must purchase a hunting license and archery elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2087	Blue Mountains West	16	Sept. 1-14	Either Sex	BA	GMUs 154, 160, 161, 166, 169
2088	Blue Mountains East	16	Sept. 1-14	Either Sex	BA	GMUs 178, 181, 184, 185
2089	Colockum	130	Sept. 1-14	Any Elk	CA	GMUs 328, 329
2090	Robinson	145	Sept. 1-14	Any Elk	YA	GMUs 336, 340
2091	Taneum	25	Nov. 23-Dec. 8	Any Elk	YA	GMU 336
2092	Douglas	75	Sept. 1-14	Any Elk	YA	GMUs 352, 356
2093	Divide	35	Nov. 23-Dec. 8	Any Elk	YA	Bow Area 806, 807
2094	Cottonwood	90	Sept. 1-14	Any Elk	YA	GMUs 364, 366, 368
2095	White River	10	Sept. 1-14	Either Sex	WA	GMU 472

Private Lands Wildlife Management Permit Opportunities

Champion's Kapowsin Tree Farm

Muzzleloader Elk Permits

Hunt No.	Hunt Name	No. Permits	Permit Season	Special Restrictions	Boundary Description
2096	Kapowsin North	80	Nov. 23-Dec. 5	Spike Bull or Antlerless Only	PLWMA 401A North
2097	Kapowsin Central	15	Nov. 23-Dec. 5	Spike Bull or Antlerless Only	PLWMA 401B Central
2098	Kapowsin South	15	Nov. 23-Dec. 5	Spike Bull or Antlerless Only	PLWMA 401C South

PERMANENT

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-237	1993-94 Deer and elk permit hunting seasons

WSR 94-11-054
PERMANENT RULES
DEPARTMENT OF SERVICES FOR THE BLIND

[Filed May 10, 1994, 4:07 p.m.]

Date of Adoption: May 10, 1994.

Purpose: Clarify any confusion caused by inadvertent repetition of beginning sentence of subsection (19)(c).

Citation of Existing Rules Affected by this Order: Amending WAC 67-35-030.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Pursuant to notice filed as WSR 94-07-067 on March 14, 1994.

Changes Other than Editing from Proposed to Adopted Version: Deleted first sentence of subsection (19)(c).

Effective Date of Rule: Thirty-one days after filing.

May 10, 1994
Bonnie Jindra
Assistant Director

AMENDATORY SECTION (Amending WSR 93-10-067, filed 5/3/93, effective 6/3/93)

WAC 67-35-030 Terms defined. The terms defined in this section shall have the indicated meaning when used in this chapter.

(1) "Agreement" means that document issued by the department to a blind licensee assigning responsibility for the management of a designated vending facility in accordance with these rules and the terms and conditions of the permit or contract.

(2) "Blind" means visual acuity of no more than 20/200 in the better eye with correcting lenses; or if visual acuity is greater than 20/200, a limitation in the field of vision of the better eye so that its widest diameter subtends an angle of nogreater than 20 degrees, as determined by an examination by a physician skilled in diseases of the eye, or an optometrist, whichever the person chooses.

(3) "Blind licensee" or "licensee" means a person licensed by the department to operate a vending facility in the vending facility program, but who is not assigned a vending facility.

(4) "Blind vendor" or "vendor" means a person licensed by the department to operate a vending facility in the vending facility program and who is assigned a vending facility.

(5) "Contract" means the negotiated terms and conditions between the manager controlling federal or other property and the department covering the operation of a vending facility on federal or other property.

(6) "Cost of goods purchased and other operating expenses" this item of the income statement includes the cost of goods purchased and the operating expenses such as maintenance of equipment, rent, utilities, insurance, Social Security, workmen's compensation, pest control, delivery services, licenses, state and local taxes.

(7) "Department" means the Washington department of services for the blind.

(8) "Equipment" means all appliances, utensils, counters, cupboards, storage devices, furniture and other furnishings used in the operation of the vending facility, to which the department retains title.

(9) "Federal property" means any building, land or other real property owned, leased or occupied by any department, agency or instrumentality of the United States including the Department of Defense and the United States Postal Service, or any other instrumentality wholly owned by the United States.

(10) "Gross income" is the aggregate of gross sales, all machine income received by vendors, rebates and any other income received by the vending operations.

(11) "License" means a written instrument issued by the department to a blind person authorizing that person to operate a vending facility on federal or other property.

(12) "Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-

service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. "Management services" does not include those services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.

(13) "Net proceeds" - (net profit) means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding set-aside charges required to be paid by blind vendors).

(14) "Other property" means property which is not federal property.

(15) "Permit" means the official approval given the department by another department, agency or instrumentality in control of the maintenance, operation and protection of federal property, or a person in control of other property, whereby the department is authorized to establish a vending facility.

(16) "Public building" means any building which is owned by the state of Washington or any political subdivision thereof, and any space leased by the state of Washington or any political subdivision thereof in any privately-owned building: *Provided,* That any vending facility or vending machine under the jurisdiction and control of a local board of education shall not be included without the consent and approval of that local board.

(17) "Program" means the vending facility program, (also known as the business enterprises program) including all of the activities, obligations and relationships described in this chapter.

(18) "Set aside funds" means any income from vending machines on federal property received by the department and not paid to vendors as income under provision of 34 CFR, section 395.8 (a), (b), and (c).

(19) "Vending facility" means cafeterias, snack bars, vending counters, vending carts, vending machines or any combination of the above, at which food, tobacco, refreshments or sundries are offered for sale, and which operate under the vending facility program. Vending facilities will be identified by the following classifications:

(a) "Cafeteria" means a food dispensing vending facility capable of merchandising a broad variety of prepared foods and beverages. Characteristically, the cafeteria has specialized equipment, a food preparation area, and booths and tables for seating. Vending machines may be part of a cafeteria.

(b) "Other types of facilities" means those facilities not included under the cafeteria or vending machine, such as snack bars, lunch counters and dry stands which provide a variety of articles dispensed manually by the vendor.

(i) "Dry stand" means a vending facility which merchandises, among other things, tobacco, sundries and prepackaged food and refreshment items. Characteristically, the dry stand has no specialized equipment for refrigerating or heating foods or beverages, nor any food preparation area. Merchandise is consumed away from the dry stand. Vending machines may be a part of the dry stand.

(ii) "Lunch counter" means a vending facility which merchandises, among other things, lines of refreshment and food items suitable for a light meal. Characteristically, the lunch counter has specialized equipment for the refrigerating, cooking or heating of foods and beverages, and has a limited food preparation area. Merchandise may be consumed at or away from the lunch counter. Vending machines may be part of the facility.

(iii) "Snack bar" means a vending facility which merchandises, among other things, limited lines of refreshment and prepared food items. Characteristically, a snack bar has specialized equipment for refrigerating or heating foods and beverages but has no food preparation area. Merchandise may be consumed at or away from the snack bar. Vending machines may be a part of the facility.

(c) ((~~"Vending machine facility" means a vending facility comprised of coin or currency operated machines merchandising, among other things, a variety of food and refreshment items.~~)) "Vending machine facility" means a vending facility comprised of coin or currency operated machines merchandising, among other things, a variety of food and refreshment items. The vendor is responsible for the management of the machines and usually performs such functions as loading and servicing the machines and other customer-related services. Characteristically, there is no provision for booth or table seating at such a facility.

(20) "Vending machine" means any coin-operated machine offering food, refreshments, tobacco or sundries for sale.

(21) "Primary location" means any location that is acquired through the bid process pursuant to the provisions of WAC 67-35-070.

(22) "Nonprimary location" means any location that is bid per WAC 67-35-070 and is awarded for a temporary period of time not to exceed one year from the date of award.

WSR 94-11-055
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed May 10, 1994, 4:45 p.m.]

Date of Adoption: February 11, 1994.

Purpose: WAC 308-72-543, establishes rules on which alcohol producers may claim exemption from the motor vehicle fuel tax and how exempt alcohol is to be handled by distributors; WAC 308-72-660, establishes additional formula for determining fuel usage by power take-off units; WAC 308-72-665, establishes rules on the use of on board computers for production of records; and WAC 308-72-690, to allow the refund claim on fuel used in all terrain vehicles and off road vehicles for that portion used for nonrecreational purposes.

Citation of Existing Rules Affected by this Order: Amending WAC 308-72-660, 308-72-690; and new sections WAC 308-72-543 and 308-72-665.

Statutory Authority for Adoption: RCW 82.36.435.

Pursuant to notice filed as WSR 94-02-076 on January 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: Addition of one percentage exemption for log truck with self loader at 20% to those exemptions contained in WAC 308-72-660.

Effective Date of Rule: Thirty-one days after filing.

May 2, 1994
Kathy Baros Friedt
Director

NEW SECTION

WAC 308-72-543 Alcohol exemption. (1) "Alcohol" means alcohol that is produced from renewable resources. Alcohol used as motor fuel or a component of motor vehicle fuel is subject to the motor vehicle fuel tax under RCW 82.36.025 unless the alcohol was manufactured by a company that has been certified by the department as having sold less than eight million gallons of alcohol for use as motor fuel in the prior calendar year.

(2) A company verified by the department as meeting the exemption criteria will be certified, and alcohol produced by a certified company will be called "exempt alcohol". The total volume of sales for the company, regardless of the number of alcohol plants the company might own or operate, must meet the criteria. A company which has newly started alcohol production and whose total sales record for the prior calendar year meets the criteria is certifiable even if its targeted production and sales for the current calendar year exceeds the exemption criteria. The certification will be valid only for the calendar year it was issued. All certified companies automatically loose their exempt status at the end of the calendar year unless the company is recertified for the next calendar year.

(3) Certified companies must apply for recertification for the coming calendar year by November 15 on forms provided by the department. The department will furnish all licensed distributors by December 15 with the list of companies which qualify for certification. Actual certification will not be issued until the applicants submit to the department a copy of their annual alcohol production and sales report to the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the Treasury. Companies not required to make such alcohol production and sales reports to the U.S. Department of the Treasury shall submit a notarized documentation attesting to their actual annual production and sales of alcohol during their year of certification. Companies not listed must seek certification from the department if they believe that they qualify.

(4) The department will furnish all licensed distributors with the list of certified companies. Companies not listed must seek certification from the department if they believe that they qualify for exemption.

(5) Commingling of alcohol in storage is permitted provided that an accurate accountability of both the exempt alcohol and nonexempt alcohol is maintained at all times.

Distributors may use any reasonable method of accounting for exempt and nonexempt alcohol held in commingled storage. They may use a first in first out (FIFO) method, a last in last out (LIFO) method, or a method in which commingled storage is accounted for as a segregate storage. Whichever method is used, distributors must maintain records showing the volumes of exempt and nonexempt alcohol entered into storage, and volumes of exempt and nonexempt alcohol blended, sold, exchanged, or otherwise disposed of.

(6) Exchanges of alcohol between distributors is permitted, but for claiming exemption from the fuel tax, only exempt alcohol may be exchanged with other exempt alcohols.

Licensed distributors selling or exchanging exempt alcohol must complete a supplementary schedule with their monthly motor vehicle fuel tax returns, on forms supplied by the department, showing each sale or exchange delivery of exempt alcohol by date, volume sold or exchanged, the name of the distributor to whom the alcohol was sold or exchanged, and the receiving distributors license number.

(7) Alcohol produced by a certified company retains its status as exempt from the motor vehicle fuel tax regardless of the date it was actually sold. Exempt alcohol retains and maintains its tax exempt status even if the certified company which manufactured and sold the alcohol does not get recertified.

(8) Alcohol producing companies which sell, distribute, or use alcohol in this state must apply for a distributor license required by RCW 83.36.060 whether they are certified or not.

(9) To substantiate the exempt nature of alcohol purchased by distributors from certified companies, or traders, or brokers dealing in such alcohol, the contract, invoice, bill of lading or documentation must describe the alcohol as exempt from the Washington motor vehicle fuel tax and include the certified company's certification number.

AMENDATORY SECTION (Amending Order 107MV, filed 9/10/71)

WAC 308-72-660 Power take-off use. (1) Tax refund may be claimed for fuel used in a motor vehicle which is equipped with a power take-off unit to operate auxiliary equipment provided that the fuel used for power take-off operation is supplied from a tank which is not connected with a tank supplying fuel to propel the vehicle on the highway or if the fuel used to operate the auxiliary equipment by the power take-off is accurately measured by a metering device that has been specifically approved by the director, and, in certain motor vehicles, when established by the following formula:

(a) For gasoline used in pumping fuel oil or heating oil by means of a power take-off unit on a delivery truck at the rate of three-fourths of one gallon for each one thousand gallons of fuel or heating oil delivered. Pumping of gasoline or other refined petroleum products does not apply and claimant shall make a deduction for those products, other than fuel oil, pumped through the meter, pumping out of tanks, testing of meters or other uses. FUEL OIL DELIVER TRUCK OPERATORS must maintain records which show the total gallons of fuel oil or heating oil pumped by each vehicle for which refund is claimed together with supporting meter readings.

(b) For gasoline used in operating a power take-off unit on a cement mixer truck or for gasoline used in operating a power take-off unit which operates a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of gasoline used in each truck. Garbage trucks with power take-off units which operate only a dump box, hoist or other type of lift shall not apply. CEMENT MIXER TRUCK AND GARBAGE TRUCK OPERATORS must maintain records which show the total gallons of fuel used and the total miles operated for each vehicle.

(c) For gasoline used in operating a power take-off unit on any of the vehicles listed herein when direct measurement is not feasible, at the rate specified as a percentage of the total taxable fuel used by the vehicles:

Fire trucks (private)	25%
Mobile cranes	25%
Sanitation trucks	25%
Sewer cleaning truck/jet vactor	25%
Super suckers	25%
Line truck with digger/derrick or aerial lift	20%
Log truck with self loader	20%
Refrigeration trucks	20%
Sweeper trucks (must be motor vehicle)	20%
Boom truck/block boom	15%
Bulk feed truck	15%
Dump trailers	15%
Dump trucks	15%
Hot asphalt distribution truck	15%
Leaf truck	15%
Lime spreader	15%
Pneumatic tank truck	15%
Salt spreader on dump truck	15%
Seeder truck	15%
Semi-wrecker	15%
Service truck with jack hammer/drill	15%
Snow plow	15%
Spray truck	15%
Tank transport	15%
Tank trucks	15%
Truck with PTO hydraulic winch	15%
Wrecker	15%
Car carrier with hydraulic winch	10%
Carpet cleaning van	10%
Others	7.5%

If a claimant can provide satisfactory documentation and records to show that the fuel consumed by the power take-off is greater than the percentages indicated, the department may grant the higher percentage on a case by case basis.

(2) All claims must be accompanied by valid purchase invoices to cover the total gallons of gasoline purchased, except that invoices for gasoline used in fuel oil delivery trucks or when measured by a metering device need only be equal to or greater than the gallons claimed as refundable.

(3) If fuel is used from bulk storage, claimant shall maintain a detailed record of all receipts, withdrawals, and beginning and ending inventories to substantiate fuel used in motor vehicles.

(4) A schedule of vehicle operations shall support each claim for refund.

NEW SECTION

WAC 308-72-665 On board computers or recording devices. The use of on board computers or recording devices for the production of records required by chapter 82.36 RCW shall be governed by the requirements or procedures adopted by the International Fuel Tax Agreement (IFTA).

AMENDATORY SECTION (Amending Order PFT 90-03, filed 6/14/90)

WAC 308-72-690 Special rules and requirements for fuel tax refunds. (1) U.S. government. Tax refund shall be allowed for fuel used off the public highways for official use in a motor vehicle owned by the United States. When fuel is sold to agencies of the United States, including taxable sales to the armed forces, and when the original invoice must be forwarded to the federal service agencies to support payment for the fuel, the seller, the federal agency and the state by mutual arrangement shall designate a copy as the only copy to be used in support of a claim for refund of the tax. The invoice so designated shall be deemed the original invoice.

(2) Marine users. Marine users, excluding marine dealers, need only to submit those fuel receipts on which the tax is refundable.

(3) Urban transportation systems. A schedule of vehicle operations of an urban passenger transportation system shall supplement the claim for refund.

(4) Snowmobiles ((~~and all-terrain vehicles~~)). Motor vehicle fuel used ((~~and purchased~~)) for providing the motive power for snowmobiles ((~~and for all-terrain vehicles (ATV), although considered a nonhighway use of fuel,~~)) shall not be claimed for refund of the motor vehicle fuel tax paid thereon.

(5) All terrain vehicles (ATV) and off road vehicles (ORV). Motor vehicle fuel used for providing the motive power for all terrain vehicles and off road vehicles is not refundable except that portion used for non-recreational purposes, inclusive of but not limited to farming, logging, and construction. Any recreational use of all terrain vehicles and off road vehicles, although considered a nonhighway use of fuel, shall not be claimed for refund of the motor vehicle fuel tax paid thereon.

((~~(5)~~)) (6) No refund shall be made and should not be claimed for motor vehicle fuel used in a motor vehicle required to be registered and licensed notwithstanding that such motor vehicle occasionally may be operated over private roads or property which would otherwise be subject to refund.

WSR 94-11-056
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed May 11, 1994, 1:24 p.m.]

Date of Adoption: April 26, 1994.

Purpose: To enable the Department of Health to recover costs needed by enacting new fees for construction permits and operating permits to provide surveillance of pool facilities in areas where local health jurisdictions are unable to provide service.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-260-990.

Statutory Authority for Adoption: RCW 70.90.150 and 43.20B.020.

Pursuant to notice filed as WSR 94-07-121 on March 22, 1994.

Effective Date of Rule: Thirty-one days after filing.

PERMANENT

May 10, 1994
Bruce A. Miyahara
Secretary

PERMANENT

REPEALER

The following section is hereby repealed:

WAC 246-260-990

NEW SECTION

WAC 246-260-9901 Fees (1) CONSTRUCTION PERMIT FEES. The department establishes the fees listed in Table 990.1 for construction permits for carrying out its duties under WAC 246-260-030.

TABLE 990.1

CONSTRUCTION PERMIT FEES

	TYPE OF FACILITY	CONSTRUCTION PERMIT PLAN REVIEW FEES
I.	Swimming Pools	
	(a) 125,000 gallons or more in volume	$535.00
	(b) Greater that 75,000 gallons and less than 125,000 gallons	$320.00
	(c) Greater than 40,000 gallons and less than 75,000 gallons	$210.00
	(d) Less than 40,000 gallons	$160.00
II.	Spa Pools	$160.00
III.	Wading Pools	$105.00
IV.	Spray Pools	$ 80.00
V.	Alterations, renovations, or modifications to existing swimming, spa, wading or spray pools, not to exceed two-thirds of new construction permit fees, or $65/hour (which ever is less).	
VI.	The fees for multiple pools at the same location will be based upon the highest fee for one facility and two thirds of the fee for each additional facility. For example: The fee for a 100,000 gallon swimming pool, a 60,000 gallon swimming pool, and a spa pool will be: $320 + $140 + $107 = $576. The fees for a small 30,000 gallon swimming pool and a spa pool will be $160 + $107 = $267.	

(2) OPERATING PERMIT FEES The department establishes the fees listed in Table 990.2 for operating permits for carry out its duties under WAC 246-260-040.

TABLE 990.2

FEE SCHEDULE
OPERATING PERMITS
Type + Number of Facilities

	Single Swim Pool	Single Spa Pool	Single Wading Pool	Spray Pool or Pools	Each Additional Swim, Spa, or Wading Pool
Operating Permit 0-6 month	$275.00	$240.00	$200.00	$100.00	$60.00
Operating Permit 6-12 months	$450.00	$400.00	$350.00	$150.00	$80.00

Other Terms and Conditions:

(1) The department may charge an additional fee of $85 plus associated laboratory costs for any inspections beyond those provided under the annual operating permit when necessary due to violations of such items as (a) noncompliance with water quality standards, and (b) failure to comply with operational requirements for health and safety.

(2) The department may charge an alternate annual fee for an operating permit based on direct and indirect costs associated with issuance of the permit when arrangements are made with local health jurisdictions to administer all or portions of the duties associated with the operating permit. Except, that the fee for this operating permit cannot exceed the cost established by the previous portions of this regulation, but the fee may be less.

(3) During the first year of development of the operating permit and for new pool facilities built hereafter, or pools temporarily closed (significant period of several months) and reopened, there are provisions for prorating the costs for the operating permits.

(4) A reduction in fees, up to but not exceeding thirty percent, may be granted by the department when a facility operator can demonstrate a satisfactory level of training in pool safety, water quality, maintenance and operations. The department will develop criteria for such fee reductions within six months of the adoption of this regulation.

(5) For limited use facilities requiring operating permits which are serving less than fifteen living units, the operating permit shall be fifty percent of the fee. However, reinspection fees when necessary, will be charged as noted in condition (1).

(6) Fees for multiple facilities at the same physical location shall have a maximum FEE CAP as follows: **Seasonal (0-6 months) WRF's:** $750 **NOTE:** The third and subsequent pool/spa at the same location will be charged $50 for each such additional pool/spa.

Year around (>6 months) WRF's $1000 **NOTE:** The third and subsequent pool/spa at the same physical location will be charged $65 for each such additional pool/spa.

Examples of Fees Charged:

(1) If more than one pool at a facility and one is a year-round pool and another is a seasonal pool — year-round pool is base cost, seasonal pool is charged at additional fee charge. For example: year-round spa = $400 plus

seasonal swimming pool is $60 = $460 total operating permits.

(2) If a single swimming pool and a single spa pool is used at the facility, the fee schedule will include fees as noted. For a 0-6 month permit, the primary fee for the single swimming would be $275 and the spa pool would be viewed as the second pool at the facility and would have a fee of $60, total operating permit fees would be $335.

(3) If there are 12 pools/spas at a single year-around pool facility, the FEE CAP would apply and the maximum fee of $1000 would be charged. ($450 base fee; $80 for first additional pool/spa, $65 for the remaining ten year-around pools/spas (10 x $65 = $650) Total fee before fee cap = $550 + $80 + $650 = $1280. After FEE CAP the total fee=$1000. If approved training were credited to this facility for the maximum 30% discount, the 30% would be applied to the FEE CAP fee of $1000; $1000 - 30% = $700.

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 94-11-057
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3734—Filed May 11, 1994, 2:20 p.m.]

Date of Adoption: May 11, 1994.

Purpose: The 1994 state legislature passed a law eliminating the co-payment provision for medical assistance administration clients.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-87-300 Payment—Co-payment.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-08-046 on March 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 11, 1994
Dewey Brock, Chief
Office of Vendor Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-87-300 Payment—Co-payment.

WSR 94-11-065
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Institutions)
[Order 3735—Filed May 12, 1994, 2:22 p.m.]

Date of Adoption: May 12, 1994.

Purpose: Revises current contracting methodology for consolidated juvenile services to provide an annual comprehensive based block grant contract with the juvenile courts. Provides juvenile courts the ability to target front-end services for their offender population. Available funds will be awarded to the juvenile courts in a block grant designed to allow courts greater flexibility.

Citation of Existing Rules Affected by this Order: Amending WAC 275-35-030 Establishment of a consolidated juvenile services program, 275-35-060 Administration, 275-35-070 Monitoring of performance and evaluation of program impact, and 275-35-080 Distribution of funds and fiscal management.

Statutory Authority for Adoption: RCW 13.06.030.

Pursuant to notice filed as WSR 94-08-007 on March 25, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 12, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 2632, filed 6/7/88)

WAC 275-35-030 Establishment of a consolidated juvenile services program. (1) Request to participate.

(a) A request by a county or group of counties to participate under these provisions shall include a signed resolution or letter of intent submitted to the ((~~division~~)) regional administrator by the executive body expressing intent to participate. The county or group of counties shall include in the request a statement that funds requested will not be used to replace county funds for existing programs. For those counties with juvenile detention facilities, the counties shall include in the resolution or letter of intent standards of operation as outlined under RCW 13.06.050.

(b) After official acceptance by the regional administrator, the county's application shall be considered in determining the division's community program expenditure for the ensuing funding period.

(c) Other public and private sector agencies within the county shall be considered in the development of the application and may be included as subcontractors in the county's request for funding by the division.

(d) Other public and private sector agencies may apply directly to the division for program funds. In such instances said agencies shall be responsible to meet all obligations and requirements specified for participating counties under this chapter.

(2) Program planning process and approval.

(a) Based upon divisional goals, the regional administrator develops the regional plan to assist planning bodies in formulating local priorities and program strategies.

(b) Each participating county shall develop through its existing planning process a program application for the delivery of services and shall agree through submission of the application to comply with the provisions of this chapter.

(c) The application shall be submitted to the review committee who shall review and make comments, which shall include but not be limited to the following areas:

(i) Efforts to identify and utilize existing community services;

(ii) The avoidance of service duplication;

PERMANENT

(iii) Appropriate linkage to and support from other elements of the county's existing juvenile justice, education, and social service systems to reduce or eliminate barriers to effective family centered service delivery; ((~~and~~))

(iv) The extent to which the regional ((~~plan has~~)) priorities have been addressed;

(v) Efforts to address racial disproportionality; and

(vi) Efforts to address issues specific to the Americans with Disabilities Act initiative as it relates to client and family service delivery.

(d) Prior to the submission of the application to the regional administrator, the comments of the review committee shall be considered by the planning body who shall, if needed, either modify the plan or attach to the plan the reasons for not making suggested modifications.

(e) Written guidelines and instructions for preparing the application shall be provided by the division. The application shall be developed in consultation with the regional administrator to ensure the coordination of state, county, and private sector resources within regional boundaries and shall be submitted to the regional administrator for review and approval.

(f) The division may provide planning bodies and review committees with technical services in the development of the application.

AMENDATORY SECTION (Amending Order 2632, filed 6/7/88)

WAC 275-35-060 Administration. (1) Approval of the application shall be contingent upon the designation of a program administrator as well as a supervisor for each project.

Said administrators and supervisors are responsible for the implementation of the program and the accomplishment of stated activities and results.

(2) Administrators or supervisors shall meet at least ((~~twice~~)) annually with the regional administrator to review progress toward the achievement of results and other matters related to the overall implementation and funding of projects within the program.

(3) Administrators or supervisors shall submit reports and data as requested relating to programs and/or projects covered under this chapter to the regional administrator and shall participate with the regional administrator in the development of program and/or project status reports as may be required by the division.

(4) Case records and management information.

(a) Administrators and supervisors shall ensure a case record is kept for each juvenile in projects covered under this chapter. Diversion units will keep only such information as is necessary to monitor and evaluate the referral and disposition activities.

(b) Juvenile offender records shall minimally contain a case plan, based upon assessed factors related to risk to reoffend, setting forth specific objectives and methods and a termination/closing report summarizing case activity and results.

(c) Case records and plans shall be current and reviewed at least quarterly by the project supervisor. Reviews shall be documented in the case record.

(d) The provisions of chapter 13.50 RCW pertaining to the maintenance and confidentiality of social and legal information apply to all programs and projects covered under this chapter.

(e) Administrators and/or supervisors shall provide necessary statistical data to maintain case files in the division's management information system.

(5) Policies and procedures.

(a) Each administrator shall maintain written policies and procedures for the reporting of serious criminal incidents involving juveniles participating in the program and misconduct or malfeasance by staff of the program to the regional administrator.

(b) These policies and procedures shall be submitted as attachments to the application.

(6) Change in application.

(a) Modification of a project requires the advance written approval of the regional administrator and may, at the regional administrator's discretion, require review and comment by the review committee.

(b) Changes in the budget during a funding period are accomplished by transfer, modification, or amendment.

(i) Transfers. The reallocation of funds between line items of the contract ((~~not exceeding four thousand dollars or five percent, whichever is less, of the total budget within a fiscal year~~)) and which does not change the overall scope of the program may be accomplished by written notification to the regional administrator.

(ii) Modifications. Reallocation of funds between line items of the contract ((~~exceeding four thousand dollars or five percent, whichever is less, of the total budget within a fiscal year~~)) requires ((~~advance~~)) written ((~~approval~~)) notification of the regional administrator. The regional administrator may require review and comment by the review committee.

(iii) Amendments. Amendments shall be processed through the division's regional office, and may, at the regional administrator's discretion, require review and comment by the review committee. Amendments are necessary when:

(A) Total contract budget amounts are increased or decreased;

(B) A project is added or deleted;

(C) Increased agency staffing is requested;

(D) ((~~A change exceeds ten percent of the total contract budget;~~

~~(E)~~)) A change moves moneys into a previously vacant line item.

(7) Training. Each participating county or agency shall ensure program staff receive training necessary to execute programs covered under this chapter.

(8) Assumption of division services.

(a) The assumption of division services shall be negotiated between the regional administrator and the administrator and will be reviewed by the director prior to a final decision.

(b) Where such services are assumed, the regional administrator shall provide appropriate orientation and training.

(9) Review board authority in projects covered by this chapter shall rest with the administrator.

AMENDATORY SECTION (Amending Order 2632, filed 6/7/88)

WAC 275-35-070 Monitoring of performance and evaluation of program impact. (1) It shall be the responsibility of the administrator to submit monthly activity reports, administrator's annual narrative reports, corrective action plans and reports, and other such reports as specified in the division's monitoring instructions for the program to the regional administrator.

(2) It shall be the responsibility of the regional administrator to submit to the director progress reports as specified in the division's monitoring instructions for the program.

(3) The regional administrator may, at any time, request a formal program/project or fiscal audit and may also request other available technical services to assist in monitoring and evaluating the program/projects.

AMENDATORY SECTION (Amending Order 2632, filed 6/7/88)

WAC 275-35-080 Distribution of funds and fiscal management. (1) Funding constraints.

(a) Funds for programs covered by this chapter shall be utilized for the achievement of activities and results stated for each project.

(b) Failure on the part of any project to perform in accordance with the provisions of this chapter or to achieve established activities and results may result in the termination or reduction of funds.

(c) The administrator shall be responsible for the management of all fiscal matters related to the program, shall comply with state and local policies and procedures and the terms and conditions of the contract, and shall provide information to the regional administrator at regular and requested intervals.

(2) Limitations of funding.

(a) Funds received by participating counties shall not be used for indirect costs.

(b) Mileage reimbursement and per diem may not exceed the current allowable state or county rate, whichever is less.

(c) Equipment purchases shall be approved in advance by written approval of the regional administrator and shall be processed through the regional office ((~~whenever possible and feasible~~)).

(d) Funds for evaluation are allowable, but the design, scope, and the expected final product shall be clearly specified in the application.

(e) Funds for administration may not exceed ten percent of the total contract award.

(f) Further limitations on the distribution of funds for certain expenditure categories may be set forth in the division's application and budget instructions for the program.

WSR 94-11-069
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 5042—Filed May 13, 1994, 9:15 a.m.]

Date of Adoption: May 13, 1994.

Purpose: To allow broader industry representation in determining the need and requirements for importing noncertified seed potatoes,or otherwise prohibited seed potatoes.

Citation of Existing Rules Affected by this Order: Amending WAC 16-482-016 Exceptions—Permit requirement.

Statutory Authority for Adoption: Chapter 17.24 RCW.

Pursuant to notice filed as WSR 94-07-111 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 13, 1994
James M. Jesernig
Director

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-016 Exceptions—Permit requirement. The director may allow planting of seed potatoes, otherwise prohibited, by special permit. Such permit shall specify the conditions under which planting is allowed and shall be obtained prior to planting. Prior to issuance of a permit, the director shall consult with a committee composed of one member from the Washington state seed potato commission and two members of the Washington state potato commission, appointed by the respective commission chairs, as to the need for and terms of such permit.

WSR 94-11-070
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 5041—Filed May 13, 1994, 9:19 a.m.]

Date of Adoption: May 13, 1994.

Purpose: To repeal the section on greenhouse grow outs for limited generation seed potatoes.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-324-640.

Statutory Authority for Adoption: Chapter 15.14 RCW.

Pursuant to notice filed as WSR 94-07-110 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 13, 1994
James M. Jesernig
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-324-640	Limited generation certified seed potato—Winter test tolerance.

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WSR 94-11-077
PERMANENT RULES
PUGET SOUND AIR POLLUTION CONTROL AGENCY
[Filed May 13, 1994, 3:40 p.m.]

Date of Adoption: May 12, 1994.

Purpose: To enact a contingency requirement for an increase in the oxygen content of gasoline during the months of November through February in the event the area fails to meet the carbon monoxide standard by December 31, 1995.

Citation of Existing Rules Affected by this Order: Amending Puget Sound Air Pollution Control Agency Regulation II - Section 2.09.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 94-08-085 on April 5, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 12, 1994
Gerald S. Pade
Air Pollution Engineer

AMENDATORY SECTION

REGULATION II SECTION 2.09 OXYGENATED GASOLINE

(a) This section shall apply to gasoline intended as a final product for fueling of motor vehicles within King, Pierce, and Snohomish Counties during the months of November, December, January, and February.

(b) It shall be unlawful for any person to sell, make available for sale, or dispense gasoline with an oxygen content less than 2.0% by weight.

(c) It shall be unlawful for any blender to supply gasoline with an oxygen content less than 2.7% by weight, averaged over each 2-month interval (November-December and January-February).

(d) It shall be unlawful for any gasoline station to dispense oxygenated gasoline unless the fuel dispensing system is conspicuously labeled as follows: The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles.

(e) If the ambient air quality standards for carbon monoxide have not been attained by December 31, 1995, the minimum oxygen contents specified in this section shall be increased to 3.1% for ethanol blends and 2.7% for other blends, effective the following November 1. In such an event, the Agency shall provide notice to all registered gasoline stations and blenders no later than March 1.

WSR 94-11-081
PERMANENT RULES
MULTIMODAL TRANSPORTATION PROGRAMS AND PROJECTS SELECTION COMMITTEE
[Filed May 16, 1994, 1:44 p.m., effective May 16, 1994]

Date of Adoption: May 1, 1994.

Purpose: To provide rules for the distribution of funds from four transportation accounts administered by the Multimodal Transportation Programs and Projects Selection Committee.

Statutory Authority for Adoption: Chapter 47.66 RCW.

Pursuant to notice filed as WSR 94-05-100 on February 16, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 240-20-075 was deleted.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The Multimodal Programs and Projects Selection Committee is submitting a permanent administrative rule as chapter 240-20 WAC. The committee requests that the rule become effective May 1, 1994. The requested date is earlier than the standard 31 days after the rule was filed. RCW 34.05.380(3) permits having rules become effective earlier than 31 days from when they were filed. The committee cites RCW 34.05.380 (3)(c) for justification. Currently there are emergency rules in place that are due to expire by June 16, 1994. The committee will be meeting on May 20, 1994, to select projects for funding. The committee will not meet again until July 15, 1994. If the committee must wait the full 31 days, it will be unable to take action in May and this will delay projects throughout the state for more than two months. Many of these projects are time sensitive. Therefore, the welfare of the state is imperiled.

Effective Date of Rule: May 16, 1994.

May 13, 1994
Martha Choe
Chair

Chapter 240-20 WAC
Multimodal Transportation Programs and Projects Selection Committee

[NEW SECTION]

WAC 240-20-001 Legislative intent. There is significant state interest in assuring that viable multimodal transportation programs are available throughout the state. The legislature recognizes the need to create a mechanism to fund multimodal transportation programs and projects. The legislature further recognizes the complexities associated with current funding mechanisms and seeks to create a process that would allow for all transportation programs and projects to compete for limited resources.

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

[NEW SECTION]

WAC 240-20-010 Purpose of multimodal transportation programs and projects selection committee. The multimodal transportation programs and projects selection committee is a twenty-one member committee, organized under the provisions of chapter 393, Laws of 1993 for the purpose of selecting programs and projects for the state central Puget sound transportation account; the state public transportation systems account; the state high capacity transportation account; and the federal Intermodal Surface Transportation and Efficiency Act of 1991, state-wide competitive program.

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

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

[NEW SECTION]

WAC 240-20-015 Definitions. For purposes of this chapter, the following definitions shall apply:

(1) Committee - the multimodal transportation programs and projects selection committee.

(2) Department - the Washington state department of transportation.

(3) Public record - includes 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 fiscal form or characteristics.

(4) Exceptions - include any circumstance, condition, issue, or situation wherein a program or project may be unable to be completed on schedule and/or within its budget.

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

[NEW SECTION]

WAC 240-20-020 Organization of committee. (1) The committee shall elect a chair and a chair pro tem from its membership. The chair pro tem shall serve as chair when the chair is absent. The terms of these two positions shall be two years.

(2) The committee shall develop a set of by-laws to guide its operation.

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

[NEW SECTION]

WAC 240-20-025 Time and place of meetings. (1) Regular public meetings of the committee shall be held quarterly on the third Friday of the first month of the quarter, or the second Friday if the third Friday is a holiday. Each regular meeting will be held in a meeting room in the vicinity of the SeaTac International Airport and begin at the hour of 9:00 a.m. or at such other time and place as designated by the committee. Written notice of the time and location of regular meetings shall be provided to individuals on the general mailing list and members of the committee at least one week prior to each meeting.

(2) A special meeting of the committee may be called by the chair or by a majority of the members of the committee, by delivering personally, by facsimile or by mail, written notice to all other members of the committee at least seventy-two hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting. All provisions of chapter 42.30 RCW shall apply to all meetings of the committee.

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

[NEW SECTION]

WAC 240-20-030 Address of committee. Persons wishing to obtain information, be placed on the general mailing list, or to make submissions or requests of any kind shall address their correspondence to:

MTPPS Clerk of the Committee
Washington State Department of Transportation
P.O. Box 47370
Olympia, WA 98504-7370
(206) 705-7920
FAX (206) 705-6820

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

[NEW SECTION]

WAC 240-20-035 Staff support to the committee. The department shall be responsible for providing staff support to the committee. The chair shall appoint a clerk of the committee from the department who shall be responsible to the chair for arranging meeting locations and notices, maintaining records, and preparing minutes. The department responsibilities shall include, but not be limited to:

(1) Assisting the committee in determining short-term and long-term funding needs;

(2) Assisting the committee in developing a selection process that adheres to criteria set in statute and other criteria set by the committee;

(3) Administering grants and ensuring that contracts are executed in a timely manner;

(4) Distribution of funds and monitoring the status of accounts;

(5) Staff recommendations on policy and programs as appropriate; and

(6) Submission of an annual report to the legislative transportation committee that summarizes the activities of the committee, no later than January 1 of each year.

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

[NEW SECTION]

WAC 240-20-040 Public access. The committee shall comply with the provisions of RCW 42.17.250 through 42.17.340 dealing with public records.

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

[NEW SECTION]

WAC 240-20-042 Public records officer. The committee's public records shall be in the charge of the clerk of the committee, who shall be designated the public records officer for the committee. The person so designated shall be officed in the department of transportation office in Olympia, Washington. The public records officer shall be responsible for implementation of the committee's rules and regulations regarding public access to information and records.

PERMANENT

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

[NEW SECTION]

WAC 240-20-044 Public records available. (1) Notes and/or a tape recording shall be made of each meeting and minutes of each committee meeting shall be approved by motion and maintained by the department.

(2) At least every two years, the clerk of the committee shall solicit names and addresses from the public for the purpose of developing a general mailing list. This solicitation shall include the publication of a legal notice in at least five newspapers of general circulation in Washington state to assure geographic distribution throughout the state.

(3) All public records of the committee, as defined in WAC 240-20-015(3) are deemed available for public inspection and copying pursuant to these rules.

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

[NEW SECTION]

WAC 240-20-046 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

(a) The name of the person requesting the record.

(b) The time of day and calendar date on which the request was made.

(c) If the matter requested is referenced within the current index maintained by the committee, a reference to the requested record as it is described in such index.

(d) If the requested matter is not identifiable by reference to the committee's current index, a statement that identifies the specific record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection or copying at the department's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the committee is also a party (or when such a request is made by or on behalf of an attorney for such party) the request shall be referred to the assistant attorney general assigned by the department for appropriate response.

(4) Responses to public records requests shall be made within five business days of receipt of the request. The committee must respond by either (1) providing the record, (2) acknowledging that the committee has received the request and providing a reasonable estimate of the time the agency will require to respond to the request, or (3) denying the public record request, subject to the provisions of RCW 42.17.320.

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

[NEW SECTION]

WAC 240-20-048 Availability for public inspection and copying of public records. (1) Public records shall be available for inspection and copying during the normal business hours of the department. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

(2) No fee shall be charged for inspection of public records.

(3) The committee shall impose a reasonable charge for providing copies of public records and for the use by any person of department equipment to copy records; such charges shall not exceed the amount necessary to reimburse the department for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

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

[NEW SECTION]

WAC 240-20-050 Protection of public records. In order to implement the provisions of RCW 42.17 requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by department personnel and under the supervision of said personnel, upon the request of members of the public under the procedures set down in WAC 240-20-046, and with the approval of the clerk of the committee.

(2) No document shall be physically removed by a member of the public from the area designated by the department for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the committee shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the committee shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

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

[NEW SECTION]

WAC 240-20-052 Denial of request for public records. Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the chair of the committee to review the denial in accordance with WAC 240-20-054.

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

[NEW SECTION]

WAC 240-20-054 Review of denials of public records requests. Any person who objects to the denial of a request for a public record may request the attorney general to review the matter subject to RCW 42.17.325.

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

[NEW SECTION]

WAC 240-20-056 Records index. (1) The committee has available to all persons at the department's offices in Olympia a current index which provides identifying information as to the following records issued, adopted, or promulgated by the committee:

(a) Minutes of committee meetings, state legislation, and proposed rules and regulations pertaining to committee standards.

(b) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the committee;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, interim and final planning decisions, and application guidelines;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the public records officer and located in the department's office in Olympia, Washington.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The public records officer shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the committee.

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

[NEW SECTION]

WAC 240-20-058 Availability of index. The current index promulgated by the committee shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

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

[NEW SECTION]

WAC 240-20-060 Application guidelines. The committee shall prepare application guidelines for all fund accounts. At a minimum, such guidelines shall include all application forms needed and instructions on how to apply, sufficient information as to the scoring process to enable applicants to fairly compete, and a complete time schedule identifying key milestones from the opening of the application period to final project selection. Such guidelines shall be available upon request to the public records officer at least thirty days prior to the date applications are due to the committee.

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

[NEW SECTION]

WAC 240-20-065 Notification of funding availability. The committee shall ensure that notification of the availability of funds from the accounts identified in WAC 240-20-010 will be done no less than thirty calendar days prior to the date by which applications must be received. Minimum notification shall mean publishing a notice in at least five newspapers with general circulation and maximum geographic distribution within Washington state. Such notice shall include the name of the account or accounts, a short description of the account identifying its purpose, and an address and telephone number by which means an interested party can obtain further information and all application materials.

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

[NEW SECTION]

WAC 240-20-070 Program and project selection process. The program and project selection process shall consist of the following steps for each account.

(1) The committee shall create a technical review team. Membership on such team shall be at the discretion of the committee, but shall represent diversified interests and geographical distribution. Such team shall be responsible for screening applications for completeness. Those applications failing to meet the requirements set forth in the application guidelines identified in WAC 240-20-060 shall be recommended for rejection. The team shall then score each application deemed complete and prepare a preliminary ranked list of applications to present to the committee. All applicants shall be notified in writing as to their preliminary score and ranking.

(2) The committee shall review the applications and the recommended ranking of programs and projects received from the technical review team. The committee shall make the final selection of programs and projects.

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

[NEW SECTION]

WAC 240-20-080 Over-programming of funds. The committee shall select projects based on its estimate of revenues and expenditures. The committee may utilize the principle of over-programming when selecting projects, the degree of such over-programming to be at the discretion of the committee for each account and application period.

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

PERMANENT

[NEW SECTION]

WAC 240-20-090 Reporting. The clerk of the committee shall be responsible for the preparation of all reports to and on behalf of the committee. Such reports shall minimally include the following:

(1) Exception reports. The clerk of the committee shall report to the chair any exceptions that occur concerning projects and programs by account. Such report shall be submitted at such time as the exception becomes known.

(2) Quarterly reports. The clerk of the committee shall provide to the committee a report of the progress of programs and projects for each account. Such report shall be submitted prior to each regularly scheduled committee meeting at a time that permits it to be part of the information packets that include the meeting agenda and past meeting minutes. The format of such report shall be determined by the committee and communicated to the clerk of the committee.

(3) Annual report. The clerk of the committee shall prepare for the committee an annual report. Such report shall be presented to the committee at the regular scheduled meeting in the last quarter of the year for approval, and then presented to the legislative transportation committees by no later than January 1 of each year.

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

[NEW SECTION]

WAC 240-20-110 Central Puget Sound public transportation account—Eligibility. (1) Eligibility to apply shall be limited to public agencies with offices in King, Kitsap, Pierce, and Snohomish counties.

(2) Projects eligible for funding from the central Puget Sound public transportation account shall be limited to public transportation projects for:

(a) Planning;

(b) Development of capital projects;

(c) Development of high capacity transportation systems as defined in RCW 81.104.015;

(d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020; and

(e) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the central puget sound public transportation account shall be limited to those located in King, Kitsap, Pierce, and Snohomish counties.

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

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

[NEW SECTION]

WAC 240-20-120 Central Puget Sound public transportation account—Criteria. (1) Projects selected for funding from the central Puget Sound public transportation account 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 by the committee in selecting programs and projects:

(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 significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

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

[NEW SECTION]

WAC 240-20-130 Central Puget Sound public transportation account—Timing.

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

[NEW SECTION]

WAC 240-20-210 Public transportation systems account—Eligibility. (1) Participation in the public transportation systems account shall be limited to those public transportation systems that contribute funds to the account.

(2) Projects eligible for funding from the public transportation systems account shall be limited to public transportation projects for:

(a) Planning;

(b) Development of capital projects;

(c) Development of high capacity transportation systems as defined in RCW 81.104.015;

(d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020;

(e) Other public transportation system-related roadway projects on state highways, county roads, or city streets; and

(f) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the public transportation systems account shall be limited to areas in Washington state outside of the central Puget Sound region identified in WAC 240-20-110(3).

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

[NEW SECTION]

WAC 240-20-220 Public transportation systems account—Criteria. (1) Projects selected for funding from the public transportation systems account 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 by the committee in selecting programs and projects:

(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 significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

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

[NEW SECTION]

WAC 240-20-230 Public transportation systems account—Timing.

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

[NEW SECTION]

WAC 240-20-310 High capacity transportation account—Eligibility. (1) Participation in the high capacity transportation account shall be limited to transit agencies and regional transportation authorities.

(2) Projects eligible for funding from the account shall be limited to planning for high capacity transportation systems.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state, and subject to the conditions identified in RCW 81.104.030 and RCW 81.104.040.

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

[NEW SECTION

WAC 240-20-320 High capacity transportation account—Criteria. (1) Projects selected for funding from the high capacity transportation account 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 by the committee in selecting programs and projects:

(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 significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

(3) Authorizations for state funding for high capacity transportation planning projects shall be subject to the additional following criteria:

(a) Conformance with the designated regional transportation planning organization's regional transportation plan;

(b) Local matching funds;

(c) Demonstration of projected improvement in regional mobility;

(d) Conformance with planning requirements prescribed in RCW 81.104.100, and if five hundred thousand dollars or more in state funding is requested, conformance with the requirements of RCW 81.104.110; and

(e) Establishment, through interlocal agreements, of a joint regional policy committee as defined in RCW 81.104.030 or RCW 81.104.040.

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

[NEW SECTION]

WAC 240-20-330 High capacity transportation account—Timing.

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

[NEW SECTION]

WAC 240-20-410 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

(a) Planning;

(b) Preliminary engineering;

(c) Right-of-way acquisition;

(d) Construction; and

(e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

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

[NEW SECTION]

WAC 240-20-420 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Criteria. (1) Projects selected for funding from the statewide competitive program account 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

PERMANENT

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 significance, rural isolation, the leveraging of other funds including funds administered by the 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.

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

[NEW SECTION]

WAC 240-20-430 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Timing.

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

WSR 94-11-088
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed May 17, 1994, 9:55 a.m.]

Date of Adoption: May 6, 1994.

Purpose: Amending WAC 246-818-020 Examination eligibility and application. To amend the rule to reflect the current revised standards for dental education adopted by the American Dental Association in May 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 246-818-020.

Statutory Authority for Adoption: RCW 18.32.035.

Pursuant to notice filed as WSR 94-06-046 on March 1, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 6, 1994
Michael R. Higashi, Chair
Board of Dental Examiners

AMENDATORY SECTION (Amending Order 228B, filed 12/19/91, effective 1/19/92)

WAC 246-818-020 Examination eligibility and application. (1) To be eligible for the dental examination, the applicant must be a graduate from a dental school approved by the Washington state board of dental examiners. The board of dental examiners adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental schools and current in ((~~January 1981~~)) May 1993 and has approved all and only those dental schools which were accredited by the commission as of ((~~January 1981~~)) May 1993. Other dental schools which apply for board approval and which meet these adopted standards to the board's satisfaction will be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved by the board.

(2) To be eligible for the dental examination the applicant must provide certification of the successful completion of the National Dental Examination Parts I and II.

(3) Applications for the examination may be secured from the state of Washington department of health. The application must be completed in every respect, and reach the state of Washington department of health at least sixty days prior to the examination.

(4) The only acceptable proof of graduation from an approved dental school is an official transcript from such school, or a verified list of graduating students from the dean of the dental school. The verified list of students will only be acceptable from applicants who have graduated within forty-five days of the examination for which they are applying. An applicant may complete his/her other application requirements and be scheduled for the examination before he/she has graduated, but no applicant will be admitted to the examination unless the official transcript or the verified list from the dean has been received by the department of health on or before the first day of the examination.

(5) In case of applicant having previously been in practice, the board requires a sworn statement covering history of practice for a five-year period immediately preceding application for this examination. This statement must accompany the application when returning it to the department of health.

(6) Upon establishing examination eligibility, the department of health will mail to each applicant examination forms, instructions and schedule. It is imperative that the applicant bring this information to the examination as it will be used by the board throughout the practical examination.

WSR 94-11-095
PERMANENT RULES
GAMBLING COMMISSION
[Order 251—Filed May 17, 1994, 10:34 a.m., effective July 1, 1994]

Date of Adoption: May 13, 1994.

Purpose: The proposed housekeeping changes are to clarify wording, amend WAC reference, correct address or change reporting requirement in accordance with code reviser standards.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-030, 230-02-125, 230-08-120, 230-08-130, 230-08-150, 230-08-160, 230-08-260, 230-25-200, and 230-30-050.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 94-07-083 on March 16, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 230-08-130 subsections (7), (8), and (9) the

date references were taken out and "the last day of the quarter" was added to subsection (7) and WAC 230-25-200 changes were made to WAC rule references and a provision was added for disposable bingo cards.

Effective Date of Rule: July 1, 1994.

May 16, 1994
Shanna R. Lingel
Rules Coordinator

AMENDATORY SECTION (Amending WSR 90-15-044, filed 7/16/90, effective 8/16/90)

WAC 230-02-030 Normal commission operations—Administrative office address and business hours. (1) The administrative office of the commission is located in Lacey, Washington. Services available are administration, information, licensing, investigation, activity report processing, and public records. Unless specifically provided elsewhere in these rules, applications for licenses, submission of materials or requests for notices or information of any kind, may be made by addressing correspondence to:

Mailing Address	Location Address
Washington State Gambling Commission ((~~4511 Woodview Drive S.E. Lacey, Washington 98504-8121.~~)) P.O. Box 42400 Olympia, WA 98504-2400	Washington State Gambling Commission 649 Woodland Square Loop S.E. Lacey, WA 98503

(2) Normal business hours for the administrative office, unless specifically provided elsewhere in these rules, shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 183, filed 9/13/88)

WAC 230-02-125 Adjusted net gambling receipts defined. "Adjusted net gambling receipts" means the combined income from all gambling activities that are compared to gross sales for determination of commercial stimulant compliance. Adjusted net gambling receipts are determined by deducting the following expenses from net gambling receipts, when they are supported by verifiable records and actually paid out during the period:

(1) Federal, state, and local taxes and fees, other than income taxes, directly relating to the gambling activity: *Provided,* That taxes and fees may be deducted using the accrual accounting method if all accounting records are normally maintained on the accrual method and notice is provided to the commission;

(2) The cost of one licensed card room employee to be on duty any time the activity is open for business: *Provided,* That the total cost allowed shall not exceed $12.50 per hour of operation;

(3) The cost of providing a "pan" dealer as allowed by WAC 230-40-225: *Provided,* That the total cost allowed shall not exceed $7.50 per hour of operation; and

(4) The cost of punchboards, pull tabs, dispensing devices, cards, chips and card room furniture and fixtures actually used in conjunction with the gambling activity. Card room furniture and fixtures that cost in excess of one thousand dollars may be treated as a capital improvement for purposes of this rule.

(5) The actual cost of capital improvements and leasehold improvements to the licensed premises, less interest. Capital improvements shall include remodeling, updating, and other improvements to the licensed premises. Routine maintenance, cleaning, and painting shall not be treated as capital improvements. Provided, the cost for such improvements shall be amortized during a period of not less than two years. The licensee shall choose the period and report it on its quarterly report, ((~~along with~~)) and keep copies of all receipts supporting the expenditure: Provided, the capital improvement deduction shall not exceed $5,000 for any quarter.

AMENDATORY SECTION (Amending WSR 90-10-007, filed 4/19/90, effective 7/1/90)

WAC 230-08-120 Quarterly activity report by operators of bingo games (license Class D and above). Each organization licensed to conduct bingo games in Class D and above shall submit an activity report to the commission concerning the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st
April 1st through June 30th
July 1st through September 30th
October 1st through December 31st

If the licensee does not renew its license, then it shall file a report for the period between the previous report filed and the expiration date of its license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking officer or his/her designee. If the report is prepared by someone other than the licensee or an employee, then the preparer shall ((~~also sign the report and~~)) print his/her name and phone number on the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include, among other items, the following:

(1) The gross gambling receipts from bingo((~~, by month~~)).

(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 ((~~by month~~)). Donated prizes will be recorded at the fair market value of the prize at the time they were received by the organization.

(3) The net gambling receipts((~~, by month~~)).

(4) Full details on all expenses directly related to bingo, including at least the following:

(a) Wages, monies, or things of value paid or given to each person connected with the management, promotion, conduct or operation of the bingo game together with an attachment setting out the following:

(i) Name;

(ii) Duties performed;

(iii) Hours worked; and

PERMANENT

(iv) Wages, monies or things of value paid or given for conducting bingo activities. When an employee works in more than one activity, the total hours worked and total wages shall also be reported((~~,~~));

(b) A statement describing the allocation method used in allocating common use expenses; and

(c) A detailed listing of all items included under "other."

(5) The net income.

(6) The total number of customers participating.

(7) The total number of sessions held.

(8) Net income from the operation of retail sales activities operated in conjunction with bingo games.

AMENDATORY SECTION (Amending Order 179, filed 6/14/88)

WAC 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st
April 1st through June 30th
July 1st through September 30th
October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee, then the preparer shall ((~~also sign~~)) print his/her name and phone number on the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

(1) Gross sales, other than licensed gambling activities during the reporting period;

(2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;

(3) The gross gambling receipts from punchboards and the gross receipts from pull tabs;

(4) The total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out, for punchboards and for pull tabs;

(5) Full details of all expenses related to the purchase and operation of punchboards and pull tabs; ((~~and~~))

(6) Total net gambling income((~~,~~));

(7) ((~~For the calendar quarter ending December 31, 1988,~~)) The number of punchboards and the number of pull tab series that were either in play and in inventory awaiting play as of the end of business on ((~~September 30, 1988~~)) the last day of the quarter;

(8) ((~~For all calendar quarters ending after September 30, 1988,~~)) The number of punchboards and the number of pull tab series removed from play during the period; and

(9) ((~~For all calendar quarters ending after September 30, 1988,~~)) The number of punchboards and the number of pull tab series purchased during the period, less all un-played devices returned for credit during the period.

AMENDATORY SECTION (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

WAC 230-08-150 Quarterly activity reports by manufacturers. Each licensed manufacturer shall submit an activity report to the commission concerning all sales and services relating to gambling activities each quarter by completing a report form furnished by the commission. The following requirements shall be followed for completion and filing of activity reports:

(1) Quarterly reporting periods are defined as:

(a) January 1st through March 31st;

(b) April 1st through June 30th;

(c) July 1st through September 30th; and

(d) October 1st through December 31st.

(2) The completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(3) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or their employee, then the preparer shall ((~~also sign~~)) print his/her name and phone number on the report;

(4) The report shall include, among other items, the following:

(a) The gross sales of gambling related supplies or equipment, or merchandise of any kind which could be used to operate, or in connection with, punchboards, pull tabs, pull tab dispensing devices, bingo, or amusement games, when such sales are made in the state of Washington or for distribution or use within the state of Washington;

(b) The quantity of each specific type of such device, equipment, or merchandise sold within the state or for distribution or use within the state of Washington by the licensee;

(c) A listing of the name and address of each person who was a manufacturer's representative for the licensee or who solicited sales of such devices or equipment for or on behalf of the licensee within the state of Washington or for use or distribution within the state; and

(d) The number of employees in the state of Washington other than those listed in (c) of this subsection.

(5) Each manufacturer with an active license must submit a report regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" shall be submitted;

(6) If a licensee does not renew their license, then they shall file a report for the period between the previous report filed and the expiration date of the license.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-08-160 Quarterly activity reports by operators of social and public card rooms. Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation

of the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st
April 1st through June 30th
July 1st through September 30th
October 1st through December 31st.

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee, then the preparer shall ((~~also sign~~)) print his/her name and phone number on the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

(1) Gross sales, other than licensed gambling activities during the report period;

(2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;

(3) Gross gambling receipts from the collection of fees charged for allowing persons to play;

(4) Full details of all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the card room, including:

(a) A description of the work performed by that person, including identifying each "Pan" dealer;

(b) The hourly wage, including benefits; and

(c) The total hours worked during the period.

(5) Full details of all other expenses related to the operation of the card room;

(6) The net gambling income or loss from the operation of the card room for the reporting period;

(7) The normal days and times of operation of the card room;

(8) The total hours the card room was open during the period;

(9) The total hours "Pan" was played and a paid dealer was provided during the period; and

(10) Full details of any meals furnished employees included in (1) or (2) above as sales:

Provided, That persons licensed under Class D - general, no fee charged, are exempt from all portions of this rule.

AMENDATORY SECTION (Amending WSR 90-13-022, filed 6/11/90, effective 7/31/90)

WAC 230-08-260 Fund raising events—Activity report required. Each licensee for the operation of fund raising events shall submit an activity report to the commission concerning the operation of the licensed activities and other matters set forth below for the period of each event.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission no later than 30 days following the authorized operating days or day.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee, then the preparer shall ((~~sign~~)) print his/her name and phone number on the report.

The report shall include, among other items, the following information:

(1) The gross receipts from each separate gambling activity;

(2) Total cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually given out for each separate gambling activity. Donated prizes will be recorded at the fair market value of the prize at the time they were received by the organization;

(3) The net receipts for each separate gambling activity;

(4) The total net receipts;

(5) Full details of all expenses directly related to each event.

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-25-200 Bingo at fund-raising event. (((~~(1)~~))) Bingo games conducted ((~~solely at, and~~)) as ((~~a~~)) part of((~~,~~)) a licensed fund-raising event authorized ((~~under RCW 9.46.030(1)~~))) by chapter 9.46 RCW shall be treated as conducted solely pursuant to the license to conduct that fund-raising event. All income, prizes awarded, and other expenses shall be separately accounted for, and reported to the commission, as ((~~required for~~)) fund-raising event((~~s and need not be reported, or accounted for, as required for bingo games conducted under a bingo license issued by the commission, or under a different statutory authority: *Provided,* That the provisions of WAC 230-20-100 shall apply to bingo games conducted at such fund-raising events.~~)) activity. The following procedures apply to bingo conducted as part of a fund-raising event:

(1) All general requirements and limitations set out in chapter 230-25 WAC apply.

(2) Income from bingo games ((~~conducted at, and as a part of, such a fund-raising event~~)) shall be applied only against the maximum income permitted for fund-raising events and shall not be applied against other maximum income limits imposed by chapter 9.46 RCW or the commission rules.

(((~~(2)~~))) (3) All of the commission's rules applicable to the conduct of bingo games((~~, whether general or specific,~~)) shall apply ((~~to the conduct of bingo games at, or as a part of, a fund-raising event, except as provided in subsection (1) above and except~~)): *Provided,* That the following rules ((~~which~~)) shall not be applicable to bingo games conducted as part of a fund-raising event:

(a) ((~~WAC 230-20-070;~~
~~(b) WAC 230-20-090;~~
~~(c) WAC 230-20-170;~~
~~(d) WAC 230-20-190;~~
~~(e) WAC 230-20-220;~~
~~(f) WAC 230-04-061.~~)) WAC 230-20-064;
(b) WAC 230-20-065;
(c) WAC 230-20-070;

PERMANENT

(d) WAC 230-20-170;
(e) WAC 230-20-242; and
(f) WAC 230-20-246(10).

(4) If disposable bingo cards are used to conduct bingo games at fund-raising events and the organization has a license to conduct bingo, the inventory control procedures of WAC 230-08-105 shall apply. A reference to all cards or packets of cards used shall be made in the inventory control records. If the organization does not have a license to conduct bingo, all unused cards or packets must be retained as part of the event record: *Provided,* That licensees may return unused cards or packets to the distributor if there are no breaks in the audit numbers of the unused portion. The distributor shall document the total number of cards or packets returned and the beginning and ending audit numbers.

AMENDATORY SECTION (Amending WSR 90-21-053, filed 10/15/90, effective 11/15/90)

WAC 230-30-050 Punchboard and pull tab operation. (1) No person under the age of eighteen years and no person visibly intoxicated or visibly under the influence of any narcotic, shall be allowed to play or sell any punchboard or pull tab device. It shall be the responsibility of the licensee and the responsibility of the person physically operating the punchboard or pull tab device to determine that no unauthorized person is allowed to play or sell.

(2) No operator shall permit the display or operation of any punchboard or pull tab which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, which may deceive the public or which affects the chances of winning or losing upon the taking of any chance thereon.

(3) All pull tabs must be dispensed from a coin-operated vending machine or a clear container which affords the player an opportunity to observe the complete series. If pull tabs are not sold out of a coin-operated vending machine, the complete series must be placed in a clear container and mixed prior to being offered for sale. Failure to mix may result in a minimum five day suspension of license for each series not mixed. Licensees may bundle pull tabs into stacks of up to $10, provided the bundles are thoroughly mixed prior to sale to the public. ((~~This section of the rule shall be reviewed for its applicability at the commission meeting in July 1991.~~))

(4) All records, reports and receipts relating to a punchboard or pull tab series in play must be retained on the licensed premises so long as the series or punchboard is in play and be made available on demand to law enforcement officers and representatives of the commission.

(5) When operators purchase merchandise to be used as prizes on punchboards or pull tab series from other than a licensed distributor, the following information must be on the invoice provided by the seller:

(a) The date of purchase;
(b) The company's name and adequate business address;
(c) A full description of each item purchased;
(d) The quantity of items purchased;
(e) The cost per individual items purchased; and
(f) The sales invoice or receipt must be maintained by the operator for at least three years.

WSR 94-11-097
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed May 17, 1994, 11:19 a.m.]

Date of Adoption: May 17, 1994.

Purpose: To provide tax reporting information to hospitals which includes changes required by 1993 legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-168.

Statutory Authority for Adoption: RCW 82.32.300 and 82.04.260(15).

Pursuant to notice filed as WSR 94-01-158 on December 21, 1993.

Changes Other than Editing from Proposed to Adopted Version: Added subsection (3)(d) indicating a separate B&O tax rate for nonprofit corporations doing research and development; added last sentence in subsection (4)(c) indicating the deduction for kidney dialysis facilities can apply to nonprofit hospitals; added subsection (4)(e) to add a reference to WAC 458-20-169 for deductions for health and welfare services; and in subsection (5) added that if the hospital's records clearly indicate the amount of income to which it will be entitled under contracts with insurance carriers, these are the values it can report.

Effective Date of Rule: Thirty-one days after filing.

May 17, 1994
Claire Hesselholt
Acting Assistant Director

AMENDATORY SECTION (Amending Order 87-9, filed 12/15/87)

WAC 458-20-168 Hospitals, medical care facilities, and adult family homes. (1) **Introduction.** This section provides tax reporting information to persons operating hospitals, medical care facilities, and adult family homes. It includes tax reporting changes resulting from the passage of chapter 25, Laws of 1993 sp.s. which affected nonprofit hospitals and hospitals operated by political subdivisions of the state.

(2) **Definitions.**

(a) The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term includes privately owned and operated hospitals, hospitals operated as nonprofit corporations, hospitals operated by political subdivisions of the state, and hospitals operated by the state but not owned by the state.

(b) The term "nursing home" means only institutions defined as nursing homes in chapter 18.51 RCW.

(c) The term "adult family home" means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140.)

((~~(2)~~)) (3) **Business and occupation (B&O) tax.** The sale of tangible personal property which is not part of the medical service being provided to a patient is taxable under the retailing B&O tax classification. There are two B&O tax classifications which can apply to persons providing medical services through the operation of a hospital, with the tax

classification dependent on the organizational structure of the hospital. The B&O tax classifications are:

(a) Public or nonprofit hospitals. This B&O tax classification applies to gross income derived from personal and professional services to patients by hospitals that are operated as nonprofit corporations, operated by political subdivisions of the state, or operated but not owned by the state. These hospitals became taxable for hospital services under this B&O tax classification on July 1, 1993. These hospitals were required to report under the service B&O tax classification prior to July 1, 1993, but were entitled to a deduction for services rendered to patients.

(b) Service. The gross income derived from personal and professional services of hospitals (other than hospitals operated as nonprofit corporations or by political subdivisions of the state), nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification. This classification also applies to nonprofit hospitals for personal or professional services which are performed for persons other than patients and not otherwise tax classified.

(c) Retailing. The retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from services rendered. ((~~However, this does not include charges to patients for tangible personal property which is used in providing medical services to a patient, even if separately billed. Tangible personal property which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are taxable under either the "public or nonprofit hospital" classification or the "service and other business activities" classification, depending on the type of organization making the sale. However, making copies of medical records is considered to be a separate activity from that of providing medical services and any income from this activity is subject to the retailing tax and the retail sales tax.~~)) However, this does not include charges to patients for tangible personal property which is used in providing medical services to a patient, even if separately billed. Tangible personal property which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are taxable under either the "public or nonprofit hospital" classification or the "service and other business activities" classification, depending on the type of organization making the sale. However, making copies of medical records is considered to be a separate activity from that of providing medical services and any income from this activity is subject to the retailing tax and the retail sales tax.

(d) Research and development. There is a separate tax classification which applies to nonprofit corporations and nonprofit associations for income received in performing research and development. See RCW 82.04.260(6).

((~~(3)~~)) (4) **Exemptions and deductions.** The following exemptions and deductions apply:

(a) Adult family homes. The gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services, is exempt from the business and occupation tax effective June 9, 1987.

((~~(4) **Deductions.**~~

~~(a) Hospitals operated by the United States or its instrumentalities or the state of Washington or its political subdivisions may deduct amounts derived as compensation for medical services to patients and sales of prescription drugs and medical supplies furnished as an integral part of such services. (See RCW 82.04.4288.)~~

~~(b) Other hospitals operated as nonprofit corporations as well as nursing homes and homes for unwed mothers operated as religious or charitable organizations may also deduct the amounts described in subsection (a) above (see RCW 82.04.4289), provided that:~~

~~(i) No part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder; and~~

~~(ii) No deduction will be allowed under (a) of this subsection, unless written evidence is submitted to the department of revenue showing that the hospital building is entitled to exemption from taxation under the property tax laws of this state.~~

~~(c) In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC 458-20-114.)~~

~~(5)~~)) (b) State-owned hospitals. The gross income from a hospital owned by the state of Washington is not subject to B&O tax. (Refer to WAC 458-20-189.) This exemption does not include hospital districts or hospitals which are operated by or for political subdivisions of the state, such as a county government.

(c) Kidney dialysis facilities, certain nursing homes, certain homes for unwed mothers. Nonprofit organizations operating kidney dialysis facilities, homes for unwed mothers where the operating organization is also a religious or charitable organization, and nonprofit nursing homes are exempt from B&O tax on the services they provide to patients or from the sales of prescription drugs. (See WAC 458-20-18801.) However, the exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder. The deduction for income from the operation of kidney dialysis facilities is available to nonprofit hospitals if the hospital accurately identifies and accounts for the income from this activity.

(d) Contributions, donations and endowment funds. Amounts received as contributions, donations and endowment funds may be excluded from gross income, provided that no specific service is performed as a condition for receiving the funds. Amounts received as grants are taxable if specific services are performed as a condition for receiving the grant. (See WAC 458-20-114.)

(e) Health and social welfare services. Refer to WAC 458-20-169 for health and welfare services which may be deductible.

(5) **Adjustments to revenues.** Many hospitals will perform charity care where medical care is given without charge or some portion of a charge will be cancelled. In other cases, medical care is billed to patients at "standard"

rates, but later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or with private insurers. In these situations the hospital must initially include the total charges as billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken at the time of filing future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce its current revenue by amounts which were not previously included in the taxable base. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect at the time the service was performed.

(6) **Retail sales tax.** Retail sales which are subject to retailing business tax, as provided earlier, are also subject to retail sales tax. These businesses are required to pay retail sales tax on purchases of medical supplies, durable equipment, and consumables. (For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)

(((~~(6) Exemptions.~~)))

(7) **Retail sales and use tax exemptions.** The following exemptions from the retail sales and use tax apply:

(a) Effective on May 6, 1993, all items which are reasonably necessary for the operation of free hospitals may be purchased without payment of retail sales or use tax. This includes all supplies and equipment. It also includes any items which are used in providing health care. "Free hospitals" means a hospital that does not charge patients for health care provided by the hospital. (Refer to chapter 205, Laws of 1993.)

(b) Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are exempt of retail sales tax where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained((~~, and such sales are separately accounted for~~)). Sales of prosthetic devices, hearing aids as defined in RCW 18.35.010(3), and ostomic items whether or not prescribed are also exempt of sales tax. See WAC 458-20-18801.

(((~~(7) Sales of medical supplies, durable equipment, and consumables, but excluding prosthetic devices and ostomic items, to hospitals and nursing homes for their own use in providing personal or professional services are subject to the retail sales tax, irrespective of whether or not such hospitals or nursing homes are subject to the business tax.~~

~~(For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)~~)))

WSR 94-11-098
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed May 17, 1994, 11:22 a.m.]

Date of Adoption: May 17, 1994.

Purpose: The rates of inflation are used to calculate interest in certain situations by the county assessor.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-590.

Statutory Authority for Adoption: RCW 84.34.360.

Pursuant to notice filed as WSR 94-08-082 on April 5, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 17, 1994
William N. Rice
Assistant Director

AMENDATORY SECTION (Amending Order PT 92-5 [WSR 92-22-061], filed 10/29/92)

WAC 458-30-590 Rates of inflation. (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550.

(2) **Rates of inflation.** The rates of inflation to be used for calculating the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1982	6.2	1988	4.1
1977	6.5	1983	3.2	1989	4.8
1978	7.6	1984	4.3	1990	5.4
1979	11.3	1985	3.5	1991	4.2
1980	13.5	1986	1.9	1992	3.3
1981	10.3	1987	3.7	1993	2.7

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

WSR 94-11-105
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 93-30—Filed May 17, 1994, 4:10 p.m.]

Date of Adoption: May 17, 1994.

Purpose: To omit or reduce operating permit requirements for insignificant emission units or activities.

Citation of Existing Rules Affected by this Order: Amending Chapter 173-401 WAC.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 94-04-104 on February 1, 1994, and continuance filed in WSR 94-08-073 on April 4, 1994.

Changes Other than Editing from Proposed to Adopted Version:

RECOMMENDATION SUMMARY

Amendments to chapter 173-401 WAC, Operating permit regulation, insignificant emissions units and activities.

Background: Under the federal Clean Air Act Amendments (FCAA) of 1990 and the Washington Clean Air Act, as amended, the Department of Ecology (ecology) is required to develop an operating permit program for stationary sources of air pollution in Washington state. The air operating permit rule (chapter 173-401 WAC), adopted on October 4, 1993, establishes procedures for reviewing and issuing permits. Initially, each major source in Washington state will be required to obtain an operating permit. Operating permits must include, among other things, an inventory of all sources of air pollution at major facilities and the

requirements that apply to those sources. One of the major benefits of the permit system is that it organizes all of a facility's various requirements relating to air pollution into one document. This will include the following: Emission limitations and standards; monitoring methodology; reporting and recordkeeping; compliance certification; and general provisions such as permit fees, property access, etc.

Purpose of the proposed amendments: The purpose of the proposed amendments is to establish criteria and procedures for defining insignificant emissions units and activities under the operating permit program. Insignificant emission units and activities are emission points that release such small amounts of air pollution that including them in a source's permit provides little or no environmental benefit. In addition, ecology believes that requiring sources and the regulating agency to address these emission points with the same level of effort required to identify and regulate larger or more significant emission points would create significant administrative burdens. Consequently, omitting or reducing the reporting requirements for these emission units and activities will help prevent the permitting process from becoming unmanageable and will greatly reduce the costs of preparing and reviewing permit applications and complying with permit program requirements.

Description of the proposed amendments: The federal permit rule states that "...[t]he Administrator may approve as part of a state program a list of insignificant activities and emission levels which need not be included in permit applications". In February 1994, ecology proposed criteria for Washington's permit program. Key features of the proposal included:

Criteria: An emissions unit or activity could be defined as insignificant if it meets one of the following criteria: The emission unit's or activity's actual emissions are less than emission thresholds specified in the rule; the emission unit or activity is listed in the rule as categorically exempt; and the emission unit or activity is considered insignificant based upon size or production rate.

Emission thresholds: The proposed amendments included emission thresholds for criteria and toxic air pollutants. The thresholds apply to individual unit's or activities; the proposal does not include plantwide limits. The proposed thresholds were 5 tons/year of carbon monoxide, 2 tons/year for nitrogen oxides, sulfur oxides, or volatile organic compounds, 0.75 tons/year for particulate matter, and 0.03 tons/year of lead. Ecology also proposed threshold values for the 189 hazardous air pollutants listed in Section 112(b) of the federal law.

Categorically-exempt units or activities: The proposed amendments contained a list of approximately 100 units/activities which would be categorically exempt from the permit rule (i.e. office supplies). These units or activities would not need to be listed in the permit application.

Size and production-based exemptions: The proposed amendments contained a list of approximately 20 units/activities that would be exempt if they fall below the specified size or production levels (i.e. combustion turbines of less than 500 hp). These units/activities must be listed in the permit and backup documentation provided, upon request, to the permitting authority.

Fugitive emissions: Under the proposed amendments, an activity would be considered insignificant if (1) it generates only fugitive emissions, (2) has no applicable requirement other than the general requirements in WAC 173-400-040, and (3) no activity-specific reasonably available control technology (RACT) requirement has been established. Such activities must be listed in the permit application.

Local agency discretion: Local air authorities may establish by rule other criteria for defining insignificant emissions units or activities. Local air authorities may not exempt units/activities whose emissions exceed the emission thresholds in the state permit rule or are subject to certain state and federal standards.

Emission levels: The proposed amendments specified that permit requirements would only apply to those pollutants that exceed the thresholds listed in the rule. Consequently, sources would not have to report/monitor pollutants that are emitted from larger units at very low levels.

Issues raised during the public comment period: During the development of the proposed rule amendments and the subsequent public comment period, a number of key issues were raised. These include the following: How should ecology define "significant" or "insignificant" emission units and activities (based on thresholds or identifying specific types of activities and units)? What should the threshold levels be for defining insignificance? Should the thresholds address both criteria and hazardous air pollutants (HAPs)? Should the thresholds developed to define insignificant emission units and activities be used to define insignificant emissions from significant emission units or activities (insignificant amounts of some pollutants coming from emission units that also emit large quantities of other pollutants)? How should emissions be measured (actual emissions or potential to emit) and what level of accuracy is required to estimate emissions? Should a consistent statewide approach be used to define insignificant emission units or activities? How can insignificant emission units or activities be identified given that Washington has generally applicable requirements that apply to all emission units and activities regardless of size or amount of emissions?

Changes to the proposed amendments in response to public comment: The proposed amendments were developed in consultation with representatives from EPA, local air authorities, the regulated community, and environmental groups. After reviewing comments received during and after the public comment period, ecology made the following changes to address those comments:

General applicable requirements: Ecology proposed that an emission unit could be defined as insignificant and not included in the permit even if one of several general applicable requirement apply to that unit. General applicable requirements are those regulations or standards that uniformly apply to all sources in the state (i.e. opacity limits). The regulated community expressed support for this provision. However, EPA stated that its inclusion in the state rule could result in Washington's program not being approved by EPA. Based on the latter comment, ecology elected to clarify that permits must contain all general applicable requirements that apply to insignificant emissions units. However, to address the regulated community's concerns, ecology added a provision that states that the permit will not require testing, monitoring, reporting and recordkeeping requirements for insignificant emissions units except where the general

PERMANENT

applicable requirements in the state implementation plan impose such requirements.

List of regulated pollutants: Ecology proposed threshold values for six criteria pollutants and 189 hazardous air pollutants. Several commentors noted that threshold levels had not been proposed for pollutants regulated under several other sections of the Federal Clean Air Act (FCAA). EPA noted that some courts have interpreted the lack of a specified threshold to mean that no threshold exists for a particular pollutant. They recommended that ecology clearly specify threshold levels for these pollutants unless a "no-threshold approach" was the intended policy. Ecology believes that such an outcome would unnecessarily complicate permit program implementation. Consequently, ecology has added threshold levels for pollutants regulated under (1) Section 111(d) of the FCAA, (2) Section 112(r) of the FCAA (Accidental Release Program), and (3) Title VI of the FCAA (Stratospheric Ozone). In addition, ecology expanded the list of hazardous air pollutants to ensure that all pollutants addressed by EPA in the proposed Section 112(g) rule dealing with new source review and modifications are listed in the state rule. Finally, ecology added a provision which establishes a threshold value of 0.5 tons/year for all other regulated pollutants.

Emissions thresholds for carcinogens: Ecology proposed threshold values for each of the hazardous air pollutants regulated by EPA under Section 112 of the FCAA. In the preamble to the final federal permit rule, EPA specified that threshold levels could be no higher than values established by EPA under Section 112(g) of the federal law. For carcinogens, ecology proposed values that were equal to the lower of either (1) 10 percent of the federal 112(g) levels or (2) 0.5 tons (1000 pounds)/year. Comments from EPA and environmental groups expressed support for the proposed approach. The regulated community argued that proposed values were too conservative and created unnecessary administrative burdens. They urged ecology to use the Section 112(g) values instead of a fraction of those values. Ecology reviewed these comments and the underlying bases for the proposed federal values. Based on that review, ecology has elected to revise the state rule and establish the threshold values for carcinogens at levels equal to the lower of either (1) 50 percent of the 112(g) values or (2) 0.5 tons/year.

Analytical limitations: Several commentors noted that the proposed threshold values were below levels that could be detected with currently available analytical methods and urged ecology to modify the rule to explicitly recognize such limitations. To address this concern, ecology modified the proposed rule to state that an emissions unit or activity can be considered insignificant if its emissions are undetectable using analytical methods approved by the permitting authority.

Categorically-exempt units or activities: The proposed amendments contain a list of approximately 100 units/activities which would be categorically exempt from the permit rule (i.e. office supplies). These units or activities would not need to be listed in the permit application. EPA identified several listed activities that they believed were more appropriately listed under the size and production-based units. Most of these recommendations have strong technical merit and ecology has revised the rule accordingly. Ecology also received recommendations from the business community that additional items be added to the categorically-exempt list. Ecology agrees with several of these recommendations and amended the list accordingly.

Insignificant emission levels: The proposed amendments specified that permit requirements would only apply to those pollutants that exceed the thresholds listed in the rule. Consequently, sources would not have to report/monitor pollutants that are emitted from larger units at very low levels. The regulated community expressed support for this provision. However, EPA expressed concerns with this provision and stated that its inclusion in the state rule could result in Washington's program being disapproved. Based on EPA's comments, ecology elected to remove this provision from the rule.

Staff recommendations: It is our recommendation that this amendment be approved. Once approved, staff will continue to work with EPA, local air authorities, regulated sources, and the environmental community to address implementation issues raised during the public comment period.

Staff contact: Bernard Brady, Engineering and Technical Services, (206) 407-6803, and Tony Warfield, Stationary Source Program Development, (206) 407-6892.

Effective Date of Rule: Thirty-one days after filing.

May 17, 1993
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~~)) WAC 173-401-530. These units and activities are exempt from permit program requirements except as provided in WAC 173-401-530.

(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

PERMANENT

(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, 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 as determined under WAC 173-401-530.

(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 statewide 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~~

PERMANENT

~~Appendix A~~)) 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.~~)) 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 or activities as defined in WAC 173-401-530. 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. Designation of an emission unit or activity as insignificant for purposes of this chapter does not exempt the unit or activity from any applicable requirement. An emission unit or activity is insignificant based on one or more of the following approaches:

(a) Actual emissions of all regulated air pollutants from a unit or activity are less than the emission thresholds established in subsection (4) 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 based on maximum rated capacity is below the specified level. These emission units or activities must be listed in the permit application.

(d) The emission unit or activity generates only fugitive emissions (as defined in WAC 173-400-030(31)), which are subject to no applicable requirement other than generally applicable requirements of the state implementation plan as defined in subsection (2) of this section. These units or activities must be listed on the permit application.

(2) Applicable requirements.

(a) Notwithstanding any other provision of this chapter, no emissions unit or activity subject to a federally enforceable applicable requirement (other than generally applicable requirements of the state implementation plan) shall qualify as an insignificant emissions unit or activity. For purposes of this section, generally applicable requirements of the state implementation plan are those federally enforceable requirements that apply universally to all emission units or activities without reference to specific types of emission units or activities.

(b) The application shall list and the permit shall contain all generally applicable requirements that apply to insignificant emission units or activities in the source.

(c) The permit shall not require testing, monitoring, reporting or recordkeeping for insignificant emission units or activities except where generally applicable requirements of the state implementation plan specifically impose these requirements. These requirements identified in the state implementation plan shall be deemed to satisfy the requirements of WAC 173-401-615 and 173-401-630(1).

(d) For insignificant emission units or activities, the source will not need to certify compliance under WAC 173-401-630(5).

(3) Permit shield. The permit shield described in WAC 173-401-640 shall not apply to any insignificant emissions unit or activity designated under this section.

(4) Insignificant emission thresholds. An emission unit or activity shall be considered insignificant if it qualifies under subsection (1)(b), (c) or (d) of this section, or if its actual emissions, based on methods approved by the permitting authority, are below the practical quantification limit (PQL), or are less than or equal to all of the following threshold levels:

(a) 5 tons per year of carbon monoxide;

(b) 2 tons per year of nitrogen oxides;

(c) 2 tons per year of sulfur oxides;

(d) 2 tons per year of volatile organic compounds (VOC);

(e) 0.75 tons per year of PM_{10} (as defined in chapter 173-400-030(53));

(f) 0.005 tons per year of lead;

(g) 0.15 tons per year of fluorides;

(h) 0.35 tons per year of sulfuric acid mist;

(i) 0.5 tons per year of hydrogen sulfide;

(j) 0.5 tons per year of total reduced sulfur (including hydrogen sulfide);

(k) 0.000000175 tons per year of municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans);

(m) 0.75 tons per year of municipal waste combustor metals (measured as PM);

(n) 2.0 tons per year of municipal waste combustor acid gases (measured as SO_2 and hydrogen chloride);

(o) 2.0 tons per year of ozone depleting substances in aggregate (the sum of Class I and/or Class II substances as defined in Title VI and 40 CFR Part 82);

(p) Thresholds levels for hazardous air pollutants as defined in WAC 173-401-531;

(q) 0.5 tons per year for any regulated air pollutant not listed above or in WAC 173-401-531.

(5) Documentation.

(a) 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.

(b) Upon request from the permitting authority, at any time during the term of the permit, an applicant who lists an activity or emissions unit as insignificant under subsection (1)(a) of this section shall demonstrate to the permitting authority that the actual emissions of the unit or activity are below the emission thresholds listed in subsection (4) of this section.

PERMANENT

(6) Permit revision.

If an emission unit or activity that qualifies as insignificant solely on the basis of subsection (1)(a) of this section exceeds one of the emissions thresholds specified in subsection (4) 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 (1)(a) of this section shall not exceed the emissions thresholds specified in subsection (4) of this section, until the permit is modified pursuant to 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. Insignificant emission units or activities defined by local air authority rule may not exceed threshold levels established under subsection (4) of this section.

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	0.005
107-06-2	1,2-dichloroethane	0.4
78-87-5	1,2-dichloropropane	0.5
540-73-8	1,2-dimethylhydrazine	0.004
122-66-7	1,2-diphenylhydrazine	0.045
106-99-0	1,3-butadiene	0.035
1120-71-4	1,3-propane sultone	0.003
106-46-7	1,4-dichlorobenzene(p)	0.5
123-91-1	1,4-dioxane (1,4-diethyleneoxide)	0.5
94-75-7	2,4-d salts & esters	0.5
95-80-7	2,4-toluene diamine	0.01
584-84-9	2,4-toluene diisocyanate	0.05
53-96-3	2-acetylaminofluorene	0.0025
119-90-4	3,3'-dimethoxybenzidine	0.5
119-93-7	3,3-dimethyl benzidine	0.004
101-14-4	4,4'-methylenebis (2-chloroaniline)	0.5
75-07-0	acetaldehyde	0.5
107-13-1	acrylonitrile	0.15
62-53-3	aniline	0.5
C7440-38-2	arsenic and inorganic arsenic compounds	0.002
1332-21-4	asbestos (fibers/ml)	0.00004
71-43-2	benzene	0.5
92-87-5	benzidine (and its salts)	0.00015
56-55-3	benzo(a)anthracene	0.005
50-32-8	benzo(a)pyrene	0.005
205-99-2	benzo(b)fluoranthene	0.005
7440-41-7	beryllium and compounds (except salts)	0.004
117-81-7	bis(2-ethylhexyl)phthalate	0.5
542-88-1	bis(chloromethyl)ether	0.00015
75-25-2	bromoform	0.5
7440-43-9	cadmium and compounds	0.005
56-23-5	carbon tetrachloride	0.5
57-74-9	chlordane	0.005
510-15-6	chlorobenzilate	0.2
67-66-3	chloroform	0.45
107-30-2	chloromethyl methyl ether	0.1
126-99-8	chloroprene	0.5
C7440-47-3	chromium, hexavalent metal	0.001
218-01-9	chrysene	0.005
---	coke oven emissions	0.015
3547-04-4	DDE	0.005
53-70-3	dibenz(a,h)anthracene	0.005
132-64-9	dibenzofuran	0.5

S Number	Chemical Name	Threshold Levels (tons/year)
-44-4	dichloroethyl ether	0.03
09-2	dichloromethane	0.5
78-1	dimethyl sulfate	0.1
	dioxins & furans (tcdd equivalent)	3e-07
5-89-8	epichlorohydrin	0.5
7-06-2	ethylene dichloride	0.4
5-93-4	ethylene dibromide (dibromethane)	0.05
21-8	ethylene oxide	0.1
45-7	ethylene thiourea	0.3
44-8	heptachlor	0.01
8-74-1	hexachlorobenzene	0.005
89-9	hexachlorocyclohexane, gamma	0.005
2-01-2	hydrazine	0.002
3-39-5	indeno(1,2,3-cd)pyrene	0.005
-	lead & compounds (except those listed)	0.005
89-9	lindane	0.005
09-2	methylene chloride	0.5
75-9	n-nitrosodimethylamine	0.0005
440-02-0	nickel and compounds (except those listed)	0.02
463-39-3	nickel carbonyl	0.1
53-4	o-toluidine	0.5
86-5	pentachlorophenol	0.35
7-18-4	perchloroethylene	0.5
36-36-3	polychlorinated biphenyls	0.0045
56-9	propylene oxide	0.5
01-35-2	toxaphene	0.005
01-6	trichloroethylene	0.5
01-4	vinyl chloride	0.1
34-5	1,1,2,2-tetrachloroethane	0.15
00-5	1,1,2-trichloroethane	0.5
14-7	1,1-dimethyl hydrazine	0.004
12-8	1,2-dibromo-3-chloropropane	0.004

CAS Number	Chemical Name	Threshold Levels (tons/year)
79-06-1	acrylamide	0.01
98-07-7	benzotrichloride	0.003
62-73-7	dichlorvos	0.1
79-44-7	dimethyl carbamoyl chloride	0.5
140-88-5	ethyl acrylate	0.5
51-79-6	ethyl carbamate	0.5
151-56-4	ethylene imine	0.5
87-68-3	hexachlorobutadiene	0.5
67-72-1	hexachloroethane	0.5
60-34-4	methyl hydrazine	0.03
684-93-5	n-nitroso-n-methylurea	0.5
12035-72-2	nickel refinery dust	0.08
---	nickel subsulfide	0.02
82-68-8	pentachloronitrobenzene	0.15
91-22-5	quinoline	0.003
1582-09-8	trifluralin	0.5
593-60-2	vinyl bromide	0.5
75-35-4	vinylidene chloride	0.2
189559	1,2:7,8-dibenzopyrene	0.005
121142	2,4-dinitrotoluene	0.01
88062	2,4,6-trichlorophenol	0.5
91941	3,3-dichlorobenzidene	0.1
57596	7,12-dimethylbenz(a)anthracene	0.005
50000	formaldehyde	0.5

(2) Noncarcinogens:

CAS Number	Chemical Name	Threshold Levels (tons/year)
75-34-3	ethylidene dichloride (1,1-dichloroethane)	0.5
75-55-8	1,2 propylenimine (2-methyl aziridine)	0.003
120-82-1	1,2,4-trichlorobenzene	0.5
106-88-7	1,2-epoxybutane	0.5
542-75-6	1,3-dichloropropene (dichloropropene)	0.5
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	0.04
79-10-7	acrylic acid	0.5
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	0.1
100-44-7	benzyl chloride	0.1
92-52-4	biphenyl	0.5
156-62-7	calcium cyanamide	0.5
105-60-2	caprolactam, dust	0.5
105-60-2	caprolactam, vapor	0.5
133-06-2	captan	0.5

PERMANENT

PERMANENT

CAS Number	Chemical Name	Threshold Levels (tons/year)
63-25-2	carbaryl	0.5
75-15-0	carbon disulfide	0.5
463-58-1	carbonyl sulfide	0.5
120-80-9	catechol	0.5
7782-50-5	chlorine	0.1
79-11-8	chloroacetic acid	0.1
532-27-4	chloroacetophenone, alpha-	0.06
108-90-7	chlorobenzene	0.5
C7440-47-3	chromium (ii) compounds, as cr	0.5
C7440-47-3	chromium (iii) compounds, cr	0.5
10210-68-1	cobalt carbonyl, as co	0.1
7440-48-4	cobalt, as co metal dust, fume	0.1
1319-77-3	cresols/cresylic acid, (isomers and mixture)	0.5
95-48-7	o-cresol	0.5
108-39-4	m-cresol	0.5
106-44-5	p-cresol	0.5
98-82-8	cumene	0.5
51-12-5	cyanides, as cn	0.5
84-74-2	dibutyl phthalate	0.5
111-42-2	diethanolamine	0.5
60-11-7	dimethyl aminoazobenzene	0.5
121-69-7	dimethylaniline	0.5
68-12-2	dimethylformamide	0.5
131-11-3	dimethylphthalate	0.5
100-41-4	ethyl benzene	0.5
75-00-3	ethyl chloride	0.5
107-21-1	ethylene glycol	0.5
111-76-2	ethylene glycol monobutyl ether	0.5
---	glycol ethers (except for listed ones)	0.5
77-47-4	hexachlorocyclopentadiene	0.1
822-06-0	hexamethylene, 1,6-diisocyanate	0.02
110-54-3	hexane (n-hexane)	0.5
110-54-3	hexane, other isomers	0.5
7647-01-0	hydrogen chloride	0.5
7664-39-3	hydrogen fluoride, as f	0.1
123-31-9	hydroquinone	0.5
78-59-1	isophorone	0.5
108-31-6	maleic anhydride	0.5
C7439-96-5	manganese dust & compounds (except listed)	0.5
748-79-4	mercuric chloride	0.01
10045-94-0	mercuric nitrate	0.01
C7439-97-6	mercury, elemental	0.01
72-43-5	methoxychlor	0.5
67-56-1	methyl alcohol	0.5
74-83-9	methyl bromide	0.5
74-87-3	methyl chloride	0.5
71-55-6	methyl chloroform (1,1,1-trichloroethane)	0.5
78-93-3	methyl ethyl ketone (mek)	0.5
74-88-4	methyl iodide	0.06
108-10-1	methyl isobutyl ketone	0.5
624-83-9	methyl isocyanate	0.1
80-62-6	methyl methacrylate	0.5
1634-04-4	methyl tert-butyl ether	0.5
12108-13-3	methylcyclopentadienyl manganese tricarbonyl	0.1
101-68-8	methylene bisphenyl isocyanate	0.1
91-20-3	naphthalene	0.5
98-95-3	nitrobenzene	0.5
106-50-3	p-phenylenediamine	0.5
56-38-2	parathion	0.1
108-95-2	phenol	0.1
62-38-4	phenyl mercuric acetate	0.01
75-44-5	phosgene	0.1
7803-51-2	phosphine	0.5
7723-14-0	phosphorus	0.1
85-44-9	phthalic anhydride	0.5
57-57-8	propiolactone, beta-	0.1
123-38-6	propionaldehyde	0.5
114-26-1	propoxur	0.5
106-51-4	quinone	0.5
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	0.01
75-74-1	tetramethyl lead, as pb	0.01
7550-45-0	titanium tetrachloride	0.1
108-88-3	toluene	0.5
121-44-8	triethylamine	0.5
108-05-4	vinyl acetate	0.5
593-60-2	vinyl bromide	0.5
1330-20-7	xylenes (m-,o-,p-isomers)	0.5
79469	2-nitropropane	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
540841	2,2,4-trimethylpentane	0.5
95954	2,4,5-trichlorophenol	0.5
92671	4-aminobiphenyl	0.5
101779	4,4'-methlenedianiline	0.5
534521	4,6-dinitro-o-cresol and salts	0.1
60355	acetamide	0.5
1345046	antimony trisulfide	0.1
7783702	antimony pentafluoride	0.1
28300745	antimony potassium tartrate	0.5
133904	chloramben	0.5
2---	chromium compounds, except hexavalent and trivalent	0.5
10025737	chromic chloride	0.1
334883	diazomethane	0.5
64675	diethyl sulfate	0.5
62207765	fluomine	0.1
680319	hexamethylphosphoramide	0.01
12108133	methylcyclopentadienyl manganese	0.1
101688	methylene diphenyl diisocyanate	0.1
69892	N-nitrosomorpholine	0.5
90040	o-anisidine	0.5
---	polycyclic organic matter	0.01
151508	potassium cyanide	0.1
14339	sodium cyanide	0.1
10102188	sodium selenite	0.1
13410010	sodium selenate	0.1
96093	styrene oxide	0.5

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. The activities listed in this section may be omitted from the permit application.

(2) Mobile transport tanks on vehicles, except for those containing asphalt.

(3) Lubricating oil storage tanks.

(4) 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 using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter.

(5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases.

(6) Storage of solid material, dust-free handling.

(7) Vehicle exhaust from auto maintenance and repair shops.

(8) Vents from continuous emissions monitors and other analyzers.

(9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls and separate exhaust are provided.

(10) Internal combustion engines for propelling or powering a vehicle.

(11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires.

(12) Brazing, soldering and welding equipment and oxygen-hydrogen cutting torches for use in cutting metal where in components of the metal do not generate HAPs or HAPs precursors.

(13) Atmospheric generators used in connection with metal heat treating processes.

(14) Metal finishing or cleaning using tumblers.

(15) Metal casting molds and molten metal crucibles that do not contain potential HAPs.

(16) Die casting.

(17) Metal or glass heat-treating, in absence of molten materials, oils, or VOCs.

(18) Drop hammers or hydraulic presses for forging or metalworking.

(19) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of HAPs.

(20) 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.

(21) Metal melting and molten metal holding 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.

(22) Inspection equipment for metal products.

(23) Plastic and resin curing equipment, excluding FRP.

(24) Extrusion equipment, metals, minerals, plastics, grain or wood.

(25) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics.

(26) Roller mills and calendars, rubber and plastics.

(27) Conveying and storage of plastic pellets.

(28) 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.

(29) Plastic pipe welding.

(30) Nonmetallic mineral mines and screening plants except for crushing and associated activities that are not subject to 40 CFR Part 60 Subpart 000. Quarrying of silica rock and associated activities are not considered for listing as insignificant.

(31) Wet sand and gravel screening.

(32) Wax application.

(33) Plant upkeep including routine housekeeping, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and paving or stripping parking lots.

(34) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority.

(35) Cleaning and sweeping of streets and paved surfaces.

(36) Ultraviolet curing processes.

(37) Hot melt adhesive application with no VOCs in the adhesive formulation.

(38) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents.

(39) Steam cleaning operations.

PERMANENT

(40) Steam sterilizers.

(41) Food preparing for human consumption including cafeterias, kitchen facilities and barbecues located at a source for providing food service on the premises.

(42) Portable drums and totes.

(43) Lawn and landscaping activities.

(44) Flares used to indicate danger to the public.

(45) General vehicle maintenance including vehicle exhaust from repair facilities.

(46) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment.

(47) 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.

(48) Natural and forced air vents and stacks for bathroom/toilet facilities.

(49) Office activities.

(50) Personal care activities.

(51) Sampling connections used exclusively to withdraw materials for laboratory analyses and testing.

(52) Fire fighting and similar safety equipment and equipment used to train fire fighters excluding fire drill pits.

(53) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity.

(54) Fuel and exhaust emissions from vehicles in parking lots.

(55) Carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, shot peening, sintering or polishing: Ceramics, glass, 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.

(56) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment.

(57) Slaughterhouse equipment except rendering cookers.

(58) Ozonation equipment.

(59) Nonasbestos brake shoe bonding.

(60) Batch loading and unloading of solid phase catalysts.

(61) Demineralization and oxygen scavenging (deaeration) of water.

(62) Pulse capacitors.

(63) Laser trimmers, using dust collection to prevent fugitive emissions.

(64) Plasma etcher, using dust collection to prevent fugitive emissions and using only oxygen, nitrogen, carbon dioxide, or inert gas.

(65) Gas cabinets using only gasses that are not regulated air pollutants.

(66) CO_2 lasers, used only on metals and other materials which do not emit HAPs in the process.

(67) Structural changes not having air contaminant emissions.

(68) Confection cooking equipment.

(69) Mixing, packaging, storage and handling activities of any size, limited to soaps, lubricants, vegetable oil, grease, animal fat, aqueous salt solutions.

(70) 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.

(71) Pharmaceutical and cosmetics packaging equipment.

(72) Paper trimmers/binders.

(73) Sample gathering, preparation and management.

(74) Repair and maintenance activities, not involving installation of an emission unit and not increasing potential emissions of a regulated air pollutant.

(75) Handling equipment and associated activities for glass and aluminum which is destined for recycling, not the re-refining process itself.

(76) Hydraulic and hydrostatic testing equipment.

(77) Batteries and battery charging.

(78) Porcelain and vitreous enameling equipment.

(79) Solid waste (as defined in the Washington Administrative Code) containers.

(80) Salt baths using nonvolatile salts and not used in operations which result in air emissions.

(81) Shock chambers.

(82) Wire strippers.

(83) Humidity chambers.

(84) Solar simulators.

(85) Environmental chambers not using hazardous air pollutant (HAPs) gasses.

(86) Totally enclosed conveyors.

(87) Steam vents and safety relief valves.

(88) Air compressors, pneumatically operated equipment, systems and hand tools.

(89) Steam leaks.

(90) Recovery boiler blow-down tank.

(91) Salt cake mix tanks.

(92) Continuous digester chip feeders.

(93) Weak liquor and filter tanks.

(94) Process water and white water storage tanks.

(95) Demineralizer tanks.

(96) Clean condensate tanks.

(97) Alum tanks.

(98) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling.

(99) Lime mud filtrate tank.

(100) Hydrogen peroxide tanks.

(101) Lime mud water.

(102) Lime mud filter.

(103) Liquor clarifiers and storage tanks and associated pumping, piping and handling.

(104) Lime grits washers, filters and handling.

(105) Lime silos and feed bins.

(106) Paper forming.

(107) Dryers (Yankee, after dryer, curing systems and coolings systems).

(108) Vacuum systems exhausts.

(109) Starch cooking.

(110) Stock cleaning and pressurized pulp washing.

(111) Winders.
(112) Chipping.
(113) Debarking.
(114) Sludge dewatering and handling.
(115) Screw press vents.
(116) Pond dredging.
(117) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation.
(118) NonPCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank.
(119) Electric or steam-heated drying ovens and autoclaves.
(120) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems.
(121) Water cooling towers processing exclusively noncontact cooling water.

NEW SECTION

WAC 173-401-533 Units and activities defined as insignificant on the basis of size or production rate. (1) General. This section contains lists of units or activities that are exempt from this chapter on the basis of size or production rate. 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) Operation, loading and unloading of 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) Operation, loading and unloading of 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) Operation, loading and unloading of VOC storage tanks (including gasoline storage tanks), ten thousand gallons capacity or less, with lids or other appropriate closure, vp not greater than 80mm Hg at 21°C.

(d) Operation, loading and unloading storage of butane, propane, or liquified petroleum gas (LPG), storage tanks, vessel capacity under forty thousand gallons.

(e) Combustion source less than five million Btu/hr. exclusively using natural gas, butane, propane 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 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 hot water heaters using natural gas, propane or kerosene and generating less than five million Btu/hr.

(s) 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:

(i) 99% or greater H_2SO_4 or H_3PO_4
(ii) 70% or greater HNO_3
(iii) 30% or greater HCl
(iv) More than one liquid phase where the top phase is more than one percent VOCs.

(t) Equipment used exclusively to pump, load, unload or store high boiling organic material, material with initial boiling point (IBP) not less than 150°C. or vapor pressure (vp) not more than 5mm Hg at 21°C. with lids or other appropriate closure.

(u) Smokehouses under twenty square feet.

(v) Milling and grinding activities, using paste-form compounds with less than one percent VOCs.

(w) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals.

(x) Dip-coating operations, using materials with less than one percent VOCs.

(y) Surface coating, aqueous solution or suspension containing less than one percent VOCs.

(z) 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.

(aa) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent.

(bb) Municipal and industrial waste water chlorination facilities of not greater than one million gallons per day capacity.

(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.

PERMANENT

(d) NPDES permitted ponds and lagoons utilized solely for the purpose of settling suspended solids and skimming of oil and grease.

(e) Coffee roasters, under fifteen lbs./day of coffee.

(f) Tire buffing of less than six thousand six hundred tires per year.

PERMANENT

WSR 94-11-108
PERMANENT RULES
DEPARTMENT OF HEALTH
(Health Professions Quality Assurance Division)
[Filed May 18, 1994, 8:35 a.m.]

Date of Adoption: May 10, 1994.

Purpose: To improve rules regarding trainees in order to provide trained individuals who can pass the licensure test and work competently with the public.

Citation of Existing Rules Affected by this Order: Amending WAC 246-828-060 and 246-828-070.

Statutory Authority for Adoption: RCW 18.35.161.

Pursuant to notice filed as WSR 94-08-037 on March 31, 1994.

Changes Other than Editing from Proposed to Adopted Version: Added to the section on minimum standards of training in WAC 246-828-070(3) to provide an exemption for a trainee who has successfully completed a vocational training program.

Effective Date of Rule: Thirty-one days after filing.

May 13, 1994
Janice K. Boden
Program Manager

NEW SECTION

WAC 246-828-055 Trainees—Definitions. For the purposes of this chapter, these terms shall be defined as follows:

(1) "Sponsor" shall mean the licensed hearing aid fitter dispenser who is registered with the department of health to provide sponsorship to a trainee. The sponsor must have been licensed in good standing as a hearing aid fitter dispenser in the state of Washington for at least one year.

(2) "Direct supervision" shall mean that the sponsor is physically present and in the same room with the trainee, observing the testing, fitting and dispensing activities of the trainee at all times.

(3) "Indirect supervision" shall mean the sponsor is immediately available for consultation.

(4) "Sponsor in good standing" shall mean a sponsor whose license has not been subject to sanctions pursuant to RCW 18.130.160 in the last one year.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-060 Trainees—General information. (1) ((~~A trainee may not fit and dispense a hearing aid or be in physical contact with a client or patient unless the sponsor to whom the trainee is registered or a fitter/dispenser duly licensed under this act designated by the sponsor is physically present or on the premises with and supervising his/her actions at all times during the first ninety days the trainee is testing the hearing or fitting or dispensing hearing aids. The extent of direction and supervision of the trainee while on the premises after the first ninety days of a trainee licensure shall be at the discretion of the trainee sponsor.~~

~~(2) During the first ninety days of his or her licensure,~~)) A trainee shall wear an identification badge readily visible to the public which identifies him or her as a trainee.

(((~~(3) A trainee licensed less than ninety days shall not make housecalls and test the hearing or dispense hearing aids unless a licensed fitter/dispenser is physically present with and supervising his or her actions at all times.~~

~~(4) A trainee licensed more than ninety days may, at the discretion of the sponsor, make unsupervised housecalls: *Provided,* That effective February 1, 1985, no trainee shall make housecalls unless a licensed fitter/dispenser is physically present with and supervising his or her actions at all times.~~

~~(5) A trainee who loses his or her sponsor for any reason shall not continue his or her trainee status with a new sponsor until a new trainee application has been filed and payment of this license fee required by RCW 18.35.060 (1)(c) and as determined by the director as provided in RCW 43.24.086 as now or hereafter amended has been received by the department: *Provided,* That, if a trainee obtains a new sponsor and submits the required application within fifteen days of the withdrawal of his or her previous sponsor, the fee shall be that required of a transfer of sponsor.~~

~~(6) If a sponsor dies or withdraws from business, it shall be the responsibility of the trainee to report the loss of such sponsorship to the department in writing within ten days of such occurrence.~~

~~(7)~~)) (2) Trainees shall((~~, if completing a sales contract, sign his or her name, "trainee," and license number on the contract.~~

~~(8) If trainees use business cards, the cards shall indicate "trainee."~~)) identify themselves on sales contracts, business cards, or any other document, by his or her name, "trainee," and license number.

(3) Trainees are subject to the provisions of chapter 18.130 RCW, Uniform Disciplinary Act.

NEW SECTION

WAC 246-828-065 Trainees—Supervision. (1) Direct supervision by the sponsor is required for a trainee to fit and dispense a hearing aid or to be in physical contact with a client or patient, except as provided in subsection (2) of this section.

(2) Upon successful completion of the minimum standards of training and after a minimum of ninety days after licensure as a trainee, a trainee may fit and dispense a hearing aid or be in physical contact with a client or patient under the indirect supervision of the sponsor.

(3) The sponsor shall review and initial all audiometric tests performed by his/her trainee and shall initial all trainee contracts whether or not under direct supervision.

(4) Termination of trainee sponsorship.

(a) A trainee who loses his or her sponsor for any reason shall not continue his or her trainee status with a new sponsor until a new trainee application and fee has been filed and approved by the department: *Provided,* That if a trainee obtains a new sponsor and submits the required application

within fifteen days of the withdrawal of his or her previous sponsor, the fee shall be that required of a transfer of sponsor.

(b) It shall be the responsibility of the trainee to report the loss of such sponsorship to the department in writing within ten days of such occurrence.

(c) The sponsor of a trainee who desires to terminate the responsibilities of sponsorship shall provide the trainee written notice of such termination, giving reasons, and shall immediately notify the department, by registered or certified mail, of the termination of such sponsorship.

(d) In the event the trainee quits or terminates for any reason, the sponsor shall notify the department immediately by registered or certified mail.

(e) The sponsor of such terminating trainee shall be responsible for the trainee until such time as the notification of termination is deposited in the United States mail.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-070 ((~~Termination of trainee sponsorship.~~)) **Trainees—Minimum standards of training.** ((~~(1) The sponsor of a trainee who desires to terminate the responsibilities of sponsorship shall provide the trainee written notice of such termination, giving reasons, and shall immediately notify the department by registered or certified mail, of the termination of such sponsorship.~~

~~(2) In the event the trainee quits or terminates for any reason, the sponsor shall notify the department immediately by registered or certified mail.~~

~~(3) The sponsor of such terminating trainee shall be responsible for the trainee until such time as the notification of such termination is deposited in the United States mail.~~)) (1) The sponsor shall provide training in the following areas during the direct supervision period:

(a) Basic physics of sound;

(b) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders;

(c) Structure and function of hearing aids;

(d) Pure tone audiometry, including air conduction testing and bone conduction testing;

(e) Live voice or recorded voice speech audiometry, including speech reception, threshold testing, MCL, VCL, and speech discrimination testing;

(f) Effective masking;

(g) Recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy;

(h) Selection and adaptation of hearing aids and testing of hearing aids;

(i) Taking ear mold impressions;

(j) Otoscopy;

(k) Evidence of knowledge regarding the medical and rehabilitation facilities that are available for children and adults in the area served;

(l) Evidence of knowledge of grounds for revocation or suspension of license under the provisions of this chapter;

(m) Fitting verification and post-fitting follow-up.

(2) Completion of the above training and competency of the trainee to perform such duties shall be documented by initial of both trainee and sponsor on a form provided by the department. The completed training verification form shall be submitted to the department upon completion of the direct supervision period. Failure to maintain a training log or to verify training to the department shall be a violation of this chapter and may subject the sponsor to disciplinary action by the board.

(3) Trainees who have met one of the following are exempt from the minimum standards of training requirement. Documentation of the exemption shall be certified by the sponsor and submitted on a form provided by the department.

(a) Successful completion of the National Institute for Hearing Instruments Studies (NIHIS) Basic Course for Independent Study;

(b) Documentation that the trainee is either licensed in audiology in another state, or certified as an audiologist by the American Speech and Hearing Association, or holds a masters degree in audiology;

(c) Certification by the sponsor that the trainee has received the required minimum training from a previous sponsor.

(d) Successful completion of a vocational training program approved by the board.

PERMANENT

WSR 94-11-113
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:20 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To implement a system for charging political subdivisions in Washington state a portion of the Office of Minority and Women's Business Enterprises' biennial budget pursuant to legislative mandate.

Statutory Authority for Adoption: RCW 39.19.220.

Pursuant to notice filed as WSR 94-01-187 on December 22, 1993.

Changes Other than Editing from Proposed to Adopted Version: Pursuant to comments received from affected parties, the adopted rule contains criteria for determining who is subject to its provisions and a procedure for determining the proportionate shares of each affected party.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

NEW SECTION

WAC 326-02-034 Political subdivision fees. (1) It is the intent of the state legislature that political subdivisions within the state of Washington contribute to the costs of the state's certification program for minority and women's business enterprises. For the purpose of this section, political subdivisions means any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington that administers a policy or program, or funds from whatever source, which requires or encourages

the use of certified minority, women, or disadvantaged business enterprises.

(2) Effective July 1, 1993, the office shall allocate a portion of its biennial operational costs to political subdivisions, to be prorated on the relative benefit to each political subdivision. Each political subdivision shall pay a percentage of this allocation which is equal to its proportionate share calculated pursuant to subsection 5(a) of this section.

(3) The office shall determine whether a political subdivision is subject to the provisions of this section. Factors that will be considered include:

(a) Whether the political subdivision has a policy or program, or administers funds from whatever source, that requires or encourages the use of certified minority, women, or disadvantaged business enterprises;

(b) The beginning or effective date of the policy, program, or acceptance of the relevant funds;

(c) The political subdivision's most recent biennial construction budget;

(d) The value of the political subdivision's construction dollars committed over a two-year period as specified by the office to businesses certified by the office; and

(e) The feasibility and practicality of collecting the amount that would be due.

(4) Each political subdivision, deemed by the office to be subject to this section on or after July 1, 1993, shall report to the office the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and related suppliers) in calendar years 1991-1992 or its fiscal years ending in 1991 and 1992. For each succeeding biennium, each political subdivision shall report the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and suppliers) during the previous biennium or its fiscal years ending in the previous biennium.

(5) The fee charged to each political subdivision for the period, July 1, 1993 - June 30, 1995, and subsequent bienniums, will be calculated as follows:

(a) The construction dollar commitment of each political subdivision will be divided by the sum of those commitments reported to calculate proportionate share.

(b) The proportionate share percentage of each political subdivision will be applied to the total due from all political subdivisions to determine their respective fees.

(6) The fee for a political subdivision that fails to report as required will be determined as follows:

(a) The number of political subdivisions reporting will be divided by the total number of political subdivisions required to report at that time.

(b) The resulting percentage will be used to calculate the amount of the total allocation due from the political subdivisions which is to be apportioned among those who report. The balance of the total allocation will be charged equally among those who fail to report.

(7) After the initial billing, which will include the amounts due for the number of full quarters beginning July 1, 1993, the office will mail invoices on a quarterly basis one month before the start of each quarter. Payments shall be due within thirty calendar days after receipt of the invoice.

(8) As the number of reporting political subdivisions changes, the amounts due from each for the remaining quarters in a biennium will be recalculated.

WSR 94-11-114
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:22 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To add the street address of the office as an option for submitting applications.

Citation of Existing Rules Affected by this Order: Amending WAC 326-20-120 Submittal of forms.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-108 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/10/92 [6/11/92])

WAC 326-20-120 Submittal of forms. Application forms ((~~shall~~)) may be submitted by mail ((~~or in person~~)) to the office at the following address:

STATE OF WASHINGTON
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
PO BOX 41160
OLYMPIA, WA 98504-1160

Forms may also be delivered to the office at its location, 406 South Water Street, Olympia, Washington.

The minority or woman owner shall be responsible for ensuring that the form is complete and accurate and is properly delivered to the office. The applicant should keep a copy of the completed form and all documents submitted with the form for its own reference.

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

WSR 94-11-115
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:24 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To clarify the intent that the fee be nonrefundable and covers processing rather than ensure outcome of the review.

Citation of Existing Rules Affected by this Order: Amending WAC 326-20-125 Certification fee.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-108 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 93-16-080, filed 8/3/93, effective 9/4/93 [9/3/93])

WAC 326-20-125 ((~~Certification~~)) Processing fee. The office shall charge businesses a nonrefundable twenty dollar ((~~processing~~)) fee for ((~~certification and recertification~~)) processing applications. "Applications" includes requests to be considered for DBE status when the requests are submitted separate from a certification or recertification application. Businesses must submit the fee with all applications for certification or recertification received in the office on or after July 1, 1993. An application is not deemed to be filed and processing will not begin until this fee is received by the office. ((~~before processing will occur.~~)) No business shall be charged more than once in a twelve month period.

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 94-11-116
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:25 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To add and clarify definitions.

Citation of Existing Rules Affected by this Order: Amending WAC 326-02-030 Definitions.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-107 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-24-107, filed 12/2/92, effective 1/3/93 [1/2/93])

WAC 326-02-030 Definitions. Words and terms used in this title shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in this title, or the context in which they are used clearly indicates that they should be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Certified business" or "certified" means a business or the status of a business that has been examined by the Washington state office of minority and women's business enterprises and deemed to be a minority business enterprise (MBE), a women's business enterprise (WBE), a minority woman's business enterprise (MWBE), or a combination business enterprise (CBE).

(3) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(4) "Combination business enterprise" or "CBE" means a small business concern organized for profit, performing a commercially useful function, that is fifty percent owned and controlled by one or more minority men or MBEs certified by the office and fifty percent owned and controlled by one or more nonminority women or WBEs certified by the office. The owners must be United States citizens or lawful permanent residents.

(5) "Commercially useful function" means the performance of real and actual services which are integral and necessary in the discharge of any contractual endeavor, and not solely for the purpose of obtaining certification or obtaining credit for participation goal attainment.

(6) "Common industry practices" means those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(7) "Conduit" means a certified business which agrees to be named as a subcontractor on a contract in which such certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other noncertified business.

(8) "Contract" means a mutually binding legal relationship((~~,~~)) (including a purchase order, lease, or any modification thereof), which ((~~obligating~~)) obligates the seller to furnish goods or services((~~,~~)) (including construction), and the buyer to pay for them.

(9) "Contract by contract basis" means a single contract within a specific class of contracts.

(10) "Contractor" means a party who enters into a contract ((~~to provide~~)) directly with a state agency or educational institution. ((~~with goods or services, including construction, or a subcontractor or sublessee of such a party.~~))

(11) "Corporate-sponsored dealership" means a business that does not meet the requirements for certification but is participating in a program specifically developed by a national or regional corporation to address the present-day issue of lack of opportunities for minorities or women in the dealership industry.

(12) "Director" means the director of the office of minority and women's business enterprises.

(13) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(14) "Front" means a business which purports to be eligible for certification but is not in fact legitimately owned and controlled by minorities, women, or a combination thereof.

(15) "Goods and/or services" means all goods and services, including professional services.

(16) "Heavy construction" means construction other than building construction; e.g., highway or street, sewer and

PERMANENT

pipeline, railroad, communication and power line, flood control, irrigation, marine, etc.

(17) "Joint venture" means a partnership of two or more persons or businesses created to carry out a single business enterprise for profit, for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(18) "Legitimately owned and controlled" means that minorities, women, or a combination thereof, own at least fifty-one percent interest in the business (unless the business qualifies as a corporate sponsored dealership under the provisions of subsection (11) of this section and WAC 326-20-050(4)); and the minorities, women, or combination thereof, possess and exercise sufficient expertise specifically in the firm's field of operation to make decisions governing the long-term direction and the day-to-day operations of the firm.

(19) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(20) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

(21) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the office. The minority owners must be United States citizens or lawful permanent residents.

(22) "Minority women's business enterprise" or "MWBE" means a small-business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority women and is certified by the office. The owners must be United States citizens or lawful permanent residents.

(23) "Office" means the office of minority and women's business enterprises of the state of Washington.

(24) "Pass-through" means a certified business which buys goods from a noncertified business and simply resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(25) "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(26) "Procurement" means the purchase, lease, or rental of any goods or services.

(27) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(28) "Regular dealer" means a certified business that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

(29) "Services," in the context of "goods and/or services," means all services including, but not limited to, client services, personal services, and purchased services as defined in RCW 39.29.006.

(30) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(31) "Subcontractor" means a party that indirectly provides goods or services, including but not limited to construction, to a state agency or educational institution through a contractor.

(32) "Supplier" means a manufacturer, regular dealer, broker, or packager that:

(a) provides or furnishes goods or materials;

(b) performs a commercially useful function; and

(c) is not considered a conduit, front, or pass-through.

(((~~(32)~~))) (33) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(((~~(33)~~))) (34) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by the office. The women owners must be United States citizens or lawful permanent residents.

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 94-11-117
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:26 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To add a sanction for certain situations in which a firm engages in a prohibited activity.

Citation of Existing Rules Affected by this Order: Amended WAC 326-02-050 Penalties which may be imposed.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-107 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/10/92 [6/11/92])

WAC 326-02-050 Penalties which may be imposed. (1) The penalties under this section may be imposed by the office, or by the state agency or educational institution administering a contract or procurement within which a violation occurs. Nothing in chapter 39.19 RCW or this title prevents the state agency or educational institution administering the contract from pursuing any procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

(2) Penalties which may be imposed include one or more of the following:

(a) Withhold payment until the violation is remedied;

(b) Debarment from contracting with the state for up to one year; debarment for up to three years may be imposed for willful repeated violations, exceeding a single violation;

(c) Suspension of the contract;

(d) Termination of the contract;

(e) Immediate suspension of the certification of a certified firm;

(f) Payment of civil penalties of up to five thousand dollars for each violation or up to ten percent of the amount of the contract; or

(g) Decertification((.)) or denial of certification.

(3) Penalties may be imposed on one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(4) Penalties shall be imposed by the office giving a written notice which is either served personally or by certified mail, return receipt requested, to the person or business incurring the penalty. Except for suspension of certification, which is covered by WAC 326-02-090, the notice of the civil penalty shall be a final order of the office unless, within fifteen days after the notice is served, the person incurring the penalty appeals the penalty by filing a notice of appeal with the office.

(5) If a notice of appeal is filed in a timely manner, the office shall conduct a show cause review as outlined in WAC 326-20-171 or an adjudicative proceeding shall be conducted on behalf of the office by the office of administrative hearings in accordance with the provisions in chapter 326-08 WAC.

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

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

WSR 94-11-118
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:27 a.m.]

PERMANENT

Date of Adoption: May 18, 1994.

Purpose: To set forth requirements for state organizations to be in compliance with chapter 39.19 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 326-40-030 Agency and educational institution responsibilities.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-109 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-20-124, filed 10/7/92, effective 11/6/92 [11/7/92])

WAC 326-40-030 State ((~~Agency~~)) agency and educational institution responsibilities. Each state agency and educational institution shall:

(1) ((~~Formulate~~)) Adopt, update as necessary, and implement a plan for achieving the annual ~~overall~~ class of contract goals and ensuring that certified businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in its contracts for public works and the procurement of goods, equipment, and services. The initial plan shall be filed with ((~~and approved by~~)) the office to be effective July 1, 1993.

(2) Monitor its contractors and vendors at time of bid, proposal, or quote submittal, and after award, and take the appropriate action(s) as needed to enforce compliance with requirements set pursuant to chapter 39.19 RCW and the provisions of Title 326 WAC.

(3) Waive the requirement for a performance bond on any public works project that does not exceed twenty-five thousand dollars awarded to a business certified by the office; *Provided,* That the agency or educational institution prequalifies the business using a limited questionnaire which assures:

(a) That the bidder has adequate financial resources or the ability to secure such resources;

(b) That the bidder can meet the performance schedule;

(c) That the bidder is experienced in the type of work to be performed; and

(d) That all equipment to be used is adequate and functioning and that all equipment operators are qualified to operate such equipment.

((~~(3)~~)) (4) Cooperate with the office and provide timely access to records and information as needed for the conduct of investigations or the preparation of reports.

(((~~(4) Each agency and educational institution shall make~~)) (5) Make available to the office, expenditure data in such form and frequency as required in WAC 326-40-050.

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

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

PERMANENT

WSR 94-11-119
PERMANENT RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed May 18, 1994, 10:28 a.m.]

Date of Adoption: May 18, 1994.

Purpose: To implement chapter 39.19 RCW as amended by section 9, chapter 512, Laws of 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 326-40-040 Contents of agency and educational institution's plan.

Statutory Authority for Adoption: RCW 39.19.030.

Pursuant to notice filed as WSR 94-08-110 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 18, 1994
James A. Medina
Director

AMENDATORY SECTION (Amending WSR 92-20-079, filed 10/6/92, effective 11/6/92)

WAC 326-40-040 Contents of state agency and educational institution's plan. (1) Each plan shall include the following:

(a) A statement of commitment from the director or agency head to achieve the state's annual class of contract goals and to maximize opportunities for certified businesses to contract for public works and provide goods, equipment, and services;

(b) Identification of the person given the responsibility and authority to ensure implementation of the plan; and

(c) A listing of specific measures the agency or educational institution will take to increase participation of certified businesses.

(2) In addition to the requirements in paragraph (1) of this section, ((~~The~~)) the plan for agencies with one hundred or more employees shall include detailed procedures for the following:

(((~~(1) A statement of policy that commits the agency or educational institution to achieving the annual goals and increasing opportunities for certified businesses to contract for public works and to provide goods, equipment, and services to the agency or educational institution in compliance with chapter 39.19 RCW;~~

~~(2) Identification of the position and other duties of the staffperson given the responsibility and authority to ensure implementation of the plan;~~

~~(3) Detailed procedures for:~~))

(a) Communicating the policy and appropriate procedures to all staff;

(b) Training of staff involved in implementation;

(c) Annual forecasting of contracting, procurement, other expenditure activity, and goalsetting by class of contract;

(d) Setting individual contract goals;

(e) Monitoring and ensuring compliance of contractors and vendors;

(f) Maintenance of records regarding contract awards, purchase orders, and other expenditures as required in this chapter;

(g) Regular provision of data to the office on all expenditures as required in WAC 326-40-050;

(h) Resolving disputes and investigating complaints; and

(i) Review and revision of contracting and procurement documents, policies, and practices which hinder or create barriers to successful implementation of the plan.

WSR 94-11-006
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 94-29—Filed May 4, 1994, 4:03 p.m.]

Date of Adoption: May 3, 1994.

Purpose: Commercial fishing regulations, personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-20-05100A, 220-20-06500A, 220-55-01500A and 220-55-15500A; and amending WAC 220-20-051, 220-20-065, 220-55-015, and 220-55-155.

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: Alaska DF&G vessel registration is added to reduce redundant numbering. Business organization's operator designation allows three operators for all license holders. Private tideland owners are license exempted to agree with harvest rule exemption as provided by statute. License dealers fees are for licenses, not surcharges. These interim rules are adopted until permanent rules can take effect.

Effective Date of Rule: Immediately.

May 3, 1994
Judith Freeman
for Robert Turner
Director

NEW SECTION

WAC 220-20-05100B Vessel designation requirements. Notwithstanding the provisions of WAC 220-20-051, effective immediately until further notice:

(1) It is unlawful to participate in a commercial fishery or deliver food fish or shellfish into a port in the state unless the vessel designated displays the official Coast Guard documentation number, or complete state registration number, or the Alaska Department of Fish and Game registration number, permanently displayed in numbers, or letters and numbers, not less than ten inches high and of proportional width, clearly visible from each side of the vessel.

(2) The allowance of the Alaska Department of Fish and Game registration number for designation in a state licensed fishery is separate and distinct from any federal requirement for vessels participating in the coastal groundfish fishery to display their official number, and display of the Alaska registration number may not satisfy this requirement.

NEW SECTION

WAC 220-20-06500B Commercial licensing - Business organizations - Operator designation. Effective immediately until further notice, any person who holds any commercial fishing license or delivery license and is a business organization may designate no more than one human being to act on behalf of the license holder to operate a designated vessel as provided for in this section:

1. If the business is a sole proprietorship, the designated operator must be the sole proprietor.

2. If the business is a partnership, the designated operator must be a partner.

3. If the business is a corporation, the designated operator must be a corporate officer.

4. In addition to the designated operator, a license holder who is a business entity may designate up to two alternate operators.

5. The license holder who is a business organization may substitute the designated operator by surrendering the fishery license card, redesignating the operator, and paying the replacement license fee provided for in RCW 75.28.030.

NEW SECTION

WAC 220-55-01500B Personal use shellfish and seaweed license—Private tidelands. Notwithstanding the provisions of WAC 220-55-015, private tideland owners and lessees of state tidelands and their immediate family members as defined in RCW 75.08.080 are not required to have a shellfish and seaweed license to harvest oysters, clams, cockles, mussels or borers taken for personal use from their own tidelands.

NEW SECTION

WAC 220-55-15500B Personal use license dealer's fee. Notwithstanding the provisions of WAC 220-55-115, effective immediately until further notice, a personal use license dealer may retain a license fee of one dollar for each personal use food fish and personal use shellfish and seaweed license sold. No dealers fee may be charged for distributing catch record cards or collecting the recreational fisheries enhancement surcharge and issuing stamps.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-20-05100A	Vessel designation requirements. (93-145)
WAC 220-20-06500A	Commercial licensing - Business organizations-Operator designation. (93-145)
WAC 220-55-01500A	Personal use shellfish and seaweed license—Private tidelands. (93-145)
WAC 220-55-15500A	Personal use license dealer's fee. (93-145)

EMERGENCY

WSR 94-11-014
EMERGENCY RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed May 5, 1994, 3:33 p.m.]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

CERTIFICATE AND ORDER FOR FILING TEMPORARY ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER

I hereby certify that the copy shown below is a true, full and correct copy of temporary rule(s) adopted on April 12, 1994, by the Columbia River Gorge Commission to become effective upon filing through August 26, 1994.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Now therefore, it is hereby ordered that the following action to be taken: Adopted 350-120, Economic development certification process as administrative rules of the Columbia River Gorge Commission.

Dated this 19th Day of April, 1994.

By Jonathan Doherty
Executive Director

Statutory Authority: RCW 43.97.015 to 43.97.035, chapter 499, Laws of 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

Summary of Rule: The rule sets for the process whereby the commission certifies proposed projects being considered for grants/loans under the national scenic area economic development project are consistent with the Scenic Act, management plan and land use ordinances adopted pursuant to the act.

Findings of Emergency: (1) The Columbia River Gorge National Scenic Area Act (16 USC § 544 et seq.) authorizes funds for economic development grants and loans. Funds have been appropriated for this program and are now available in both Oregon and Washington. The economic departments of both states have developed a plan for the expenditure of these funds and are now ready to make grants/loans. Grant applications in Oregon have been evaluated by the Oregon Economic Development Department and await only the commission's certification. Without the proposed rule, which governs the commission's certification process required by the Scenic Act, the states are unable to award any grants/loans. Delay in implementing the certification process will have two significant effects. First, grants for specific economic development projects cannot be awarded. This will hamper these developments and delay implementation of the economic development program. This program is the top priority of the Bi-state Economic Development Advisory Council appointed by the governors of Oregon and Washington. Second, the funds currently available were appropriated by the federal government for fiscal year 1993 (funds where not appropriated in FY 1994). Without visible progress in awarding grants and loans prior to the federal FY 1995 appropriations hearings in June, Congress is extremely unlikely to appropriate additional economic development funds. (2) Because the commission is an interstate agency it must follow both Oregon and Washington's rule-making processes. Washington's process has a lengthy timeframe for permanent rule-making and would cause a delay resulting in the rule not becoming effective until late June 1994. This would result in a 2 and a half month delay in awarding grants/loans in Oregon. It would also place the first awards after Congressional appropriations committees have begun deliberations on FY 1995 funding. This would significantly lessen the likelihood of federal dollars for economic development in the National Scenic Area in FY 1995. (3) The temporary rule-making action will allow both states to begin awarding grants and loans through the scenic area economic development program once the projects are certified by the commission. The rule will go through the permanent rulemaking process in the meantime. It should be noted this rule has been through considerable public involvement with the Scenic Area Economic Development Bi-State Advisory Council and the commission. Discussion of the rule prior to adoption as a temporary rule took place [at] a public commission meeting where the public was allowed to comment on the rule.

Statutory Authority: Authority to adopt the rule derives the Scenic Area Act (16 USC § 544 et seq.) and the Columbia River Compact, Article I, Section a (4)(g), at ORS 196.150 and RCW 43.97.015. The temporary rule is necessary as a result of federal law, 16 USC § 544 et seq. as well as state law.

Statement of Need and How Rule is Intended to Meet Need: The Columbia River Gorge National Scenic Area Act (16 USC § 544i) requires the commission to certify all activities undertaken by a grant provided under the national scenic area economic development program are consistent with the purposes of the act, the management plan, and land use ordinances adopted pursuant to the act. Commission rule 350-120 provides a process whereby proposed projects for grants/loans through the national scenic area economic development program are certified by the commission.

Documents Relied Upon: Columbia River Gorge National Scenic Area Act (16 USC § 544 et seq.), ORS 196.150, RCW 43.97.015, Management Plan for the Columbia River Gorge National Scenic Area, Economic Development Plan - Columbia River Gorge National Scenic Area (January 1992). All documents are available for inspection at the Columbia River Gorge Commission, 288 East Jewett Boulevard, White Salmon, WA.

Statement of Anticipated Effects: The temporary rule-making action will allow both states to begin awarding grants and loans through the scenic area economic development program once the projects are certified by the commission. The rule will go through the permanent rule-making process in the meantime. It should be noted this rule has been through considerable public involvement with the Scenic Area Economic Development Bi-State Advisory Council and the commission. Discussion of the rule prior to

adoption as a temporary rule took place [at] a public commission meeting where the public was allowed to comment on the rule.

Fiscal Impact Statement: The procedures set forth in the rule are substantially similar to what the commission uses in its land use ordinances therefore the time required for the review of projects is minimal. However, if the rule is not immediately implemented a delay could result in a negative fiscal impact to businesses who are applying for grants/loans through the national scenic area economic development program. A delay could cause a loss in funding for future and existing businesses in the scenic area.

COLUMBIA RIVER GORGE COMMISSION
TEMPORARY RULE

Chapter 350
Division 120

Economic Development Certification Process

350-120-000. Purpose.

This division specifies the process of the Columbia River Gorge Commission (Commission) to certify activities undertaken under a National Scenic Area economic development grant and/or loan are consistent with the purposes of the Scenic Area Act, the management plan, and land use ordinances adopted pursuant to the Act.

350-120-010. Authority.

Section 11 (c)(1) of the Scenic Area Act requires the Commission to certify all activities undertaken under a National Scenic Area economic development grant and/or loan are consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to the Act.

The Scenic Area Act states as follows:

§ 544i. Economic development

(a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act.

(b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of this Act.

(c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that—

(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to this Act;

(2) grants and loans are not used to relocate a business from one community to another;

(3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act [16 USC § 544f].

(d) Report. Each State shall—

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

16 USCS § 544i.

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.

350-120-020. Application for certification.

(1) The applicant shall submit one complete application to the Executive Director of the Commission.

(2) A complete application shall include:

(a) One complete copy of the application materials required by the state agency administering the grant or loan program, excluding confidential financial information;

(b) If the proposed project will be located entirely or partially within the general management area or special management area one complete copy of a Scenic Area land use ordinance development review decision, issued by the applicable county planning director, approving the proposed project as consistent with the ordinance requirements, or a copy of a letter from the applicable county planning director stating why the proposed project does not require review under the county's Scenic Area land use ordinance;

(c) One completed application for certification form, available from the Gorge Commission and/or the state agencies administering the grant or loan program. The form shall include the following information:

(A) applicant's name and business address;

(B) description of proposed project for which a Scenic Area grant or loan is sought;

(C) legal description and map of the specific location of proposed project; if project has multiple or regional locations, these should be identified;

(D) description of the existing use of the property or properties on which the project will be located and/or used;

(E) a statement setting forth any local, state or federal permits required and a report on their status; and

(F) signature of applicant and property owner if, different from applicant.

(d) One copy of each of any state and federal environmental permits have been issued for the proposed project. If permits have not been received, copies of permit applications shall be submitted instead.

(3) The Director shall review the application and determine if it is complete. If it is not complete, the applicant is required to submit the additional information requested by the Director. Once the Director determines the

EMERGENCY

application is complete, the process of staff analysis shall begin.

350-120-030. Recommendation of the Director.

(1) In making a recommendation on a proposed grant or loan the Director shall:

(a) Consult with the applicant and such agencies as the Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(2) The Director shall recommend a grant or loan for certification only if it is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.

(3) Within 15 working days of acceptance of the application as complete, the Director shall issue a report setting forth the recommendation and the basis for it.

(4) The Director shall mail a copy of the decision to the applicant, Gorge Commissioners, the Forest Service, the States of Oregon and Washington, the Indian Tribes with treaty rights in the Scenic Area, and the planning director of the applicable county or city.

350-120-040. Review and decision by commission.

(1) The Commission shall review the recommendation and report of the Director at a scheduled meeting. Public comment shall be allowed.

(2) The Commission may request further information at the meeting if it is deemed relevant to its decision.

(3) At the first Commission meeting occurring five (5) or more working days of after issuance of the Director's report, the Commission shall make a decision on the grant or loan, as follows:

(a) approve the request, certifying the grant or loan is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act;

(b) approve the request contingent upon approval of certain required state and/or federal environmental permits;

(c) defer the decision, pending receipt of further information; or

(d) deny the request, stating that the grant or loan is not consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.

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 94-11-061
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3718A—Filed May 11, 1994, 2:24 p.m., effective June 3, 1994, 12:01 a.m.]

Date of Adoption: May 11, 1994.

Purpose: Rescinds WAC 388-81-065 from WSR 94-08-045, filed March 31, 1994. Medical assistance administration does not want to repeal this section because the Division of Income Assistance will have repealed this same section effective June 3, 1994.

Citation of Existing Rules Affected by this Order: Rescinding WAC 388-81-065 only.

Effective Date of Rule: June 3, 1994, 12:01 a.m.

May 11, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-062
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3727A—Filed May 11, 1994, 2:26 p.m., effective June 3, 1994, 12:01 a.m.]

Date of Adoption: May 11, 1994.

Purpose: Rescinds WSR 94-08-041 to be effective June 3, 1994, at 12:01 a.m. Medical assistance administration is rescinding WAC 388-92-036 and 388-95-340 because the Division of Income Assistance has repealed these sections in their Title 388 WAC rewrite on June 3, 1994.

Citation of Existing Rules Affected by this Order: Rescinding WAC 388-92-036 SSI-Related income exemptions and 388-95-340 Computation of available income and resources.

Effective Date of Rule: June 3, 1994, 12:01 a.m.

May 11, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-063
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3728A—Filed May 11, 1994, 2:29 p.m., effective June 3, 1994, 12:01 a.m.]

Date of Adoption: May 11, 1994.

Purpose: Rescinds WSR 94-08-043 filed March 31, 1994, to be effective June 3, 1994, at 12:01 a.m. Medical assistance administration has rescinded because the Division of Income Assistance is repealing these sections in the Title 388 WAC rewrite under Division of Income Assistance WSR 94-10-065. This rescindment becomes effective June 3, 1994.

Citation of Existing Rules Affected by this Order: Rescinding WAC 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing, 388-82-150 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing, 388-82-160 Hospital premium insurance enrollment for the working disabled, 388-83-032 Pregnant women, 388-83-033 Children—Eligible to nineteen years of age, and 388-95-360 Allocation of income and resources—Institutionalized client.

Effective Date of Rule: June 3, 1994, 12:01 a.m.

May 11, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-11-068
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-31—Filed May 13, 1994, 8:05 a.m.]

Date of Adoption: May 11, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57A-01200A and 220-57A-15200A; and amending WAC 220-57A-001, 220-57A-012, and 220-57A-152.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The distinction between nonanadromous salmon and trout has many anglers confused as to species and license requirements for harvest. A single rule using best available data (Lake Washington) clarifies the requirements. Baker Lake and Shannon Reservoir have smolt and brood stock escapement requirements differing from other landlocked lakes.

Effective Date of Rule: Immediately.

May 11, 1994
Judith Freeman, Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-57A-00100A General provisions—Lakes. Notwithstanding the provisions of WAC 220-57A-001, effective immediately until further notice the following provisions apply to all lakes:

(1) It is unlawful to fish for or possess anadromous salmon taken from any lake not listed in this chapter.

(2) In any lake containing both anadromous and nonanadromous sockeye salmon, only fish greater than 20 inches in length shall be considered anadromous, unless otherwise provided. In any landlocked lake, all salmon are nonanadromous.

(3) All nonanadromous salmon are regulated as gamefish, and a gamefish license is required to take nonanadromous salmon, except either a gamefish license or a personal use food fish license may be used to take nonanadromous coho salmon from Riffe and Merwin Lakes.

NEW SECTION

WAC 220-57A-01200B Baker Lake (Whatcom County). Notwithstanding the provisions of WAC 220-57A-012, effective immediately until further notice, the waters of Baker Lake are closed to the harvest of anadromous sockeye salmon, defined for this section to be sockeye salmon smaller than six inches in length or greater that 18 inches in length.

NEW SECTION

WAC 220-57A-15200B Shannon Reservoir (Skagit County). Notwithstanding the provisions of WAC 220-57A-152, effective immediately until further notice, the waters of Shannon Reservoir are closed to the harvest of anadromous sockeye salmon, defined for this section to be sockeye salmon smaller than six inches in length or greater than 18 inches in length.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-57A-01200A	Baker Lake (Whatcom County). (94-27)
WAC 220-57A-15200A	Shannon Reservoir (Skagit County). (94-27)

EMERGENCY

WSR 94-11-072
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-34—Filed May 13, 1994, 2:54 p.m.]

Date of Adoption: May 12, 1994.

Purpose: Commercial and personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-051 and 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The spot shrimp resource in Shrimp District One is extremely depressed and requires protection. Release of spot shrimp caught in this area will facilitate recovery.

Effective Date of Rule: Immediately.

May 12, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-52-05100Q Shrimp fishery—Puget Sound. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to retain spot shrimp taken from the waters of Shrimp District one. It is unlawful to have shrimp pot gear in the waters of Shrimp District One while having spot prawns aboard the fishing vessel.

NEW SECTION

WAC 220-56-32500Z Shrimp areas and seasons. Notwithstanding the provisions of WAC 220-56-325, effective immediately until further notice it is unlawful to retain spot shrimp taken for personal use in those waters of Shrimp District One. It is unlawful to have shrimp pot gear in the waters of Shrimp District One while having spot prawns aboard the fishing vessel.

WSR 94-11-073
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-33—Filed May 13, 1994, 2:56 p.m., effective May 15, 1994]

Date of Adoption: May 12, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-090.

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: These regulations were adopted by the Pacific Fisheries Management Council and will be implemented by the National Marine Fisheries Service. This regulation is intended to control harvest and promote conservation of westcoast groundfish stocks.

Effective Date of Rule: May 15, 1994.

May 12, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-44-09000C Coastal bottomfish—Limited entry fixed gear vessels—Hold inspections—Sablefish minimum size. Notwithstanding the provisions of WAC 220-44-050 and 220-44-090, effective May 15, 1994 until further notice, it is unlawful for vessels holding a groundfish limited entry permit other than trawl vessels to have sablefish on board or to land sablefish into any Washington State port unless the provisions of this section have been complied with:

(1) During a period of either thirty days or until the unrestricted sablefish fishery ends, whichever occurs first, any fisher intending to harvest sablefish taken with gear other than trawl gear must have a Washington sablefish vessel hold inspection certificate.

(2) The inspection certificate will be issued to properly licensed vessels made available for inspection in the ports of Bellingham, Neah Bay, La Push, Westport and Ilwaco, beginning on May 14, 1994.

(3) Inspections will be performed by authorized department personnel not earlier than May 14, 1994 and during the following thirty-one day period, or until the unrestricted sablefish fishery ends, whichever occurs first.

(4) No fisher may land more than 1,500 pounds round weight or three percent of the sablefish aboard, whichever is greater, of sablefish less than 22 inches in total length or 15.5 inches dressed length (measured from the anterior insertion of the dorsal fin to the tip of the tail).

(5) The provisions of this section do not apply to trawl vessels holding a groundfish limited entry permit nor to open access vessels. See WAC 220-44-050, and emergency regulations adopted pursuant thereto, for vessel trip limits for such vessels.

WSR 94-11-074
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-32—Filed May 13, 1994, 2:58 p.m., effective May 13, 1994, 12:00 noon]

Date of Adoption: May 12, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-040.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to maintain consistency between state and federal regulations as whiting processing vessels have achieved their quota which was established by the Pacific Fishery Management Council.

Effective Date of Rule: May 13, 1994, 12:00 noon.

May 12, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-44-04000E Coastal bottomfish seasons. Notwithstanding the provisions of WAC 220-44-040, effective 12:00 noon May 13, 1994 until further notice:

(1) It is unlawful to deliver Pacific whiting to an at-sea processing vessel in state or offshore waters.

(2) It is unlawful for a catcher/processor to take, fish for, or process any Pacific whiting taken from state or offshore waters and it is unlawful to possess whiting taken after 12:00 noon May 13, 1994.

WSR 94-11-075
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-30—Filed May 13, 1994, 3:00 p.m., effective May 16, 1994, 12:01 a.m.]

Date of Adoption: May 11, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-175.

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: Although harvestable numbers of spring chinook salmon are available in the Cowlitz, the 1994 run size is much smaller than in past years and liberal fishing hours and the special bag limit is no longer appropriate.

Effective Date of Rule: May 16, 1994, 12:01 a.m.

May 11, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-57-17500Y Cowlitz River. Notwithstanding the provisions of WAC 220-57-175:

(1) Effective May 16, 1994 through June 30, 1994, it is unlawful to fish for or to possess salmon taken from those waters of the Cowlitz River downstream from the Cowlitz Salmon Hatchery Barrier Dam to a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

(2) Effective July 1, 1994 through July 31, 1994, in those waters of the Cowlitz River downstream from the Cowlitz Salmon Hatchery Barrier Dam to a line from the mouth of Mill Creek to a boundary marker on the opposite shore the daily bag limit is six salmon not less than 12 inches in length, not more than two of these six salmon may be chinook salmon over 24 inches in length, and it is unlawful to fish for or possess salmon from one hour after official sunset to one hour before official sunrise.

(3) Effective May 16, 1994 through July 31, 1994, in those waters of the Cowlitz River downstream from the mouth of Mill Creek the daily bag limit is six salmon not less than 12 inches in length, not more than two of these six salmon may be chinook salmon over 24 inches in length, and it is unlawful to fish for or possess salmon from one hour after official sunset to one hour before official sunrise.

WSR 94-11-078
EMERGENCY RULES
FISH AND WILDLIFE COMMISSION
[Filed May 13, 1994, 3:39 p.m.]

Date of Adoption: May 13, 1994.

Purpose: To adopt WAC 232-28-24201 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations—GMU 368.

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: WAC 232-28-242 (1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations) was adopted by the Washington Fish and Wildlife Commission on April 8, 1994, and filed as a permanent regulation on May 10, 1994; and will not become effective until June 9, 1994. This emergency regulation will supersede information contained in WAC 232-28-242.

On the bottom of page five of the rule, the description of legal elk in GMU 368 should be Spike bull only and not include antlerless. This change is necessary to prevent overharvest of cow elk.

Effective Date of Rule: Immediately.

May 13, 1994
Patricia McLain
for John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-24201 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations—GMU 368

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
368	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull

WSR 94-11-106
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
[Order 94-35—Filed May 17, 1994, 4:46 p.m.]

Date of Adoption: May 16, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a

rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary in order to make the WAC rules consistent with a subsistence fishing closure initiated by the four treaty tribes.

Effective Date of Rule: Immediately.

May 16, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-32-05500G Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-055, effective May 15 through May 31, 1994, it is unlawful for a person possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties to take or possess salmon, shad or sturgeon taken for subsistence purposes from those waters of the Columbia River between Bonneville Dam and McNary Dam.

EMERGENCY

WSR 94-11-107
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 94-36—Filed May 17, 1994, 4:48 p.m., effective May 20, 1994, 4:00 a.m.]

Date of Adoption: May 16, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-030.

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 shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

Effective Date of Rule: May 20, 1994, 4:00 a.m.

May 16, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-33-03000G Commercial shad—Columbia River Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad for commercial purposes except as provided for in this section:

FISHING PERIODS

(1) Shad Area 2S is open:
4:00 a.m. to 10:00 p.m. May 20, 1994;

4:00 a.m. to 10:00 p.m. May 23, 1994;
4:00 a.m. to 10:00 p.m. May 24, 1994;
4:00 a.m. to 10:00 p.m. May 25, 1994;
4:00 a.m. to 10:00 p.m. May 26, 1994;
4:00 a.m. to 10:00 p.m. May 27, 1994;

4:00 a.m. to 10:00 p.m. May 31, 1994;
4:00 a.m. to 10:00 p.m. June 1, 1994;
4:00 a.m. to 10:00 p.m. June 2, 1994;
4:00 a.m. to 10:00 p.m. June 3, 1994;

4:00 a.m. to 10:00 p.m. June 6, 1993;
4:00 a.m. to 10:00 p.m. June 7, 1993;
4:00 a.m. to 10:00 p.m. June 8, 1993;
4:00 a.m. to 10:00 p.m. June 9, 1993; and
4:00 a.m. to 10:00 p.m. June 10, 1993.

(2) The Camas-Washougal Reef Area is open:
4:00 a.m. to 11:59 p.m. May 20, 1994;
4:00 a.m. May 23 to 11:59 p.m. May 27, 1994;
4:00 a.m. May 31 to 11:59 p.m. June 3, 1994;
4:00 a.m. June 6 to 11:59 p.m. June 10, 1994; and
4:00 a.m. June 13 to 11:59 p.m. June 17, 1994.

GEAR

(3) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

GENERAL

(4) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

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 94-11-127
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 94-37—Filed May 18, 1994, 11:49 a.m., effective May 21, 1994, 12:01 a.m.]

Date of Adoption: May 17, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-29000P and 220-57-49700H; and amending WAC 220-57-290 and 220-57-497.

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: In-season run size information indicates that harvestable spring chinook salmon are not available for a recreational fishery in these tributaries of the Columbia River.

Effective Date of Rule: May 21, 1994, 12:01 a.m.

May 17, 1994
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-57-29000Q Icicle River. Notwithstanding the provisions of WAC 220-57-290, effective May 21 through June 30, 1994, those waters of the Icicle River downstream from a point 400 feet below Leavenworth National Fish Hatchery to fishing boundary markers at the mouth of the Icicle River are closed to salmon fishing.

NEW SECTION

WAC 220-57-49700I Wenatchee River. Notwithstanding the provisions of WAC 220-57-497, effective May 21 through June 15, 1994, those waters of the Wenatchee River downstream from the mouth of Icicle River to the Highway 2 Bridge at Leavenworth are closed to salmon fishing

REPEALER

The following sections of the Washington Administrative Code are repealed effective May 21, 1994:

WAC 220-57-29000P	Icicle River. (94-17)
WAC 220-57-49700H	Wenatchee River. (94-17)

EMERGENCY

WSR 94-11-015
ATTORNEY GENERAL OPINION
Cite as: AGO 1994 No. 8
[April 29, 1994]

STATE OFFICERS—SALARIES—ELECTED OFFICIALS—Authority of the Washington Citizens' Commission on Salaries for Elected Officials to decrease salaries during term; effect of change in number of congressional districts on composition of the Commission.

1. The Washington Citizens' Commission on Salaries for Elected Officials may not decrease the salaries of elected officials during their current terms of office.
2. If the Washington Citizens' Commission on Salaries for Elected Officials fails to timely adopt a new salary schedule, the last one adopted continues in effect.
3. The Washington Citizens' Commission on Salaries for Elected Officials may continue to operate lawfully notwithstanding Washington's gain of a ninth representative in Congress after the 1990 census; pending amendatory legislation commission members must be selected from the pre-1990 congressional districts.
4. A member of the Washington Citizens' Commission may be reappointed to a second term if his or her name is again drawn by lot for the position, or if nominated for a second term pursuant to RCW 43.03.305.

Requested by:
Leonard Nord, Chairman
Washington Citizens' Commission on
Salaries for Elected Officials
1210 Eastside Street, MS 43120
Olympia, WA 98504

WSR 94-11-025
NOTICE OF PUBLIC MEETINGS
HARDWOODS COMMISSION
[Memorandum—May 4, 1994]

There will be a meeting of the Washington State Hardwoods Commission on May 19, 1994, at 8:30 a.m. until completed at the Business Assistance Center, Olympia, Washington.

WSR 94-11-028
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
[Memorandum—May 6, 1994]

MEETING NOTICE FOR MAY 1994
TRANSPORTATION IMPROVEMENT BOARD
OLYMPIA, WASHINGTON 98504-0901

Sidewalk subcommittee, 3:00 p.m. - 5:00 p.m., Thursday, May 26, 1994, in Wenatchee at the Red Lion Inn, 1225 North Wenatchee Avenue.

Work session, 7:00 p.m, Thursday, May 26, 1994, at the Red Lion Inn.

Board meeting, 9:00 a.m., Friday, May 27, 1994, at the Red Lion Inn.

Special needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (206) 753-7198 by May 18, 1994.

The next scheduled meeting is June 24, 1994, in Bellingham. A notice with further detail of the June meeting will be mailed June 3, 1994.

WSR 94-11-052
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—May 12, 1994]

The Washington State Human Rights Commission will hold its June regular commission meeting in Vancouver, Washington on June 22 and 23, 1994. The meetings will be held at the Clark County Building, Commissioners' Hearing Room, 1013 Franklin, Second Floor, Vancouver, WA. The meeting on June 22 will be a planning and training session beginning at 7:00 p.m. The regular business meeting on June 23 will begin at 9:00 a.m.

WSR 94-11-067
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
[Memorandum—May 12, 1994]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, May 18, 1994, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle. If you have any questions regarding this meeting, please call 447-5000.

WSR 94-11-076
NOTICE OF PUBLIC MEETINGS
COMMISSION ON JUDICIAL CONDUCT
[Memorandum—May 11, 1994]

The following is a schedule of our commission's rules subcommittee meetings for the remainder of 1994. Please publish in the next state register.

On August 4, 1994, September 1, 1994, October 6, 1994, November 3, 1994 and December 1, 1994, at the Holiday Inn, 17338 Pacific Highway South, Seattle, WA 98188, at 6:00 p.m.

WSR 94-11-083
NOTICE OF PUBLIC MEETINGS
COUNCIL ON VOCATIONAL-TECHNICAL EDUCATION
[Memorandum—May 16, 1994]

Friday, May 20, 1994, 8:00 a.m. to 3:00 p.m. Clyde Hupp Board Room, Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA, (206) 596-1500.

The consent agenda includes items of business that may not require separate discussion. The chair will ask if any member of the council, or the public, would like to have an item removed from the consent agenda for separate discussion. Following the removal of any item from the consent agenda for separate discussion, the council will vote on the remaining issues in one motion. All items removed from the consent agenda will be heard immediately following action on the consent agenda.

The meeting site is barrier free. People needing special accommodations should contact the council office at (206) 753-3715.

WSR 94-11-084
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—May 16, 1994]

Washington Community College District 23 board of trustees meeting, May 19, 1994, Sno-King Room 103, estimated time: 4:30 to 6:50.

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 94-11-121
ATTORNEY GENERAL OPINION
[Filed May 18, 1994, 10:53 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you would like additional information about the Attorney General's opinions process or any opinion request summarized in the register, call the Attorney General's Office at (206) 753-4114, or write to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, WA, 98504-0100.

During the period covered by this request there are no opinion requests for which the Attorney General's Office seeks public input.

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 #
1-21-010	AMD-P	94-09-045
1-21-170	AMD-P	94-09-045
4-25-185	REP	94-02-070
4-25-186	REP	94-02-070
4-25-187	REP	94-02-070
4-25-188	REP	94-02-070
4-25-280	REP	94-02-070
4-25-300	REP	94-02-070
4-25-320	REP	94-02-070
4-25-521	NEW	94-02-068
4-25-522	NEW	94-02-068
4-25-780	NEW	94-10-039
4-25-810	NEW	94-02-072
4-25-811	NEW	94-02-072
4-25-812	NEW	94-02-072
4-25-813	NEW	94-02-072
4-25-820	NEW	94-02-071
4-25-920	NEW	94-02-069
16-32-009	NEW-P	94-09-072
16-32-010	REP-P	94-09-072
16-32-011	NEW-P	94-09-072
16-38-001	REP	94-05-009
16-38-010	REP	94-05-009
16-38-020	REP	94-05-009
16-54-035A	NEW-E	94-09-004
16-86-015	AMD	94-05-008
16-103-001	AMD	94-05-040
16-108-010	AMD-P	94-05-074
16-108-010	AMD-W	94-07-038
16-200-805	AMD-P	94-05-060
16-200-805	AMD	94-08-034
16-212-020	AMD-P	94-06-058
16-212-020	AMD	94-10-002
16-212-030	AMD-P	94-06-058
16-212-030	AMD	94-10-002
16-212-060	AMD-P	94-06-058
16-212-060	AMD	94-10-002
16-212-070	AMD-P	94-06-058
16-212-070	AMD	94-10-002
16-212-080	AMD-P	94-06-058
16-212-080	AMD	94-10-002
16-212-082	AMD-P	94-06-058
16-212-082	AMD	94-10-002
16-219	AMD-C	94-08-033
16-219-015	AMD-P	94-05-092
16-219-015	AMD	94-09-028
16-219-017	NEW-P	94-05-092
16-219-017	NEW	94-09-028
16-219-018	NEW-P	94-05-092
16-219-018	NEW	94-09-028
16-219-020	AMD-P	94-05-092
16-219-020	AMD	94-09-028
16-219-022	NEW-P	94-05-092
16-219-022	NEW	94-09-028
16-219-025	AMD-P	94-05-092
16-219-025	AMD	94-09-028
16-219-027	NEW-P	94-05-092
16-219-027	NEW	94-09-028
16-219-029	NEW-P	94-05-092
16-219-029	NEW	94-09-028
16-219-030	REP-P	94-05-092
16-219-030	REP	94-09-028
16-219-031	NEW-P	94-05-092
16-219-031	NEW	94-09-028
16-219-100	NEW-P	94-05-061
16-219-100	NEW	94-08-035
16-219-105	NEW-P	94-05-061
16-219-105	NEW	94-08-035
16-221-001	REP	94-03-024
16-221-010	REP	94-03-024
16-221-020	REP	94-03-024
16-221-030	REP	94-03-024
16-221-040	REP	94-03-024
16-223-001	REP	94-03-023
16-223-002	REP	94-03-023
16-223-004	REP	94-03-023
16-223-005	REP	94-03-023
16-223-010	REP	94-03-023
16-223-020	REP	94-03-023
16-223-030	REP	94-03-023
16-223-040	REP	94-03-023
16-223-050	REP	94-03-023
16-223-060	REP	94-03-023
16-223-070	REP	94-03-023
16-228-235	REP-P	94-09-017
16-228-245	REP-P	94-09-017
16-228-250	REP-P	94-09-017
16-228-255	REP-P	94-09-017
16-228-260	REP-P	94-09-017
16-228-265	REP-P	94-09-017
16-228-275	REP-P	94-09-017
16-304-040	AMD-P	94-09-046
16-304-050	AMD-P	94-09-046
16-304-110	AMD-P	94-09-046
16-304-130	AMD-P	94-09-046
16-313-015	AMD-P	94-09-046
16-313-035	AMD-P	94-09-046
16-316-0901	AMD-P	94-09-046
16-316-105	AMD-P	94-09-046
16-316-230	AMD-P	94-09-046
16-316-350	AMD-P	94-09-046
16-316-440	AMD-P	94-09-046
16-316-474	AMD-P	94-09-046
16-316-717	AMD-P	94-09-046
16-316-727	AMD-P	94-09-046
16-316-800	AMD-P	94-09-046
16-316-820	AMD-P	94-09-046
16-316-830	AMD-P	94-09-046
16-324-640	REP-P	94-01-110
16-324-640	REP	94-11-070
16-400-210	AMD-E	94-04-091
16-403-145	AMD-P	94-05-050
16-403-145	AMD	94-07-133
16-403-150	AMD-P	94-05-050
16-403-150	AMD	94-07-133
16-403-290	AMD-P	94-05-050
16-403-290	AMD	94-07-133
16-415-010	REP	94-03-026
16-415-020	REP	94-03-026
16-415-030	REP	94-03-026
16-415-040	REP	94-03-026
16-432-010	REP	94-03-025
16-432-020	REP	94-03-025
16-432-030	REP	94-03-025
16-432-040	REP	94-03-025
16-432-050	REP	94-03-025
16-432-060	REP	94-03-025
16-432-070	REP	94-03-025
16-432-080	REP	94-03-025
16-432-090	REP	94-03-025
16-432-100	REP	94-03-025
16-432-110	REP	94-03-025
16-432-120	REP	94-03-025
16-432-130	REP	94-03-025
16-470-92005	NEW-C	94-06-003
16-470-92005	NEW-W	94-06-051
16-470-92010	NEW-C	94-06-003
16-470-92010	NEW-W	94-06-051
16-470-92015	NEW-C	94-06-003
16-470-92015	NEW-W	94-06-051
16-470-92020	NEW-C	94-06-003
16-470-92020	NEW-W	94-06-051
16-470-92025	NEW-C	94-06-003
16-470-92025	NEW-W	94-06-051
16-470-92030	NEW-C	94-06-003
16-470-92030	NEW-W	94-06-051
16-470-92035	NEW-C	94-06-003
16-470-92035	NEW-W	94-06-051
16-470-92040	NEW-C	94-06-003
16-470-92040	NEW-W	94-06-051
16-482-016	AMD-P	94-01-111
16-482-016	AMD	94-11-069
16-514-020	AMD-P	94-05-073

WAC #		WSR #
16-514-020	AMD	94-08-091
16-580-040	AMD-P	94-05-066
16-580-040	AMD	94-08-090
16-602-025	NEW	94-05-049
16-602-027	NEW-P	94-09-052
16-604-008	NEW-P	94-10-074
16-604-010	AMD-P	94-10-074
16-604-012	NEW-P	94-10-074
16-605A-001	NEW-P	94-10-076
16-605A-010	NEW-P	94-10-076
16-620-010	AMD-P	94-10-075
16-620-015	NEW-P	94-10-075
16-620-270	REP-P	94-10-075
16-620-280	AMD-P	94-10-075
16-620-290	AMD-P	94-10-075
16-620-340	AMD-P	94-10-075
16-620-380	AMD-P	94-10-075
16-620-400	NEW-P	94-10-075
16-620-410	NEW-P	94-10-075
16-675-010	AMD-P	94-09-054
16-675-029	NEW-P	94-09-054
16-675-030	AMD-P	94-09-054
16-675-039	NEW-P	94-09-054
16-675-040	AMD-P	94-09-054
16-678-001	REP	94-03-022
16-678-010	REP	94-03-022
16-680-001	REP	94-03-021
16-680-010	REP	94-03-021
16-680-015	REP	94-03-021
16-694-001	AMD-P	94-09-055
44-06-010	AMD-P	94-06-050
44-06-020	AMD-P	94-06-050
44-06-030	AMD-P	94-06-050
44-06-040	AMD-P	94-06-050
44-06-050	AMD-P	94-06-050
44-06-060	AMD-P	94-06-050
44-06-070	AMD-P	94-06-050
44-06-080	AMD-P	94-06-050
44-06-085	NEW-P	94-06-050
44-06-090	AMD-P	94-06-050
44-06-110	AMD-P	94-06-050
44-06-120	AMD-P	94-06-050
44-06-130	AMD-P	94-06-050
44-06-140	AMD-P	94-06-050
44-06-150	NEW-P	94-06-050
44-06-160	NEW-P	94-06-050
50-60-010	NEW	94-03-009
50-60-020	NEW	94-03-009
50-60-030	NEW	94-03-009
50-60-040	NEW	94-03-009
50-60-050	NEW	94-03-009
50-60-060	NEW	94-03-009
50-60-070	NEW	94-03-009
50-60-080	NEW	94-03-009
50-60-090	NEW	94-03-009
50-60-100	NEW	94-03-009
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51-11-0628	AMD	94-05-059
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55-01-080	AMD-W	94-07-075
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67-35-030	AMD	94-11-054
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131-46-130	NEW	94-04-120
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162-12-150	AMD-W	94-04-087

WAC #		WSR #
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173-34-050	REP	94-07-078
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173-58-090	AMD-P	94-05-037
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173-60-050	AMD-P	94-05-037
173-60-070	AMD-P	94-05-037
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173-180A-080	NEW	94-10-084
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173-180B-010	NEW	94-10-083
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173-202-020	AMD-E	94-04-108
173-202-020	AMD-P	94-08-071
173-224	AMD-C	94-05-082
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173-224-030	AMD-P	94-02-080
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173-224-090	AMD-P	94-02-080
173-224-090	AMD	94-10-027
173-224-100	AMD-P	94-02-080
173-224-100	AMD	94-10-027
173-224-120	REP-P	94-02-080
173-303	AMD-C	94-08-092
173-320-010	REP-P	94-03-071
173-320-010	REP	94-07-078
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173-400	NEW-C	94-08-072
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173-400-101	NEW-P	94-04-105
173-400-101	NEW	94-10-042
173-400-116	NEW-P	94-04-106
173-401	AMD-C	94-08-073
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173-401-200	AMD	94-11-105
173-401-510	AMD-P	94-04-104
173-401-510	AMD	94-11-105
173-401-530	NEW-P	94-04-104
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173-401-531	NEW-P	94-04-104
173-401-531	NEW	94-11-105
173-401-532	NEW-P	94-04-104
173-401-532	NEW	94-11-105
173-401-533	NEW-P	94-04-104
173-401-533	NEW	94-11-105
173-402-010	REP-P	94-10-078
173-402-020	REP-P	94-10-078
173-422-020	AMD	94-05-039
173-422-030	AMD	94-05-039
173-422-050	AMD	94-05-039
173-422-070	AMD	94-05-039
173-422-075	AMD	94-05-039
173-422-095	AMD	94-05-039
173-422-130	AMD	94-05-039
173-422-140	REP	94-05-039
173-422-160	AMD	94-05-039
173-422-170	AMD	94-05-039
173-440-010	REP-P	94-10-078
173-440-020	REP-P	94-10-078
173-440-030	REP-P	94-10-078
173-440-040	REP-P	94-10-078
173-440-100	REP-P	94-10-078
173-440-900	REP-P	94-10-078
173-460-020	AMD	94-03-072

WAC #		WSR #
173-460-030	AMD	94-03-072
173-460-040	AMD	94-03-072
173-460-050	AMD	94-03-072
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173-460-090	AMD	94-03-072
173-460-100	AMD	94-03-072
173-460-110	AMD	94-03-072
173-460-150	AMD	94-03-072
173-460-160	AMD	94-03-072
173-492-070	AMD	94-07-040
180-16-200	AMD	94-03-104
180-24-310	AMD-P	94-08-103
180-24-312	AMD-P	94-08-103
180-24-315	AMD-P	94-08-103
180-24-320	AMD-P	94-08-103
180-24-325	AMD-P	94-08-103
180-24-355	AMD-P	94-08-103
180-29-130	AMD-P	94-08-104
180-29-135	AMD-P	94-05-088
180-29-135	AMD-C	94-08-068
180-29-147	NEW-P	94-05-088
180-29-147	NEW-C	94-08-068
180-29-170	AMD-P	94-05-088
180-29-170	AMD-C	94-08-068
180-33-025	AMD-P	94-08-105
180-40-235	AMD	94-03-102
180-50-115	AMD	94-03-104
180-50-120	AMD	94-03-104
180-51-050	AMD	94-03-100
180-51-050	AMD-P	94-08-067
180-51-075	AMD	94-03-104
180-51-105	AMD	94-03-103
180-78-266	NEW-P	94-05-034
180-78-266	NEW	94-08-055
180-79-241	AMD-P	94-08-106
180-95-010	AMD	94-03-103
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180-96-030	REP	94-03-101
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180-96-045	AMD	94-03-101
180-96-048	NEW	94-03-101
180-96-050	AMD	94-03-101
180-96-053	NEW	94-03-101
180-96-055	REP	94-03-101
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180-96-065	REP	94-03-101
180-96-070	REP	94-03-101
180-96-075	REP	94-03-101
182-12-110	AMD-E	94-08-027
182-12-111	AMD-E	94-08-027
182-12-115	AMD-E	94-08-027
182-12-122	AMD-E	94-08-027
182-14-010	NEW-E	94-08-028
182-14-020	NEW-E	94-08-028
182-14-030	NEW-E	94-08-028
182-14-040	NEW-E	94-08-028
182-14-050	NEW-E	94-08-028
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182-14-070	NEW-E	94-08-028
182-14-080	NEW-E	94-08-028
182-14-090	NEW-E	94-08-028
182-14-100	NEW-E	94-08-028
192-28-145	AMD-P	94-04-124
192-28-145	AMD	94-10-044
192-34-010	NEW	94-07-115
192-34-015	NEW	94-07-115
192-34-020	NEW	94-07-115
192-34-025	NEW	94-07-115
194-20-010	PREP	94-08-070
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194-20-030	PREP	94-08-070
194-20-040	PREP	94-08-070
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194-20-180	PREP	94-08-070
194-20-190	PREP	94-08-070
194-22-010	PREP	94-08-070
194-22-010	NEW-P	94-11-128
194-22-020	PREP	94-08-070
194-22-020	NEW-P	94-11-128
194-22-030	PREP	94-08-070
194-22-030	NEW-P	94-11-128
194-22-040	PREP	94-08-070
194-22-040	NEW-P	94-11-128
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194-22-110	PREP	94-08-070
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194-22-180	PREP	94-08-070
194-22-180	NEW-P	94-11-128
194-22-190	PREP	94-08-070
194-22-190	NEW-P	94-11-128
204-24-050	AMD-E	94-02-081
204-24-050	AMD-P	94-02-082
204-24-050	AMD	94-08-069
204-30-010	REP	94-05-024
204-30-020	REP	94-05-024
204-30-030	REP	94-05-024
204-30-040	REP	94-05-024
204-30-050	REP	94-05-024
204-30-060	REP	94-05-024
204-30-070	REP	94-05-024
204-30-080	REP	94-05-024
208-04-010	NEW	94-09-010
208-04-020	NEW	94-09-010
208-04-030	NEW	94-09-010
220-12-02000B	NEW-E	94-07-052
220-16-015	AMD-P	94-03-106
220-16-460	NEW-P	94-03-105
220-16-46000A	NEW-E	94-10-043
220-20-021	AMD-P	94-03-106
220-20-025	AMD-P	94-03-106
220-20-02500B	NEW-E	94-05-002
220-20-051	AMD-P	94-11-005
220-20-05100A	REP-E	94-11-006
220-20-05100B	NEW-E	94-11-006
220-20-065	NEW-P	94-11-005
220-20-06500A	REP-E	94-11-006
220-20-06500B	NEW-E	94-11-006
220-22-030	AMD-P	94-09-071
220-32-05100E	NEW-E	94-04-048
220-32-05500F	NEW-E	94-09-022
220-32-05500G	NEW-E	94-11-106
220-33-01000U	NEW-E	94-04-101
220-33-01000U	REP-E	94-06-042
220-33-01000V	NEW-E	94-06-042
220-33-01000V	REP-E	94-07-009
220-33-01000W	NEW-E	94-07-009
220-33-03000G	NEW-E	94-11-107
220-33-060	AMD-P	94-03-106
220-36-021	AMD-P	94-09-070
220-36-023	AMD-P	94-09-070
220-40-021	AMD-P	94-09-070
220-40-027	AMD-P	94-09-070
220-44-020	AMD-P	94-03-106
220-44-030	AMD-P	94-03-106
220-44-04000E	NEW-E	94-11-074
220-44-050	AMD-P	94-10-073
220-44-05000I	REP-E	94-05-003
220-44-05000J	NEW-E	94-05-003
220-44-090	NEW-P	94-03-106
220-44-09000C	NEW-E	94-11-073
220-47-304	AMD-P	94-09-071
220-47-307	AMD-P	94-09-071
220-47-311	AMD-P	94-09-071
220-47-401	AMD-P	94-09-071
220-47-411	AMD-P	94-09-071
220-47-412	AMD-P	94-09-071
220-48-001	AMD-P	94-03-106
220-48-005	AMD-P	94-03-106
220-48-011	AMD-P	94-03-106
220-48-015	AMD-P	94-03-106
220-48-016	NEW-P	94-03-106
220-48-017	AMD-P	94-03-106
220-48-019	AMD-P	94-03-106
220-48-028	AMD-P	94-03-106
220-48-031	AMD-P	94-03-106
220-48-041	AMD-P	94-03-106
220-48-051	AMD-P	94-03-106
220-48-061	AMD-P	94-03-106
220-48-071	AMD-P	94-03-106
220-49-005	NEW-P	94-03-106
220-49-011	AMD-P	94-03-106
220-49-012	AMD-P	94-03-106
220-49-013	AMD-P	94-03-106
220-49-014	AMD-P	94-03-106
220-49-015	REP-P	94-03-106
220-49-016	REP-P	94-03-106
220-49-017	AMD-P	94-03-106
220-49-020	AMD-P	94-03-106
220-49-02000F	NEW-E	94-04-047
220-49-02000G	NEW-E	94-09-021
220-49-021	AMD-P	94-03-106
220-49-022	REP-P	94-03-106
220-49-023	AMD-P	94-03-106
220-49-024	AMD-P	94-03-106

WAC #		WSR #
220-49-025	REP-P	94-03-106
220-49-026	REP-P	94-03-106
220-49-055	REP-P	94-03-106
220-49-056	AMD-P	94-03-106
220-49-057	AMD-P	94-03-106
220-49-063	AMD-P	94-03-106
220-49-06300A	NEW-E	94-07-063
220-49-06300A	REP-E	94-07-077
220-49-06300B	NEW-E	94-07-077
220-49-064	AMD-P	94-03-106
220-49-06400A	NEW-E	94-07-063
220-49-06400A	REP-E	94-07-077
220-49-06400B	NEW-E	94-07-077
220-52-010	AMD-P	94-03-106
220-52-018	AMD-P	94-03-106
220-52-019	AMD-P	94-03-106
220-52-01901	AMD-P	94-03-106
220-52-020	AMD-P	94-03-106
220-52-030	AMD-P	94-03-106
220-52-040	AMD-P	94-03-106
220-52-043	AMD-P	94-03-106
220-52-046	AMD-P	94-03-106
220-52-050	AMD-P	94-03-106
220-52-051	AMD-P	94-03-098
220-52-051	AMD-P	94-03-106
220-52-051	AMD	94-07-092
220-52-05100Q	NEW-E	94-11-072
220-52-060	AMD-P	94-03-106
220-52-063	AMD-P	94-03-106
220-52-066	AMD-P	94-03-106
220-52-068	AMD-P	94-03-106
220-52-069	AMD-P	94-03-106
220-52-070	AMD-P	94-03-106
220-52-071	AMD-P	94-03-106
220-52-07100P	NEW-E	94-10-037
220-52-073	AMD-P	94-03-106
220-52-07300R	REP-E	94-03-063
220-52-07300S	NEW-E	94-03-063
220-52-07300S	REP-E	94-05-055
220-52-07300T	NEW-E	94-05-055
220-52-075	AMD-P	94-03-106
220-55-015	AMD-P	94-11-005
220-55-01500A	REP-E	94-11-006
220-55-01500B	NEW-E	94-11-006
220-55-155	NEW-P	94-11-005
220-55-15500A	REP-E	94-11-006
220-55-15500B	NEW-E	94-11-006
220-56-100	AMD-P	94-03-105
220-56-10000A	NEW-E	94-10-043
220-56-105	AMD-P	94-03-105
220-56-10500C	NEW-E	94-08-014
220-56-10500C	REP-E	94-10-036
220-56-11500A	NEW-E	94-10-043
220-56-123	NEW-P	94-03-105
220-56-124	AMD-P	94-03-105
220-56-128	AMD-P	94-03-105
220-56-12800I	NEW-E	94-10-043
220-56-190	AMD-P	94-03-105
220-56-19000X	NEW-E	94-10-043
220-56-191	AMD-P	94-03-105
220-56-19100E	NEW-E	94-10-043
220-56-195	AMD-P	94-03-105
220-56-235	AMD-P	94-03-105
220-56-23500H	NEW-E	94-10-043
220-56-240	AMD-P	94-03-105
220-56-245	AMD-P	94-03-105
220-56-24500M	NEW-E	94-10-043
220-56-255	AMD-P	94-03-105
220-56-25500U	NEW-E	94-10-043
220-56-285	AMD-P	94-03-105
220-56-28500B	NEW-E	94-10-043
220-56-305	AMD-P	94-03-105
220-56-30500A	NEW-E	94-10-043
220-56-307	AMD-P	94-03-105
220-56-30700A	NEW-E	94-10-043
220-56-315	AMD-P	94-03-105
220-56-31500B	NEW-E	94-10-043
220-56-320	AMD-P	94-03-105
220-56-32500Z	NEW-E	94-11-072
220-56-350	AMD-P	94-03-105
220-56-35000X	NEW-E	94-07-052
220-56-35000X	REP-E	94-07-076
220-56-35000Y	NEW-E	94-07-076
220-56-36000H	NEW-E	94-07-003
220-56-36000H	REP-E	94-08-009
220-56-36000I	NEW-E	94-08-009
220-56-36000I	REP-E	94-09-023
220-56-36000J	NEW-E	94-09-023
220-56-36000J	REP-E	94-10-038
220-56-36000K	NEW-E	94-10-038
220-56-380	AMD-P	94-03-105
220-56-38000R	NEW-E	94-07-052
220-56-38000R	REP-E	94-07-076
220-56-38000S	NEW-E	94-07-076
220-56-382	AMD-P	94-03-105
220-56-38200A	NEW-E	94-10-043
220-56-390	AMD-P	94-03-105
220-56-400	AMD-P	94-03-105
220-56-40000C	NEW-E	94-10-043
220-56-405	AMD-P	94-03-105
220-56-410	AMD-P	94-03-105
220-56-415	NEW-P	94-03-105
220-57-130	AMD-P	94-03-105
220-57-135	AMD-P	94-03-105
220-57-140	AMD-P	94-03-105
220-57-14000Q	NEW-E	94-10-068
220-57-155	AMD-P	94-03-105
220-57-16000T	NEW-E	94-08-049
220-57-16000U	NEW-E	94-10-036
220-57-17500Y	NEW-E	94-11-075
220-57-200	AMD-P	94-03-105
220-57-210	AMD-P	94-03-105
220-57-215	AMD-P	94-03-105
220-57-230	AMD-P	94-03-105
220-57-235	REP-P	94-03-105
220-57-250	AMD-P	94-03-105
220-57-255	AMD-P	94-03-105
220-57-270	AMD-P	94-03-105
220-57-280	AMD-P	94-03-105
220-57-285	AMD-P	94-03-105
220-57-29000P	NEW-E	94-08-014
220-57-29000P	REP-E	94-11-127
220-57-29000Q	NEW-E	94-11-127
220-57-300	AMD-P	94-03-105
220-57-310	AMD-P	94-03-105
220-57-31500Y	NEW-E	94-08-014
220-57-31500Y	REP-E	94-10-036
220-57-31500Z	NEW-E	94-10-036
220-57-319	AMD-P	94-03-105
220-57-335	AMD-P	94-03-105
220-57-350	AMD-P	94-03-105
220-57-370	AMD-P	94-03-105
220-57-385	AMD-P	94-03-105
220-57-400	AMD-P	94-03-105
220-57-415	AMD-P	94-03-105
220-57-425	AMD-P	94-03-105
220-57-430	AMD-P	94-03-105
220-57-435	AMD-P	94-03-105
220-57-450	AMD-P	94-03-105
220-57-455	AMD-P	94-03-105
220-57-465	AMD-P	94-03-105
220-57-473	AMD-P	94-03-105
220-57-47300A	NEW-E	94-10-043
220-57-480	AMD-P	94-03-105
220-57-490	AMD-P	94-03-105
220-57-495	AMD-P	94-03-105
220-57-49500L	NEW-E	94-10-043
220-57-49700H	NEW-E	94-08-014
220-57-49700H	REP-E	94-11-127
220-57-49700I	NEW-E	94-11-127
220-57-50500V	NEW-E	94-08-014
220-57-505OOV	REP-E	94-10-036
220-57-505OOW	NEW-E	94-10-036
220-57-51500K	NEW-E	94-08-014
220-57-51500K	REP-E	94-10-036
220-57-520	AMD-P	94-03-105
220-57-525	AMD-P	94-03-105
220-57A-00100A	NEW-E	94-11-068
220-57A-012	AMD-P	94-03-105
220-57A-01200A	NEW-E	94-10-043
220-57A-01200A	REP-E	94-11-068
220-57A-01200B	NEW-E	94-11-068
220-57A-152	AMD-P	94-03-105
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220-57A-15200B	NEW-E	94-11-068
220-88A-010	NEW-P	94-03-098
220-88A-010	NEW	94-07-092
220-88A-020	NEW-P	94-03-098
220-88A-020	NEW	94-07-092
220-88A-030	NEW-P	94-03-098
220-88A-030	NEW	94-07-092
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220-88A-040	NEW	94-07-092
220-88A-050	NEW-P	94-03-098
220-88A-050	NEW	94-07-092
220-88A-060	NEW-P	94-03-098
220-88A-060	NEW	94-07-092
220-88A-070	NEW-P	94-03-098
220-88A-070	NEW	94-07-092
220-88A-080	NEW-P	94-03-098
220-88A-080	NEW	94-07-092
220-110-010	AMD-P	94-11-126
220-110-020	AMD-P	94-11-126
220-110-030	AMD-P	94-11-126
220-110-032	NEW-P	94-11-126
220-110-035	NEW-P	94-11-126
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220-110-060	AMD-P	94-11-126
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220-110-210	AMD-P	94-11-126
220-110-220	AMD-P	94-11-126
220-110-223	NEW-P	94-11-126
220-110-224	NEW-P	94-11-126
220-110-230	AMD-P	94-11-126
220-110-240	AMD-P	94-11-126
220-110-250	AMD-P	94-11-126
220-110-260	REP-P	94-11-126
220-110-270	AMD-P	94-11-126
220-110-271	NEW-P	94-11-126
220-110-280	AMD-P	94-11-126
220-110-285	NEW-P	94-11-126
220-110-290	AMD-P	94-11-126
220-110-300	AMD-P	94-11-126
220-110-310	AMD-P	94-11-126

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220-110-330	AMD-P	94-11-126
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220-110-350	AMD-P	94-11-126
220-110-360	NEW-P	94-11-126
222-16-010	AMD-E	94-05-046
222-16-010	AMD-E	94-07-053
222-16-010	AMD-P	94-09-029
222-16-010	AMD-E	94-09-030
222-16-035	AMD-P	94-09-029
222-16-035	AMD-E	94-09-030
222-16-080	AMD-E	94-05-046
222-16-080	AMD-E	94-07-053
222-24-030	AMD-E	94-05-046
222-30-020	AMD-P	94-09-029
222-30-020	AMD-E	94-09-030
222-30-050	AMD-E	94-05-046
222-30-060	AMD-E	94-05-046
222-30-065	NEW-E	94-05-046
222-30-070	AMD-E	94-05-046
222-30-075	NEW-E	94-05-046
222-30-100	AMD-E	94-05-046
222-38-020	AMD-E	94-05-046
222-38-030	AMD-E	94-05-046
223-08-010	AMD-E	94-07-062
223-08-010	AMD-P	94-07-097
223-08-072	NEW-E	94-07-062
223-08-072	NEW-P	94-07-097
223-08-148	NEW-E	94-07-062
223-08-148	NEW-P	94-07-097
223-08-162	NEW-E	94-07-062
223-08-162	NEW-P	94-07-097
223-08-165	AMD-E	94-07-062
223-08-165	AMD-P	94-07-097
223-08-171	NEW-E	94-07-062
223-08-171	NEW-P	94-07-097
223-08-252	NEW-E	94-07-062
223-08-252	NEW-P	94-07-097
230-02-030	AMD-P	94-07-083
230-02-030	AMD	94-11-095
230-02-125	AMD-P	94-07-083
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230-02-161	AMD-P	94-04-024
230-02-161	AMD	94-07-084
230-04-035	AMD-P	94-04-024
230-04-035	AMD	94-07-084
230-04-075	AMD-P	94-04-024
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230-08-015	AMD-P	94-04-024
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230-08-120	AMD	94-11-095
230-08-130	AMD-P	94-07-083
230-08-130	AMD	94-11-095
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230-08-160	AMD-P	94-07-083
230-08-160	AMD	94-11-095
230-08-260	AMD-P	94-07-083
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230-12-010	AMD-P	94-04-024
230-12-010	AMD	94-07-084
230-12-040	AMD-P	94-10-005
230-12-050	AMD-P	94-10-005
230-12-070	AMD-P	94-10-005
230-12-305	AMD-P	94-04-024
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230-20-103	NEW-P	94-10-005
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230-20-220	AMD-P	94-04-024
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230-20-230	AMD-P	94-04-024
230-20-230	AMD	94-07-084
230-20-244	NEW-P	94-10-005
230-20-244	NEW-C	94-11-094
230-20-400	AMD-P	94-04-024
230-20-400	AMD	94-07-084
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230-25-160	AMD-P	94-04-024
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230-40-055	AMD-P	94-04-024
230-40-055	AMD	94-07-084
230-40-120	AMD-P	94-10-006
230-40-225	AMD-P	94-10-006
232-12-131	AMD-P	94-04-118
232-12-131	AMD-W	94-06-036
232-12-131	AMD-P	94-06-037
232-12-131	AMD	94-11-030
232-12-166	AMD-P	94-06-043
232-12-166	AMD	94-09-019
232-12-168	AMD	94-06-014
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232-28-022	REP	94-11-031
232-28-02201	NEW-P	94-04-055
232-28-02201	NEW	94-11-031
232-28-02202	NEW-P	94-04-057
232-28-02202	NEW	94-11-032
232-28-02203	NEW-P	94-04-056
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232-28-02204	NEW-P	94-04-058
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232-28-02205	NEW-P	94-04-059
232-28-02205	NEW	94-11-035
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232-28-02206	NEW	94-11-036
232-28-02210	NEW-P	94-04-061
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232-28-02220	NEW-P	94-04-062
232-28-02220	NEW	94-11-038
232-28-02230	NEW-P	94-04-063
232-28-02230	NEW	94-11-039
232-28-02240	NEW-P	94-04-064
232-28-02240	NEW	94-11-040
232-28-02250	NEW-P	94-04-065
232-28-02250	NEW	94-11-041
232-28-02260	NEW-P	94-04-066
232-28-02260	NEW	94-11-042
232-28-02270	NEW-P	94-04-067
232-28-02270	NEW	94-11-043
232-28-02280	NEW-P	94-04-068
232-28-02280	NEW	94-11-044
232-28-02290	NEW-P	94-04-069
232-28-02290	NEW	94-11-045
232-28-226	REP-P	94-04-114
232-28-226	REP	94-11-046
232-28-227	REP-P	94-04-116
232-28-227	REP	94-11-048
232-28-228	REP-P	94-04-115
232-28-228	REP	94-11-047
232-28-236	REP-P	94-05-079
232-28-236	REP	94-11-050
232-28-237	REP-P	94-05-078
232-28-237	REP	94-11-051
232-28-238	REP-P	94-04-117
232-28-238	REP	94-11-049
232-28-239	NEW	94-04-123
232-28-240	NEW-P	94-04-114
232-28-240	NEW	94-11-046
232-28-241	NEW-P	94-04-115
232-28-241	NEW	94-11-047
232-28-242	NEW-P	94-04-116
232-28-242	NEW	94-11-048
232-28-24201	NEW-E	94-11-078
232-28-243	NEW-P	94-04-117
232-28-243	NEW	94-11-049
232-28-244	NEW-P	94-05-079
232-28-244	NEW	94-11-050
232-28-245	NEW-P	94-05-078
232-28-245	NEW	94-11-051
232-28-417	AMD-E	94-04-007
232-28-61940	NEW	94-04-018
232-28-61941	NEW	94-06-012
232-28-61942	NEW	94-06-013
232-28-61944	NEW-E	94-03-038
232-28-61945	NEW-E	94-04-012
232-28-61945	NEW-P	94-06-038
232-28-61945	NEW	94-09-068
232-28-61946	NEW-P	94-06-039
232-28-61946	NEW	94-09-067
232-28-61947	NEW-P	94-06-040
232-28-61947	NEW	94-09-066
232-28-61948	NEW-E	94-09-005
232-28-61949	NEW-E	94-08-048
232-28-61950	NEW-P	94-09-069
232-28-61951	NEW-P	94-11-125
236-14	PREP	94-09-047
236-48-190	PREP	94-11-007
240-20-001	NEW-P	94-05-100
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240-20-001	NEW	94-10-030
240-20-001	NEW	94-11-081
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240-20-040	NEW	94-10-030
240-20-040	NEW	94-11-081
240-20-042	NEW-P	94-05-100
240-20-042	NEW-E	94-05-101
240-20-042	NEW	94-10-030

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240-20-427	NEW-E	94-04-015
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242-02-220	AMD	94-07-033
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242-02-410	AMD	94-07-033
242-02-440	AMD	94-07-033
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242-02-522	AMD	94-07-033
242-02-530	AMD	94-07-033
242-02-540	AMD	94-07-033
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242-02-554	AMD	94-07-033
242-02-558	AMD	94-07-033
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242-02-620	AMD	94-07-033
242-02-680	AMD	94-07-033
242-02-830	AMD	94-07-033
242-02-850	AMD	94-07-033
242-02-880	AMD	94-07-033
242-02-892	NEW-W	94-07-007
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242-02-920	AMD	94-07-033
242-04-050	AMD	94-07-033
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245-02-030	NEW-P	94-06-060
245-02-040	NEW-P	94-06-060
245-02-050	NEW-P	94-06-060
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246-04-115	NEW-P	94-10-085
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246-10-107	AMD	94-04-079
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246-838-070	AMD-P	94-05-033

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284-54-260	NEW-P	94-09-050

WAC #		WSR #
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315-11A-121	NEW	94-07-029
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315-11A-122	NEW	94-11-027
315-11A-123	NEW-P	94-07-116
315-11A-123	NEW	94-11-027
315-11A-124	NEW-P	94-07-116
315-11A-124	NEW	94-11-027
315-11A-125	NEW-P	94-07-116
315-11A-125	NEW	94-11-027
315-11A-126	NEW-P	94-07-116
315-11A-126	NEW	94-11-027
315-30-030	AMD	94-03-020
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326-02-030	AMD-P	94-08-107
326-02-030	AMD	94-11-116
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326-02-050	AMD-P	94-08-107
326-02-050	AMD	94-11-117
326-20-120	AMD-P	94-08-108
326-20-120	AMD	94-11-114
326-20-125	AMD-P	94-08-108
326-20-125	AMD	94-11-115
326-30-041	AMD	94-03-068
326-30-051	AMD	94-07-064
326-40-030	AMD-P	94-08-109
326-40-030	AMD	94-11-118
326-40-040	AMD-S	94-08-110
326-40-040	AMD	94-11-119
326-40-060	AMD	94-07-064
332-18	AMD-P	94-09-062
332-18-010	AMD-P	94-09-062
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332-18-01002	NEW-P	94-09-062
332-18-01003	NEW-P	94-09-062
332-18-01004	NEW-P	94-09-062
332-18-01005	NEW-P	94-09-062
332-18-015	REP-P	94-09-062
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332-18-05007	NEW-P	94-09-062
332-18-05008	NEW-P	94-09-062
332-18-05009	NEW-P	94-09-062
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332-18-070	REP-P	94-09-062
332-18-080	REP-P	94-09-062
332-18-090	REP-P	94-09-062
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332-18-110	REP-P	94-09-062
332-18-120	AMD-P	94-09-062
332-18-130	AMD-P	94-09-062
332-18-140	NEW-P	94-09-062
332-18-150	NEW-P	94-09-062
332-24-221	AMD-P	94-08-093
332-26-080	NEW-E	94-09-020
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332-120-040	AMD	94-06-034
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332-120-060	NEW	94-06-034
332-120-070	NEW	94-06-034
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352-28	AMD	94-10-012
352-28-005	AMD-P	94-06-049
352-28-005	AMD	94-10-012
352-28-010	AMD-P	94-06-049
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352-32-010	AMD	94-08-036
352-32-045	AMD-P	94-03-097
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352-32-045	AMD	94-08-036
352-32-210	AMD-P	94-10-069
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352-32-250	AMD-E	94-09-009
352-32-250	AMD-P	94-10-048
352-32-25001	AMD	94-04-075

WAC #		WSR #
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352-32-255	AMD-P	94-03-097
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352-32-320	NEW-P	94-03-097
352-32-320	NEW-C	94-06-010
352-32-320	NEW	94-08-036
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352-65-030	AMD	94-04-076
352-65-040	AMD	94-04-076
352-65-060	AMD	94-04-076
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352-74-040	AMD-C	94-06-020
352-74-040	AMD	94-08-005
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352-76-030	NEW-P	94-10-070
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352-76-050	NEW-P	94-10-070
352-76-060	NEW-P	94-10-070
352-76-070	NEW-P	94-10-070
352-76-080	NEW-P	94-10-070
356-05-477	NEW	94-04-011
356-05-479	NEW	94-04-011
356-06-045	NEW	94-04-011
356-09	NEW-C	94-04-086
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356-09-020	REP-W	94-04-010
356-09-030	REP-W	94-04-010
356-09-040	REP-W	94-04-010
356-09-050	REP-W	94-04-010
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356-26-030	AMD-P	94-06-066
356-26-030	AMD	94-10-008
356-26-070	AMD-E	94-04-085
356-26-070	AMD-P	94-06-066
356-26-070	AMD	94-10-008
356-30-285	NEW	94-04-011
356-30-315	NEW	94-04-011
356-30-328	NEW-W	94-04-009
356-37-080	AMD-P	94-04-084
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356-37-090	AMD-P	94-04-084
356-37-090	AMD	94-08-024
356-56-015	AMD-E	94-03-069
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356-56-035	AMD-P	94-09-065
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356-56-105	AMD-P	94-09-065
356-56-110	NEW-W	94-11-071
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356-56-120	AMD-P	94-09-065
356-56-205	AMD-P	94-09-065
356-56-210	AMD-P	94-09-065
356-56-220	AMD-P	94-09-065
356-56-230	AMD-E	94-03-069
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356-56-230	AMD	94-09-012
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356-56-250	NEW-P	94-11-071
356-56-275	NEW-P	94-11-071
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371-08-147	AMD-P	94-07-098
371-08-162	AMD-E	94-07-061
371-08-162	AMD-P	94-07-098
371-08-165	AMD-E	94-07-061
371-08-165	AMD-P	94-07-098
371-08-167	NEW-E	94-07-061
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371-08-197	NEW-E	94-07-061
371-08-197	NEW-P	94-07-098
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388-11-067	NEW-P	94-07-081
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388-14-205	AMD-P	94-11-112
388-14-300	AMD-P	94-11-112
388-14-310	AMD-P	94-11-112
388-14-385	AMD-P	94-11-110
388-14-390	AMD-P	94-11-112
388-15-214	AMD-P	94-07-082
388-15-214	AMD	94-10-025
388-20-010	REP-P	94-07-114
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388-22-030	AMD	94-08-022
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388-24-040	REP	94-10-065
388-24-042	REP-P	94-07-114
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388-24-055	REP-P	94-07-114
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388-24-109	REP-P	94-07-114
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388-24-111	AMD	94-04-034
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388-24-220	REP-P	94-07-114
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388-24-225	REP-P	94-07-114
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388-24-235	REP-P	94-07-114
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388-24-243	REP-P	94-07-114
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388-24-250	REP-P	94-03-051
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388-24-252	REP-P	94-03-051
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388-24-253	REP	94-06-026
388-24-254	REP-P	94-03-051
388-24-254	REP	94-06-026
388-24-255	REP-P	94-03-051
388-24-255	REP	94-06-026
388-24-260	REP-P	94-03-051
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388-24-265	REP-P	94-03-051
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388-24-550	REP-P	94-07-114
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388-26-120	REP-P	94-07-114
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388-26-145	REP-P	94-07-114
338-26-145	REP	94-10-065
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338-26-149	REP	94-10-065
388-28-005	REP-P	94-07-114
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388-28-300	REP	94-10-065
388-28-350	REP-P	94-07-114
388-28-350	REP	94-10-065
388-28-355	REP-P	94-07-114
388-28-355	REP	94-10-065
388-28-360	REP-P	94-07-114
388-28-360	REP	94-10-065

WAC #		WSR #
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388-28-370	REP	94-10-065
388-28-380	REP-P	94-07-114
388-28-380	REP	94-10-065
388-28-385	REP-P	94-07-114
388-28-385	REP	94-10-065
388-28-390	AMD-P	94-05-069
388-28-390	REP-P	94-07-114
388-28-390	AMD	94-08-015
388-28-390	REP	94-10-065
388-28-392	REP-P	94-07-114
388-28-392	REP	94-10-065
388-28-400	REP-P	94-07-114
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388-28-410	REP-P	94-07-114
388-28-410	REP	94-10-065
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388-28-420	REP-P	94-07-114
388-28-420	REP	94-10-065
388-28-425	REP-P	94-07-114
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388-28-438	REP	94-10-065
388-28-439	AMD-P	94-03-055
388-28-439	AMD	94-06-024
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388-28-450	REP-P	94-07-114
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388-28-458	REP	94-04-043
388-28-459	REP	94-04-043
388-28-460	REP	94-04-043
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388-28-465	REP	94-04-043
388-28-470	REP	94-04-043
388-28-471	REP	94-04-043
388-28-472	REP	94-04-043
388-28-473	REP	94-04-043
388-28-474	AMD-P	94-05-018
388-28-474	REP-P	94-07-114
388-28-474	AMD	94-08-018
388-28-474	REP	94-10-065
388-28-475	REP-P	94-07-114
388-28-475	REP	94-10-065
388-28-480	REP-P	94-07-114
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388-28-483	REP-P	94-07-114
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388-28-484	AMD	94-08-020
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388-28-560	AMD-P	94-05-019
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388-28-560	REP	94-10-065
388-28-570	REP-P	94-07-114
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388-28-575	AMD	94-08-021
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388-28-578	REP	94-10-065
388-28-580	REP-P	94-07-114
388-28-580	REP	94-10-065
388-28-590	REP-P	94-07-114
388-28-590	REP	94-10-065
388-28-600	AMD-P	94-04-042
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388-28-600	AMD	94-08-022
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388-29-230	REP-P	94-06-035
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388-29-270	REP-P	94-06-035
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388-29-280	REP-P	94-06-035
388-29-280	REP	94-09-001
388-29-295	AMD	94-04-035
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388-29-295	REP	94-09-001
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388-33-120	REP-P	94-07-114
388-33-120	REP	94-10-065
388-33-125	REP-P	94-07-114
388-33-125	REP	94-10-065
388-33-135	REP-P	94-07-114
388-33-135	REP	94-10-065
388-33-140	REP-P	94-07-114
388-33-140	REP	94-10-065
388-33-165	REP-P	94-07-114
388-33-165	REP	94-10-065
388-33-170	REP-P	94-07-114
388-33-170	REP	94-10-065
388-33-190	REP-P	94-07-114
388-33-190	REP	94-10-065
388-33-195	REP-P	94-07-114
388-33-195	REP	94-10-065
388-33-230	REP-P	94-07-114
388-33-230	REP	94-10-065
388-33-235	REP-P	94-07-114
388-33-235	REP	94-10-065
388-33-240	REP-P	94-07-114
388-33-240	REP	94-10-065
388-33-335	REP-P	94-07-114
388-33-335	REP	94-10-065
388-33-355	REP-P	94-07-114
388-33-355	REP	94-10-065
388-33-365	REP-P	94-07-114
388-33-365	REP	94-10-065
388-33-375	REP-P	94-07-114
388-33-375	REP	94-10-065
388-33-376	REP-P	94-07-114
388-33-376	REP	94-10-065
388-33-377	REP-P	94-07-114
388-33-377	REP	94-10-065
388-33-382	REP-P	94-07-114
388-33-382	REP	94-10-065
388-33-385	REP-P	94-07-114
388-33-385	REP	94-10-065
388-33-387	REP-P	94-07-114
388-33-387	REP	94-10-065
388-33-389	REP-P	94-07-114
388-33-389	REP	94-10-065
388-33-400	REP-P	94-07-114
388-33-400	REP	94-10-065
388-33-420	REP-P	94-07-114
388-33-420	REP	94-10-065

WAC #		WSR #
388-33-425	REP-P	94-07-114
388-33-425	REP	94-10-065
388-33-430	REP-P	94-07-114
388-33-430	REP	94-10-065
388-33-440	REP-P	94-07-114
388-33-440	REP	94-10-065
388-33-442	REP-P	94-07-114
388-33-442	REP	94-10-065
388-33-444	REP-P	94-07-114
388-33-444	REP	94-10-065
388-33-446	REP-P	94-07-114
388-33-446	REP	94-10-065
388-33-447	REP-P	94-07-114
388-33-447	REP	94-10-065
388-33-448	REP-P	94-07-114
388-33-448	REP	94-10-065
388-33-449	REP-P	94-07-114
388-33-449	REP	94-10-065
388-33-450	REP-P	94-07-114
388-33-450	REP	94-10-065
388-33-453	REP-P	94-07-114
388-33-453	REP	94-10-065
388-33-455	REP-P	94-07-114
388-33-455	REP	94-10-065
388-33-457	REP-P	94-07-114
388-33-457	REP	94-10-065
388-33-458	REP-P	94-07-114
388-33-458	REP	94-10-065
388-33-459	REP-P	94-07-114
388-33-459	REP	94-10-065
388-33-460	REP-P	94-07-114
388-33-460	REP	94-10-065
388-33-525	REP-P	94-07-114
388-33-525	REP	94-10-065
388-33-535	REP-P	94-07-114
388-33-535	REP	94-10-065
388-33-545	REP-P	94-07-114
388-33-545	REP	94-10-065
388-33-550	REP-P	94-07-114
388-33-550	REP	94-10-065
388-33-576	REP-P	94-07-114
388-33-576	REP	94-10-065
388-33-579	REP-P	94-07-114
388-33-579	REP	94-10-065
388-33-585	REP-P	94-07-114
388-33-585	REP	94-10-065
388-33-595	REP-P	94-07-114
388-33-595	REP	94-10-065
388-33-605	REP-P	94-07-114
388-33-605	REP	94-10-065
388-38-010	REP-P	94-07-114
388-38-010	REP	94-10-065
388-38-030	REP-P	94-07-114
388-38-030	REP	94-10-065
388-38-040	REP-P	94-07-114
388-38-040	REP	94-10-065
388-38-045	REP-P	94-07-114
388-38-045	REP	94-10-065
388-38-050	REP-P	94-07-114
388-38-050	REP	94-10-065
388-38-08501	REP-P	94-07-114
388-38-08501	REP	94-10-065
388-38-110	REP-P	94-07-114
388-38-110	REP	94-10-065
388-38-120	REP-P	94-07-114
388-38-120	REP	94-10-065
388-38-150	REP-P	94-07-114
388-38-150	REP	94-10-065
388-38-172	REP-P	94-07-114
388-38-172	REP	94-10-065
388-38-200	REP-P	94-07-114
388-38-200	REP	94-10-065
388-38-220	REP-P	94-07-114
388-38-220	REP	94-10-065
388-38-225	REP-P	94-07-114
388-38-225	REP	94-10-065
388-38-230	REP-P	94-07-114
388-38-230	REP	94-10-065
388-38-250	REP-P	94-07-114
388-38-250	REP	94-10-065
388-38-255	REP-P	94-07-114
388-38-255	REP	94-10-065
388-38-260	REP-P	94-07-114
388-38-260	REP	94-10-065
388-38-265	REP-P	94-07-114
388-38-265	REP	94-10-065
388-38-270	REP-P	94-07-114
388-38-270	REP	94-10-065
388-38-280	REP-P	94-07-114
388-38-280	REP	94-10-065
388-38-285	REP-P	94-07-114
388-38-285	REP	94-10-065
388-38-290	REP-P	94-07-114
388-38-290	REP	94-10-065
388-38-295	REP-P	94-07-114
388-38-295	REP	94-10-065
388-43-120	NEW-E	94-04-032
388-43-120	NEW	94-04-037
388-44-010	REP	94-05-045
388-44-020	REP	94-05-045
388-44-035	REP	94-05-045
388-44-046	REP	94-05-045
388-44-050	REP	94-05-045
388-44-110	REP	94-05-045
388-44-115	REP	94-05-045
388-44-120	REP	94-05-045
388-44-125	REP	94-05-045
388-44-127	REP	94-05-045
388-44-140	REP	94-05-045
388-44-145	REP	94-05-045
388-44-150	REP	94-05-045
388-44-160	REP	94-05-045
388-44-250	REP	94-05-045
388-44-280	REP	94-05-045
388-44-330	REP	94-05-045
388-49-015	AMD-P	94-11-064
388-49-500	AMD-P	94-07-031
388-49-535	AMD-P	94-03-041
388-49-535	AMD-W	94-06-023
388-49-590	AMD-P	94-03-050
388-49-590	AMD-C	94-06-027
388-49-590	AMD	94-07-080
388-53-010	REP	94-04-036
388-53-050	REP	94-04-036
388-59-010	REP	94-04-033
388-59-020	REP	94-04-033
388-59-030	REP	94-04-033
388-59-040	REP	94-04-033
388-59-045	REP	94-04-033
388-59-048	REP	94-04-033
388-59-050	REP	94-04-033
388-59-060	REP	94-04-033
388-59-070	REP	94-04-033
388-59-080	REP	94-04-033
388-59-090	REP	94-04-033
388-59-100	REP	94-04-033
388-80-002	REP-P	94-07-114
388-80-002	REP	94-10-065
388-80-005	REP-P	94-07-114
388-80-005	REP	94-10-065
388-81-005	REP-P	94-07-114
388-81-005	REP	94-10-065
388-81-010	REP-P	94-07-114
388-81-010	REP	94-10-065
388-81-015	REP-P	94-07-114
388-81-015	REP	94-10-065
388-81-017	REP-P	94-07-114
388-81-017	REP	94-10-065
388-81-020	REP-P	94-07-114
388-81-020	REP	94-10-065
388-81-025	REP-P	94-07-114
388-81-025	REP	94-10-065
388-81-030	REP-P	94-07-114
388-81-030	REP	94-10-065
388-81-035	REP-P	94-07-114
388-81-035	REP	94-10-065
388-81-038	REP-P	94-07-114
388-81-038	REP	94-10-065
388-81-040	REP-P	94-07-114
388-81-040	REP	94-10-065
388-81-042	REP-P	94-07-114
388-81-042	REP	94-10-065
388-81-043	REP-P	94-07-114
388-81-043	REP	94-10-065
388-81-044	REP-P	94-07-114
388-81-044	REP	94-10-065
388-81-047	REP-P	94-07-114
388-81-047	REP	94-10-065
388-81-050	REP-P	94-07-114
388-81-050	REP	94-10-065
388-81-052	REP-P	94-07-114
388-81-052	REP	94-10-065
388-81-055	REP-P	94-07-114
388-81-055	REP	94-10-065
388-81-060	REP-P	94-07-114
388-81-060	REP	94-10-065
388-81-065	REP-P	94-07-114
388-81-065	REP-E	94-08-045
388-81-065	REP-P	94-08-046
388-81-065	REP	94-10-065
388-81-065	REP-W	94-11-058
388-81-065	RESCIND	94-11-061
388-81-070	REP-P	94-07-114
388-81-070	REP	94-10-065
388-81-100	REP-P	94-07-114
388-81-100	REP	94-10-065
388-81-175	REP-P	94-07-114
388-81-200	REP-P	94-07-114
388-82-006	REP-P	94-07-114
388-82-006	REP	94-10-065
388-82-008	REP-P	94-07-114
388-82-008	REP	94-10-065
388-82-010	REP-P	94-07-114
388-82-010	REP	94-10-065
388-82-115	REP-P	94-07-114
388-82-115	REP	94-10-065
388-82-126	REP-P	94-07-114
388-82-126	REP	94-10-065
388-82-130	REP-P	94-07-114
388-82-130	REP	94-10-065
388-82-135	REP-P	94-07-114
388-82-135	REP	94-10-065
388-82-140	REP-P	94-07-114
388-82-140	AMD-E	94-08-043
388-82-140	AMD-P	94-08-044
388-82-140	REP	94-10-065
388-82-140	REP-W	94-11-059
388-82-140	RESCIND	94-11-063
388-82-150	REP-P	94-07-114
388-82-150	AMD-E	94-08-043
388-82-150	AMD-P	94-08-044
388-82-150	REP	94-10-065
388-82-150	AMD-W	94-11-059
388-82-150	RESCIND	94-11-063
388-82-160	REP-P	94-07-114
388-82-160	AMD-E	94-08-043
388-82-160	AMD-P	94-08-044
388-82-160	REP	94-10-065
388-82-160	AMD-W	94-11-059

WAC #		WSR #
388-82-160	RESCIND	94-11-063
388-83-005	REP-P	94-07-114
388-83-005	REP	94-10-065
388-83-006	REP-P	94-07-114
388-83-006	REP	94-10-065
388-83-010	REP-P	94-07-114
388-83-010	REP	94-10-065
388-83-012	REP-P	94-07-114
388-83-012	REP	94-10-065
388-83-013	REP-P	94-07-114
388-83-013	REP	94-10-065
388-83-014	REP-P	94-07-114
388-83-014	REP	94-10-065
388-83-015	REP-P	94-07-114
388-83-015	REP	94-10-065
388-83-017	REP-P	94-07-114
388-83-017	REP	94-10-065
388-83-020	REP-P	94-07-114
388-83-020	REP	94-10-065
388-83-025	REP-P	94-07-114
388-83-025	REP	94-10-065
388-83-026	REP-P	94-07-114
388-83-026	REP	94-10-065
388-83-029	REP-P	94-07-114
388-83-029	REP	94-10-065
388-83-031	REP-P	94-07-114
388-83-031	REP	94-10-065
388-83-03101	REP-P	94-07-114
388-83-03101	REP	94-10-065
388-83-032	REP-P	94-07-114
388-83-032	AMD-E	94-08-043
388-83-032	AMD-P	94-08-044
388-83-032	REP	94-10-065
388-83-032	AMD-W	94-11-059
388-83-032	RESCIND	94-11-063
388-83-033	REP-P	94-07-114
388-83-033	AMD-E	94-08-043
388-83-033	AMD-P	94-08-044
388-83-033	REP	94-10-065
388-83-033	AMD-W	94-11-059
388-83-033	RESCIND	94-11-063
388-83-036	REP-P	94-07-114
388-83-036	REP	94-10-065
388-83-041	REP-P	94-07-114
388-83-041	REP	94-10-065
388-83-046	REP-P	94-07-114
388-83-046	REP	94-10-065
388-83-130	REP-P	94-07-114
388-83-130	REP	94-10-065
388-83-200	REP-P	94-07-114
388-83-200	REP	94-10-065
388-83-210	REP-P	94-07-114
388-83-210	REP	94-10-065
388-83-220	REP-P	94-07-114
388-83-220	REP	94-10-065
388-84-105	REP-P	94-07-114
388-84-105	REP	94-10-065
388-84-110	REP-P	94-07-114
388-84-110	REP	94-10-065
388-84-115	AMD-P	94-05-026
388-84-115	REP-P	94-07-114
388-84-115	AMD	94-07-132
388-84-115	REP	94-10-065
388-84-120	REP-P	94-07-114
388-84-120	REP	94-10-065
388-85-105	REP-P	94-07-114
388-85-105	REP	94-10-065
388-85-110	REP-P	94-07-114
388-85-110	REP	94-10-065
388-85-115	REP-P	94-07-114
388-85-115	REP	94-10-065
388-86-030	AMD-C	94-04-031
388-86-030	AMD-C	94-05-044
388-86-030	AMD-C	94-07-021
388-86-030	AMD	94-07-122
388-86-040	REP-C	94-05-043
388-86-040	REP	94-07-022
388-86-04001	NEW-C	94-05-043
388-86-04001	NEW	94-07-022
388-86-045	AMD	94-03-052
388-86-073	AMD-P	94-04-022
388-86-073	AMD-E	94-04-023
388-86-073	AMD	94-07-030
388-86-090	AMD-P	94-04-022
388-86-090	AMD-E	94-04-023
388-86-090	AMD	94-07-030
388-86-098	AMD-P	94-04-022
388-86-098	AMD-E	94-04-023
388-86-098	AMD	94-07-030
388-87-300	REP-E	94-08-045
388-87-300	REP-P	94-08-046
388-87-300	REP	94-11-057
388-92-005	REP-P	94-07-114
388-92-005	REP	94-10-065
388-92-015	REP-P	94-07-114
388-92-015	REP	94-10-065
388-92-025	REP-P	94-07-114
388-92-025	REP	94-10-065
388-92-027	REP-P	94-07-114
388-92-027	REP	94-10-065
388-92-030	REP-P	94-07-114
388-92-030	REP	94-10-065
388-92-034	REP-P	94-07-114
388-92-034	REP	94-10-065
388-92-036	REP-P	94-07-114
388-92-036	AMD-E	94-08-041
388-92-036	AMD-P	94-08-042
388-92-036	REP	94-10-065
388-92-036	AMD-W	94-11-060
388-92-036	RESCIND	94-11-062
388-92-040	REP-P	94-07-114
388-92-040	REP	94-10-065
388-92-041	AMD-E	94-05-027
388-92-041	AMD-P	94-05-028
388-92-041	REP-P	94-07-114
388-92-041	AMD	94-07-131
388-92-041	REP	94-10-065
388-92-045	REP-P	94-07-114
388-92-045	REP	94-10-065
388-92-050	REP-P	94-07-114
388-92-050	REP	94-10-065
388-93-005	REP-P	94-07-114
388-93-005	REP	94-10-065
388-93-010	REP-P	94-07-114
388-93-010	REP	94-10-065
388-93-015	REP-P	94-07-114
388-93-015	REP	94-10-065
388-93-020	REP-P	94-07-114
388-93-020	REP	94-10-065
388-93-025	REP-P	94-07-114
388-93-025	REP	94-10-065
388-93-030	REP-P	94-07-114
388-93-030	REP	94-10-065
388-93-035	REP-P	94-07-114
388-93-035	REP	94-10-065
388-93-040	REP-P	94-07-114
388-93-040	REP	94-10-065
388-93-045	REP-P	94-07-114
388-93-045	REP	94-10-065
388-93-050	REP-P	94-07-114
388-93-050	REP	94-10-065
388-93-055	REP-P	94-07-114
388-93-055	REP	94-10-065
388-93-060	REP-P	94-07-114
388-93-060	REP	94-10-065
388-93-065	REP-P	94-07-114
388-93-065	REP	94-10-065
388-93-075	REP-P	94-07-114
388-93-075	REP	94-10-065
388-93-080	REP-P	94-07-114
388-93-080	REP	94-10-065
388-95-300	REP-P	94-07-114
388-95-300	REP	94-10-065
388-95-310	REP-P	94-07-114
388-95-310	REP	94-10-065
388-95-320	REP-P	94-07-114
388-95-320	REP	94-10-065
388-95-335	REP-P	94-07-114
388-95-335	REP	94-10-065
388-95-337	AMD-P	94-05-025
388-95-337	REP-P	94-07-114
388-95-337	AMD	94-07-130
388-95-337	REP	94-10-065
388-95-340	REP-P	94-07-114
388-95-340	AMD-E	94-08-041
388-95-340	AMD-P	94-08-042
388-95-340	REP	94-10-065
388-95-340	AMD-W	94-11-060
388-95-340	RESCIND	94-11-062
388-95-360	REP-P	94-07-114
388-95-360	AMD-E	94-08-043
388-95-360	AMD-P	94-08-044
388-95-360	REP	94-10-065
388-95-360	AMD-W	94-11-059
388-95-360	RESCIND	94-11-063
388-95-380	REP-P	94-07-114
388-95-380	REP	94-10-065
388-95-390	REP-P	94-07-114
388-95-390	REP	94-10-065
388-95-395	REP-P	94-07-114
388-95-395	REP	94-10-065
388-95-400	REP-P	94-07-114
388-95-400	REP	94-10-065
388-96-010	AMD-P	94-07-109
388-96-113	AMD-P	94-07-109
388-96-134	AMD-P	94-07-109
388-96-217	AMD-P	94-07-109
388-96-221	AMD-P	94-07-109
388-96-226	AMD-P	94-07-109
388-96-228	AMD-P	94-07-109
388-96-525	AMD-P	94-07-109
388-96-533	AMD-P	94-07-109
388-96-534	AMD-P	94-07-109
388-96-559	AMD-P	94-07-109
388-96-565	AMD-P	94-07-109
388-96-585	AMD-P	94-07-109
388-96-704	AMD-P	94-07-109
388-96-707	REP-P	94-07-109
388-96-709	AMD-P	94-07-109
388-96-710	AMD-P	94-07-109
388-96-719	AMD-P	94-07-109
388-96-721	REP-P	94-07-109
388-96-722	AMD-P	94-07-109
388-96-727	AMD-P	94-07-109
388-96-735	AMD-P	94-07-109
388-96-737	AMD-P	94-07-109
388-96-745	AMD-P	94-07-109
388-96-753	NEW-P	94-07-109
388-96-754	AMD-P	94-07-109
388-96-763	AMD-P	94-07-109
388-96-774	AMD-P	94-07-109
388-96-776	NEW-P	94-07-109
388-96-777	NEW-P	94-07-109
388-96-904	AMD-P	94-07-109
388-99-005	REP-P	94-07-114
388-99-005	REP	94-10-065
388-99-010	REP-P	94-07-114
388-99-010	REP	94-10-065
388-99-011	REP-P	94-07-114

WAC #		WSR #
388-99-011	REP	94-10-065
388-99-015	REP-P	94-07-114
388-99-015	REP	94-10-065
388-99-020	REP-P	94-07-114
388-99-020	REP	94-10-065
388-99-030	REP-P	94-07-114
388-99-030	REP	94-10-065
388-99-035	REP-P	94-07-114
388-99-035	REP	94-10-065
388-99-036	REP-P	94-07-114
388-99-036	REP	94-10-065
388-99-040	REP-P	94-07-114
388-99-040	REP	94-10-065
388-99-050	REP-P	94-07-114
388-99-050	REP	94-10-065
388-99-055	REP-P	94-07-114
388-99-055	REP	94-10-065
388-99-060	REP-P	94-07-114
388-99-060	REP	94-10-065
388-100-001	REP-P	94-07-114
388-100-001	REP	94-10-065
388-100-005	REP-P	94-07-114
388-100-005	REP	94-10-065
388-100-010	REP-P	94-07-114
388-100-010	REP	94-10-065
388-100-015	REP-P	94-07-114
388-100-015	REP	94-10-065
388-100-020	REP-P	94-07-114
388-100-020	REP	94-10-065
388-100-025	REP-P	94-07-114
388-100-025	REP	94-10-065
388-100-030	REP-P	94-07-114
388-100-030	REP	94-10-065
388-100-035	REP-P	94-07-114
388-100-035	REP	94-10-065
388-150-005	AMD-P	94-11-111
388-150-020	AMD-P	94-11-111
388-150-090	AMD-P	94-11-111
388-150-460	AMD-P	94-11-111
388-155-005	AMD-P	94-11-111
388-155-020	AMD-P	94-11-111
388-155-090	AMD-P	94-11-111
388-155-460	AMD-P	94-11-111
388-200-1050	NEW-P	94-07-114
388-200-1050	NEW	94-10-065
388-200-1100	NEW-P	94-07-114
388-200-1100	NEW	94-10-065
388-200-1150	NEW-P	94-07-114
388-200-1150	NEW	94-10-065
388-200-1160	NEW-P	94-07-114
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388-200-1250	NEW-P	94-07-114
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388-210-1000	NEW	94-10-065
388-210-1010	NEW-P	94-07-114
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388-210-1020	NEW-P	94-07-114
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388-210-1050	NEW-P	94-07-114
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388-210-1340	NEW-P	94-07-114
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388-210-1350	NEW-P	94-07-114
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388-210-1400	NEW-P	94-07-114
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388-210-1420	NEW-P	94-07-114
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388-212-1000	NEW-P	94-07-114
388-212-1000	NEW	94-10-065
388-212-1050	NEW-P	94-07-114
388-212-1050	NEW	94-10-065
388-212-1100	NEW-P	94-07-114
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388-212-1150	NEW-P	94-07-114
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388-212-1200	NEW-P	94-07-114
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388-215-1050	NEW-P	94-07-114
388-215-1050	NEW	94-10-065
388-215-1060	NEW-P	94-07-114
388-215-1060	NEW	94-10-065
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388-215-1080	NEW-P	94-07-114
388-215-1080	NEW	94-10-065
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388-215-1230	NEW-P	94-07-114
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388-215-1325	NEW-P	94-07-114
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388-215-1385	NEW-P	94-07-114
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388-215-1430	NEW-P	94-07-114
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388-215-1600	NEW	94-10-065
388-215-1610	NEW-P	94-07-114
388-215-1610	NEW	94-10-065
388-215-1620	NEW-P	94-07-114
388-215-1620	NEW	94-10-065
388-215-1650	NEW-P	94-07-114
388-215-1650	NEW	94-10-065
388-216-2000	NEW-P	94-07-114
388-216-2000	NEW	94-10-065
388-216-2050	NEW-P	94-07-114
388-216-2050	NEW	94-10-065
388-216-2075	NEW-P	94-07-114
388-216-2075	NEW	94-10-065
388-216-2100	NEW-P	94-07-114
388-216-2100	NEW	94-10-065
388-216-2150	NEW-P	94-07-114
388-216-2150	NEW	94-10-065
388-216-2200	NEW-P	94-07-114
388-216-2200	NEW	94-10-065
388-216-2250	NEW-P	94-07-114
388-216-2250	NEW	94-10-065
388-216-2300	NEW-P	94-07-114
388-216-2300	NEW	94-10-065
388-216-2350	NEW-P	94-07-114
388-216-2350	NEW	94-10-065
388-216-2450	NEW-P	94-07-114
388-216-2450	NEW	94-10-065

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388-216-2550	NEW-P	94-07-114
388-216-2550	NEW	94-10-065
388-216-2560	NEW-P	94-07-114
388-216-2560	NEW	94-10-065
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388-216-2580	NEW-P	94-07-114
388-216-2580	NEW	94-10-065
388-216-2590	NEW-P	94-07-114
388-216-2590	NEW	94-10-065
388-216-2600	NEW-P	94-07-114
388-216-2600	NEW	94-10-065
388-216-2650	NEW-P	94-07-114
388-216-2650	NEW	94-10-065
388-216-2800	NEW-P	94-07-114
388-216-2800	NEW	94-10-065
388-216-2850	NEW-P	94-07-114
388-216-2850	NEW	94-10-065
388-216-2900	NEW-P	94-07-114
388-216-2900	NEW	94-10-065
388-217-3000	NEW	94-04-043
388-217-3050	NEW	94-04-043
388-217-3100	NEW	94-04-043
388-217-3150	NEW	94-04-043
388-217-3200	NEW	94-04-043
388-217-3250	NEW	94-04-043
388-217-3300	NEW	94-04-043
388-217-3350	NEW	94-04-043
388-218-1010	NEW-P	94-07-114
388-218-1010	NEW	94-10-065
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388-218-1100	NEW-P	94-07-114
388-218-1100	NEW	94-10-065
388-218-1110	NEW-P	94-07-114
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388-218-1120	NEW-P	94-07-114
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388-218-1130	NEW-P	94-07-114
388-218-1130	NEW	94-10-065
388-218-1140	NEW-P	94-07-114
388-218-1140	NEW	94-10-065
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388-218-1350	NEW-P	94-07-114
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388-218-1400	NEW-P	94-07-114
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388-218-1420	NEW-P	94-07-114
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388-218-1510	NEW	94-10-065
388-218-1515	NEW-P	94-07-114
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388-218-1530	NEW-P	94-07-114
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388-218-1600	NEW	94-10-065
388-218-1605	NEW-P	94-07-114
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388-218-1620	NEW-P	94-07-114
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388-218-1690	NEW-P	94-07-114
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388-218-1695	NEW	94-10-065
388-218-1700	NEW-P	94-07-114
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388-218-1720	NEW-P	94-07-114
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388-218-1740	NEW-P	94-07-114
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388-218-1830	NEW	94-10-065
388-218-1900	NEW-P	94-07-114
388-218-1900	NEW	94-10-065
388-218-1910	NEW-P	94-07-114
388-218-1910	NEW	94-10-065
388-218-1920	NEW-P	94-07-114
388-218-1920	NEW	94-10-065
388-218-1930	NEW-P	94-07-114
388-218-1930	NEW	94-10-065
388-218-1940	NEW-P	94-07-114
388-218-1940	NEW	94-10-065
388-219-0100	NEW-P	94-07-114
388-219-0100	NEW	94-10-065
388-219-0200	NEW-P	94-07-114
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388-219-1000	NEW-P	94-07-114
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388-219-1100	NEW-P	94-07-114
388-219-1100	NEW	94-10-065
388-219-1500	NEW-P	94-07-114
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388-219-1600	NEW-P	94-07-114
388-219-1600	NEW	94-10-065
388-219-1700	NEW-P	94-07-114
388-219-1700	NEW	94-10-065
388-219-2000	NEW-P	94-07-114
388-219-2000	NEW	94-10-065
388-219-2000	AMD-P	94-10-086
388-219-2500	NEW-P	94-07-114
388-219-2500	NEW	94-10-065
388-219-2600	NEW-P	94-07-114
388-219-2600	NEW	94-10-065
388-219-3000	NEW-P	94-07-114
388-219-3000	NEW	94-10-065
388-219-3500	NEW-P	94-07-114
388-219-3500	NEW	94-10-065
388-225-0010	NEW-P	94-03-051
388-225-0010	NEW	94-06-026
388-225-0020	NEW-P	94-03-051
388-225-0020	NEW	94-06-026
388-225-0050	NEW-P	94-03-051
388-225-0050	NEW	94-06-026
388-225-0060	NEW-P	94-03-051
388-225-0060	NEW	94-06-026
388-225-0070	NEW-P	94-03-051
388-225-0070	NEW	94-06-026
388-225-0080	NEW-P	94-03-051
388-225-0080	NEW	94-06-026
388-225-0090	NEW-P	94-03-051
388-225-0090	NEW	94-06-026
388-225-0100	NEW-P	94-03-051
388-225-0100	NEW	94-06-026
388-225-0120	NEW-P	94-03-051
388-225-0120	NEW	94-06-026
388-225-0150	NEW-P	94-03-051
388-225-0150	NEW	94-06-026
388-225-0160	NEW-P	94-03-051
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388-225-0170	NEW-P	94-03-051
388-225-0170	NEW	94-06-026
388-225-0180	NEW-P	94-03-051
388-225-0180	NEW	94-06-026
388-225-0190	NEW-P	94-03-051
388-225-0190	NEW	94-06-026
388-225-0300	NEW-P	94-03-051
388-225-0300	NEW	94-06-026
388-235-7300	AMD-P	94-11-024
388-235-7400	NEW-P	94-11-024
388-245-1000	NEW-P	94-07-114
388-245-1000	NEW	94-10-065
388-245-1150	NEW-P	94-07-114
388-245-1150	NEW	94-10-065
388-245-1160	NEW-P	94-07-114
388-245-1160	NEW	94-10-065
388-245-1170	NEW-P	94-07-114
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388-245-1210	NEW-P	94-07-114
388-245-1210	NEW	94-10-065
388-245-1300	NEW-P	94-07-114
388-245-1300	NEW	94-10-065
388-245-1310	NEW-P	94-07-114
388-245-1310	NEW	94-10-065

WAC #		WSR #
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388-245-1320	NEW	94-10-065
388-245-1350	NEW-P	94-07-114
388-245-1350	NEW	94-10-065
388-245-1400	NEW-P	94-07-114
388-245-1400	NEW	94-10-065
388-245-1410	NEW-P	94-07-114
388-245-1410	NEW	94-10-065
388-245-1500	NEW-P	94-07-114
388-245-1500	NEW	94-10-065
388-245-1510	NEW-P	94-07-114
388-245-1510	NEW	94-10-065
388-245-1520	NEW-P	94-07-114
388-245-1520	NEW	94-10-065
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388-245-1600	NEW	94-10-065
388-245-1610	NEW-P	94-07-114
388-245-1610	NEW	94-10-065
388-245-1700	NEW-P	94-07-114
388-245-1700	NEW	94-10-065
388-245-1710	NEW-P	94-07-114
388-245-1710	NEW	94-10-065
388-245-1715	NEW-P	94-07-114
388-245-1715	NEW	94-10-065
388-245-1720	NEW-P	94-07-114
388-245-1720	NEW	94-10-065
388-245-1730	NEW-P	94-07-114
388-245-1730	NEW	94-10-065
388-245-1740	NEW-P	94-07-114
388-245-1740	NEW	94-10-065
388-245-2010	NEW-P	94-07-114
388-245-2010	NEW	94-10-065
388-245-2020	NEW-P	94-07-114
388-245-2020	NEW	94-10-065
388-245-2030	NEW-P	94-07-114
388-245-2030	NEW	94-10-065
388-245-2040	NEW-P	94-07-114
388-245-2040	NEW	94-10-065
388-245-2050	NEW-P	94-07-114
388-245-2050	NEW	94-10-065
388-250-1010	NEW-P	94-06-035
388-250-1010	NEW	94-09-001
388-250-1050	NEW-P	94-06-035
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388-250-1100	NEW-P	94-06-035
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388-250-1150	NEW-P	94-06-035
388-250-1150	NEW	94-09-001
388-250-1200	NEW-P	94-06-035
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388-250-1250	NEW-P	94-06-035
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388-250-1300	NEW-P	94-06-035
388-250-1300	NEW	94-09-001
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388-250-1450	NEW	94-09-001
388-250-1500	NEW-P	94-06-035
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388-250-1550	NEW-P	94-06-035
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388-250-1600	NEW-P	94-06-035
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388-250-1650	NEW-P	94-06-035
388-250-1650	NEW	94-09-001
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388-250-1750	NEW	94-09-001
388-255-1020	NEW-P	94-06-035
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388-255-1050	NEW-P	94-06-035
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388-255-1400	NEW-P	94-06-035
388-255-1400	NEW	94-09-001
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388-265-1010	NEW	94-10-065
388-265-1050	NEW-P	94-07-114
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388-265-1150	NEW-P	94-07-114
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388-265-1500	NEW-P	94-07-114
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388-265-2000	NEW	94-10-065
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388-275-0090	NEW	94-04-033
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388-505-0510	NEW-P	94-07-114
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388-517-1760	NEW-P	94-07-114
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388-519-1905	NEW-P	94-07-114
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388-522-2210	NEW-P	94-07-114
388-522-2210	NEW	94-10-065
388-522-2230	NEW-P	94-07-114
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388-523-2305	NEW-P	94-07-114
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388-523-2320	NEW-P	94-07-114
388-523-2320	NEW	94-10-065
388-524-2405	NEW-P	94-07-114
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388-525-2505	NEW-P	94-07-114
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388-525-2520	NEW	94-10-065
388-525-2570	NEW-P	94-07-114

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388-527-2710	NEW-P	94-07-114
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388-528-2810	NEW-P	94-07-114
388-528-2810	NEW	94-10-065
388-529-2910	NEW-P	94-07-114
388-529-2910	NEW	94-10-065
388-529-2920	NEW-P	94-07-114
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388-529-2930	NEW	94-10-065
388-529-2940	NEW-P	94-07-114
388-529-2940	NEW	94-10-065
388-529-2950	NEW-P	94-07-114
388-529-2950	NEW	94-10-065
388-529-2960	NEW-P	94-07-114
388-529-2960	NEW	94-10-065
388-538-110	AMD	94-04-038
390-05-235	AMD-P	94-07-088
390-05-235	AMD	94-11-018
390-12-010	AMD	94-05-010
390-14-040	AMD	94-05-010
390-16-011	AMD	94-05-011
390-16-012	AMD	94-05-011
390-16-031	AMD	94-05-011
390-16-032	AMD	94-05-011
390-16-033	AMD	94-05-011
390-16-041	AMD	94-05-011
390-16-050	AMD	94-05-011
390-16-071	NEW-E	94-07-001
390-16-071	NEW-P	94-07-035
390-16-071	NEW	94-11-016
390-16-207	AMD-P	94-07-035
390-16-207	AMD	94-11-016
390-16-238	NEW-P	94-05-097
390-16-238	NEW	94-07-141
390-16-245	NEW-P	94-05-097
390-16-245	NEW	94-07-141
390-16-300	AMD-P	94-05-097
390-16-308	AMD-P	94-07-035
390-16-308	AMD-P	94-07-088
390-16-308	AMD-W	94-07-089
390-16-308	AMD	94-11-016
390-16-309	NEW-E	94-07-001
390-16-309	NEW-P	94-07-035
390-16-309	NEW-W	94-08-080
390-16-309	NEW	94-11-016
390-16-310	AMD-P	94-07-035
390-16-310	AMD-P	94-07-088
390-16-310	AMD-W	94-07-089
390-16-310	AMD	94-11-016
390-16-311	NEW-P	94-07-142
390-16-311	NEW	94-11-017
390-16-315	AMD-P	94-05-097
390-16-324	NEW-P	94-03-087
390-16-324	NEW-W	94-04-121
390-17-071	NEW	94-05-010
390-17-300	AMD-P	94-03-087
390-17-300	AMD-W	94-04-121
390-17-300	AMD	94-07-141
390-17-315	AMD-P	94-03-087
390-17-315	AMD-W	94-04-121
390-17-315	AMD	94-07-141
390-17-320	NEW-P	94-07-035
390-17-320	NEW	94-11-016
390-17-405	NEW-P	94-07-142
390-17-405	NEW	94-11-017
390-20-148	NEW-P	94-07-035
390-20-148	NEW	94-11-016
390-20-052	AMD-P	94-07-035
390-20-052	AMD	94-11-016
390-24-030	REP	94-05-010
390-24-031	REP	94-05-010
390-24-160	AMD	94-05-010
390-37-070	AMD	94-05-010
390-37-105	AMD	94-05-010
390-37-142	AMD	94-05-010
392-127-700	REP	94-04-096
392-127-703	REP	94-04-096
392-127-705	REP	94-04-096
392-127-710	REP	94-04-096
392-127-715	REP	94-04-096
392-127-720	REP	94-04-096
392-127-725	REP	94-04-096
392-127-730	REP	94-04-096
392-127-735	REP	94-04-096
392-127-740	REP	94-04-096
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480-12-990	AMD-P	94-07-135
480-12-990	AMD	94-11-022
480-30-015	AMD-P	94-11-103
480-30-032	AMD-P	94-07-137
480-30-032	AMD	94-11-021
480-30-050	AMD-P	94-07-137
480-30-050	AMD	94-11-021
480-30-095	AMD-P	94-07-137
480-30-095	AMD	94-11-021
480-30-100	AMD-P	94-07-137
480-30-100	AMD-W	94-11-020
480-30-100	AMD-P	94-11-104
480-35-040	AMD-P	94-10-071
480-35-080	AMD-P	94-10-071
480-35-090	AMD-P	94-10-071
480-35-100	AMD-P	94-10-071
480-35-110	AMD-P	94-10-071
480-35-120	AMD-P	94-10-071
480-40-015	AMD-P	94-11-103
480-40-070	AMD-P	94-10-072
480-40-075	AMD-P	94-10-072
480-40-110	AMD-P	94-10-072
480-40-120	AMD-P	94-10-072
480-40-130	AMD-P	94-10-072
480-40-140	REP-P	94-10-072
480-50-010	AMD	94-03-003
480-50-040	AMD	94-03-003
480-60-990	AMD-P	94-07-138
480-60-990	AMD	94-11-003
480-62-085	AMD-P	94-07-138
480-62-085	AMD	94-11-003
480-62-090	AMD-P	94-07-138
480-62-090	AMD	94-11-003
480-70-055	AMD-P	94-11-102
480-70-250	AMD-P	94-07-136
480-70-250	AMD	94-11-004
480-70-400	AMD-P	94-11-102
480-107-020	AMD	94-07-045
480-107-050	AMD	94-07-045
480-107-060	AMD	94-07-045
480-107-070	AMD	94-07-045
480-107-080	AMD	94-07-045
480-107-100	AMD	94-07-045
480-107-120	AMD	94-07-045
480-149-120	AMD-P	94-11-101
484-20	AMD-P	94-09-043
484-20-010	AMD-P	94-09-043
484-20-015	AMD-P	94-09-043
484-20-020	AMD-P	94-09-043
484-20-023	AMD-P	94-09-043
484-20-024	NEW-P	94-09-043
484-20-025	AMD-P	94-09-043
484-20-030	AMD-P	94-09-043
484-20-035	AMD-P	94-09-043

WAC #		WSR #
484-20-040	AMD-P	94-09-043
484-20-045	AMD-P	94-09-043
484-20-050	AMD-P	94-09-043
484-20-055	AMD-P	94-09-043
484-20-060	AMD-P	94-09-043
484-20-061	NEW-P	94-09-043
484-20-062	NEW-P	94-09-043
484-20-063	NEW-P	94-09-043
484-20-065	AMD	94-04-001
484-20-068	AMD-P	94-09-043
484-20-070	AMD-P	94-09-043
484-20-075	REP-P	94-09-043
484-20-080	AMD-P	94-09-043
484-20-085	AMD-P	94-09-043
484-20-087	AMD-P	94-09-043
484-20-089	AMD-P	94-09-043
484-20-090	AMD-P	94-09-043
484-20-095	AMD-P	94-09-043
484-20-100	AMD-P	94-09-043
484-20-103	NEW-P	94-09-043
484-20-105	AMD-P	94-09-043
484-20-110	REP-P	94-09-043
484-20-111	NEW-P	94-09-043
484-20-115	AMD-P	94-09-043
484-20-116	NEW-P	94-09-043
484-20-117	NEW-P	94-09-043
484-20-120	AMD-P	94-09-043
484-20-135	AMD-P	94-09-043
484-20-140	AMD-P	94-09-043
484-20-145	AMD-P	94-09-043
484-20-150	AMD-P	94-09-043
516-26-010	AMD-P	94-07-117
516-26-020	AMD-P	94-07-117
516-26-030	AMD-P	94-07-117
516-26-035	AMD-P	94-07-117
516-26-040	AMD-P	94-07-117
516-26-045	AMD-P	94-07-117
516-26-050	AMD-P	94-07-117
516-26-055	AMD-P	94-07-117
516-26-060	AMD-P	94-07-117
516-26-070	AMD-P	94-07-117
516-26-080	AMD-P	94-07-117
516-26-085	AMD-P	94-07-117
516-26-090	AMD-P	94-07-117
516-26-095	AMD-P	94-07-117
516-26-100	AMD-P	94-07-117

WAC #	WSR #

WAC #	WSR #

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; PERM 94-02-072
education requirements — PERM 94-02-070; PERM 94-02-072
reciprocity — PERM 94-10-039
Enforcement procedures — PERM 94-02-070
Hearings — PERM 94-02-069
Operations and procedures — PERM 94-02-068
Program standards — PERM 94-02-070
Quality assurance review program — PERM 94-02-070; PERM 94-02-071

AGRICULTURE, DEPARTMENT OF
Animal health
laboratory fees — PROP 94-09-072
Apiaries
pollination service fee — PROP 94-09-052
registration fees, schedule — PROP 94-01-162; PERM 94-05-049
Apple commission
meetings — MISC 94-02-063
Apples
assessments
apple pest certification — EMER 94-04-091
gift grade, standards — PERM 94-03-021
watercore in Fuji variety — EMER 94-01-165; PROP 94-05-050; PERM 94-07-133
Asparagus commission
meetings — MISC 94-01-130; MISC 94-07-070
Barley commission
meetings — MISC 94-03-080; MISC 94-07-032
Beef commission
meetings — MISC 94-03-074; MISC 94-07-093
Brand inspection
criteria — PROP 94-10-075
fees — PROP 94-10-074; PROP 94-10-075
livestock markets — PROP 94-10-074
Brucellosis, tuberculosis, and scrapie control — PROP 94-01-177; PERM 94-05-008
Certified feed lots
fees — PROP 94-10-076
Cherries
sweet cherry containers, marking requirements — PERM 94-03-022
Egg commission
assessments — PROP 94-05-074; PROP 94-07-038
commodity board membership — PROP 94-05-073; PERM 94-08-091
Farmed salmon commission
assessments and collections — PROP 94-05-066; PERM 94-08-090
meetings — MISC 94-03-075
Feed
commercial feed inspection fees — PROP 94-05-060; PERM 94-08-034
Feed lots
fees — PROP 94-10-076
Fees — PROP 94-06-058; PROP 94-09-052; PROP 94-09-054; PROP 94-09-055; PROP 94-09-072; PERM 94-10-002; PROP 94-10-074; PROP 94-10-076
Holly, cut spray standards — PERM 94-03-026
Hop commission
meetings — MISC 94-01-008
Horsemeat decharacterization — PROP 94-01-176; PERM 94-05-009
Inspection fees — PROP 94-06-058; PERM 94-10-002
Licenses
commission merchants, dealers, brokers, and agents, fees — PROP 94-09-055
Livestock markets
brand inspections — PROP 94-10-074
facilities — PROP 94-10-074
fees — PROP 94-10-074
Milk
processor assessments — PROP 94-01-151; PERM 94-05-040
Noxious weeds
noxious weed list — MISC 94-01-076
Nursery stock
standards — PERM 94-03-025
Pea cyst nematode quarantine — PROP 94-01-163; PROP 94-06-003; PROP 94-06-051
Pesticides
DDT and DDD, registration, distribution, and use — PERM 94-03-023
endrin — PROP 94-09-017
ethyl parathion, use restrictions — PROP 94-05-061; PERM 94-08-035
lindane products, registration and distribution — PERM 94-03-024
phosdrin, use restrictions — PROP 94-05-092; PROP 94-08-033; PERM 94-09-028
Plant services
holly, cut spray standards — PERM 94-03-026
Possums
phalangeridae, import and possession restrictions — EMER 94-09-004
Potato commission
meetings — MISC 94-02-086
Red raspberry commission
meetings — MISC 94-02-049; MISC 94-07-014
Scrapie, brucellosis, and tuberculosis control — PROP 94-01-177; PERM 94-05-008
Seed potatoes
permit issuance — PROP 94-07-111; **PERM 94-11-069**
winter test tolerance — PROP 94-07-110; **PERM 94-11-070**
Seeds
certification procedures and fees — PROP 94-09-046
sampling and testing — PROP 94-09-046
Strawberry commission
meetings — MISC 94-03-067
Tuberculosis
brushtail possums (phalangeridae), import and possession restrictions — EMER 94-09-004
Tuberculosis, brucellosis, and scrapie control — PROP 94-01-177; PERM 94-05-008
Weeds
noxious weed list — MISC 94-01-076
Weights and measures
calibration services, fees — PROP 94-09-054
Wheat commission
meetings — MISC 94-01-020
Wine commission
meetings — MISC 94-02-088

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ARTS COMMISSION
Rules coordinator — MISC 94-01-099

ATTORNEY GENERAL'S OFFICE
Lemon law administration — PROP 94-06-050
Opinion, notice of request for — MISC 94-01-189
MISC 94-05-090
MISC 94-06-067
MISC 94-09-064
MISC 94-11-121
Opinions
district courts, judges pro tempore (1994, No. 4) — MISC 94-08-059
elected officials' salaries (1994, No. 8) — **MISC 94-11-015**
firearms in school facilities (1994, No. 1) — MISC 94-04-029
higher education institutions, fundraising and gifts (1993, No. 18) — MISC 94-01-144
judicial branch, travel and expense reimbursement policies (1994, No. 7) — MISC 94-10-032
higher education institutions, public works contracts (1993, No. 19) — MISC 94-01-145
marine safety, office's authority to establish emergency response system and tugboat (1994, No. 2) — MISC 94-07-004
port districts, pilotage service (1994, No. 3) — MISC 94-08-058
salaries of elected officials (1994, No. 8) — **MISC 94-11-015**
school buses, bonds issuance for acquisition (1994, No. 6) — MISC 94-10-018
telephone records of legislature (1994, No. 5) — MISC 94-08-083
tuberculosis, authority of local health officer to control spread (1993, No. 20) — MISC 94-02-061
Organization and operation — PROP 94-06-050
Public records, availability — PROP 94-06-050

BATES TECHNICAL COLLEGE
Meetings — MISC 94-01-045

BELLEVUE COMMUNITY COLLEGE
Admission — PROP 94-01-091
PERM 94-04-098
Meetings — MISC 94-03-011
Refund policy — PERM 94-01-181
Registration — PROP 94-01-091
PERM 94-04-098
Residency classification — PROP 94-01-091
PERM 94-04-098

BELLINGHAM TECHNICAL COLLEGE
Meetings — MISC 94-03-013
MISC 94-03-033
MISC 94-05-030
MISC 94-07-006
MISC 94-08-086
MISC 94-10-087

BIG BEND COMMUNITY COLLEGE
Public records, availability — PROP 94-01-049
PERM 94-07-019
Rules coordinator — MISC 94-07-005

BLIND, DEPARTMENT OF SERVICES FOR THE
Definitions — PROP 94-07-067
PERM 94-11-054
Vendors
department responsibility to maintain facilities — PROP 94-07-067
PROP 94-11-053

BOILER RULES, BOARD OF
(See **LABOR AND INDUSTRIES, DEPARTMENT OF**)

BUILDING CODE COUNCIL
Amendments to state building code
policies and procedures — PERM 94-05-058
PROP 94-05-102
window thermal efficiency standards — EMER 94-05-007
PERM 94-05-059
Meetings — MISC 94-06-011

CENTRAL WASHINGTON UNIVERSITY
Parking and traffic — PROP 94-07-090
EMER 94-07-091
PERM 94-10-049
Rules coordinator — MISC 94-01-105

CENTRALIA COLLEGE
Meetings — MISC 94-03-014

CLARK COLLEGE
Meetings — MISC 94-02-022

CLOVER PARK TECHNICAL COLLEGE
Rules coordinator — MISC 94-01-043

CODE REVISER'S OFFICE
Preproposal statement of intent — PROP 94-09-045

COLUMBIA RIVER GORGE COMMISSION
Appeals from county ordinances — MISC 94-07-034
MISC 94-11-013
Economic development certification process — **MISC 94-11-014**

COMBINED FUND DRIVE, STATE EMPLOYEE
(See **GOVERNOR, OFFICE OF THE**)

COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR
Rules coordinator — MISC 94-01-023
Running start program — PROP 94-01-096
PROP 94-01-113
PERM 94-04-120

COMMUNITY DEVELOPMENT, DEPARTMENT OF
(See also **COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**)
Affordable housing advisory board meetings — MISC 94-03-062
Fire protection services division meetings — MISC 94-01-017
MISC 94-02-038
MISC 94-03-064
Public works board meetings — MISC 94-01-135
MISC 94-06-007

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF
(See also **COMMUNITY DEVELOPMENT, DEPARTMENT OF** and **TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**)
Affordable housing advisory board meetings — MISC 94-08-026
Fire protection policy board meetings — MISC 94-09-015
Hardwoods commission meetings — **MISC 94-11-025**

INDEX

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

CONVENTION AND TRADE CENTER
Meetings — MISC 94-01-068; MISC 94-03-040; MISC 94-06-005; MISC 94-08-062; MISC 94-09-032; **MISC 94-11-067**

CORRECTIONS, DEPARTMENT OF
Community residential programs — MISC 94-07-065
Work/training release — MISC 94-07-065

COUNTY ROAD ADMINISTRATION BOARD
Land area ratio, computation — PERM 94-01-115
Meetings — MISC 94-01-007; MISC 94-06-056; MISC 94-10-088
Payment of vouchers — PROP 94-06-031; PERM 94-10-021
Projects
  funds allocation — PROP 94-06-028; PROP 94-06-030; PERM 94-10-022; PERM 94-10-023
  prioritization — PROP 94-06-028; PROP 94-06-029; PERM 94-10-020; PERM 94-10-022
Rural arterials — PERM 94-01-116; **PROP 94-11-123**

DEAF, WASHINGTON SCHOOL FOR THE
Rules coordinator — MISC 94-08-063
Student conduct code — PROP 94-08-066

DEFERRED COMPENSATION, COMMITTEE FOR
Rules coordinator — MISC 94-03-058

EASTERN WASHINGTON UNIVERSITY
Meetings — MISC 94-04-014; MISC 94-06-019; MISC 94-07-015; MISC 94-09-038
Rules coordinator — MISC 94-01-031

ECOLOGY, DEPARTMENT OF
Air quality
  fees — PROP 94-04-105; PROP 94-04-106; PROP 94-08-072; PERM 94-10-042; PROP 94-10-079
  gasoline vapor control, compliance schedules — PERM 94-07-040
  insignificant emission units — PROP 94-04-104; PROP 94-08-073; **PERM 94-11-105**
  motor vehicle emission inspection — PERM 94-05-039
  operating permits — PERM 94-02-041
  oxygenated gasoline program — PERM 94-07-040
  particulate matter standard for Seattle, Duwamish Valley and Tacoma tideflats — MISC 94-03-065
  registration program
    interim fee — PROP 94-04-105; PERM 94-10-042
  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; PERM 94-07-078
Centennial clean water — PERM 94-04-030
Clean Air Act
  civil sanctions — PROP 94-10-078
  excluded categories of waste — PROP 94-01-173; PROP 94-08-092
  facilities, requirements — PROP 94-01-089
  toxic air pollutants, control of sources — PERM 94-03-072; PERM 94-01-060
  tracking system — PROP 94-01-089
Dairy waste general discharge permit — MISC 94-10-028
Dangerous waste
  designation — PROP 94-01-089
Environmental Policy Act
  exemptions from detailed statement requirements — PROP 94-03-071; PERM 94-07-078
Forest practices
  forested bogs and fens protection — EMER 94-04-108; PROP 94-08-071
Fresh fruit packing industry
  water discharge permit — MISC 94-03-091
Gravel mining and quarrying industry
  water discharge permit program — MISC 94-07-106
Model Toxics Control Act
  responsiveness summary — MISC 94-03-096
Motor vehicles
  emission inspection — PERM 94-05-039
Noise control
  watercraft noise levels — PROP 94-05-037
Oil handling facilities
  operations and design standards — PROP 94-01-171; PROP 94-01-172; PERM 94-10-083; PERM 94-10-084
Puget Sound regional council
  joint public hearing — MISC 94-05-091; MISC 94-06-054
Resource damage assessment committee
  meetings — MISC 94-01-061
Shoreline master programs
  Asotin County — PROP 94-03-093
  Chelan County — PROP 94-03-092; PERM 94-10-081
  Gig Harbor, city of — PROP 94-07-074; PROP 94-10-040
  Olympia, city of — PROP 94-07-119
  Port Orchard, city of — PROP 94-04-107; PERM 94-10-082
  Port Townsend, city of — PROP 94-01-174; PROP 94-05-038; PERM 94-07-013
  Raymond, city of — PROP 94-07-120
  San Juan County — PROP 94-10-041
  Snohomish County — PERM 94-03-095
  Tumwater, city of — PROP 94-03-094; PERM 94-10-080
Tire recycling and removal — PROP 94-03-071; PERM 94-07-078
Wastewater
  dairy waste general discharge permit — MISC 94-10-028
  discharge permit program fees — PROP 94-02-080; PROP 94-05-082; PERM 94-10-027
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; MISC 94-05-068

	MISC	94-07-056
	MISC	94-09-036
	MISC	**94-11-084**
Students' rights and responsibilities		
disciplinary actions	PERM	94-03-010
EDUCATION, STATE BOARD OF		
Administrator internship program	PROP	94-05-034
	PERM	94-08-055
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
	PROP	94-08-067
Meetings	MISC	94-01-029
Regional committees		
election of members	PROP	94-08-103
School construction		
contracts, awarding of	PERM	94-01-013
documents, approval	PERM	94-01-014
growth impact fees and mitigation		
payments	PERM	94-01-030
payments, sequence	PROP	94-08-104
retainage process	PROP	94-05-088
	PROP	94-08-068
site acceptance criteria	PERM	94-01-014
School facilities		
modernization, eligibility for financial		
assistance	PROP	94-08-105
Teachers		
certification requirements	PERM	94-01-101
Teaching internship certificates	PROP	94-08-106
EMPLOYMENT SECURITY DEPARTMENT		
Overpayments		
interest charges	EMER	94-02-028
	PROP	94-04-124
	PERM	94-10-044
Temporary total disability		
definitions	EMER	94-02-029
	PERM	94-07-115
exclusions	EMER	94-02-029
	PERM	94-07-115
failure to apply in timely manner	EMER	94-02-029
	PERM	94-07-115
injuries, additional	EMER	94-02-029
	PERM	94-07-115
ENERGY OFFICE		
Electric energy curtailment plan	PROP	94-08-070
	PROP	**94-11-128**
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
FINANCIAL MANAGEMENT, OFFICE OF		
1995 state paydates	PROP	94-10-055
Financial institutions, department of		
loans to department director and employees		
by financial institutions	PERM	94-09-010
Rules coordinator	MISC	94-06-057
FISH AND WILDLIFE, DEPARTMENT OF		
(See also **FISHERIES, DEPARTMENT OF**, and		
WILDLIFE, COMMISSION AND DEPARTMENT)		
Fishing, commercial		
baitfish		
areas and seasons	EMER	94-09-021
coastal bottomfish		
catch limits	PROP	94-10-073
sablefish	**EMER**	**94-11-073**
whiting	**EMER**	**94-11-074**
licenses	**PROP**	**94-11-005**
	EMER	**94-11-006**
salmon		
Columbia River above Bonneville	**EMER**	**94-11-106**
Columbia River below Bonneville	EMER	94-07-009
Columbia River tributaries		
areas and seasons	EMER	94-09-022
Grays Harbor		
areas and seasons	EMER	94-09-070
Puget Sound		
areas and seasons	PROP	94-09-071
Willapa Bay		
area and seasons	PROP	94-09-070
sea cucumbers		
areas and seasons	EMER	94-10-037
shad		
Columbia River	**EMER**	**94-11-107**
shrimp fishery		
Puget Sound	PERM	94-07-092
	EMER	**94-11-072**
spawn on kelp		
licenses	EMER	94-07-063
	EMER	94-07-077
vessels		
licenses	**PROP**	**94-11-005**
	EMER	**94-11-006**
Northern squawfish sport-reward		
fishery	PERM	94-09-019
Fishing, personal use		
bottomfish		
areas and seasons	EMER	94-10-043
definitions	EMER	94-10-043
food fish		
areas and seasons	EMER	94-10-043
game fish seasons and catch limits, 1994-95		
Baker Lake	PERM	94-09-066
	EMER	**94-11-068**
Caliche Lakes	**PROP**	**94-11-125**
Cascade River	PROP	94-09-069
Cedar River	PROP	94-09-069
Columbia River	PERM	94-09-068
Coweeman River	PROP	94-09-069
Cowlitz River	PROP	94-09-069
Dabbler Lake	**PROP**	**94-11-125**
Dungeness River	PROP	94-09-069
Ellen Lake	**PROP**	**94-11-125**
Elochoman River	PROP	94-09-069
Grande Ronde River	PERM	94-09-067
Grays River	PROP	94-09-069
Green River	PROP	94-09-069
Hampton Lakes	**PROP**	**94-11-125**
Hen Lake	**PROP**	**94-11-125**
Homestead Lake	**PROP**	**94-11-125**

Kalama River	PROP	94-09-069
Katey Lake	**PROP**	**94-11-125**
Lake Washington	PROP	94-09-069
Lake Wenatchee	EMER	94-09-005
Lewis River	PROP	94-09-069
Magpie Lake	**PROP**	**94-11-125**
Marie Lake	**PROP**	**94-11-125**
Nooksack River	PROP	94-09-069
Quilcene River	PROP	94-09-069
Salmon Creek	PROP	94-09-069
Sauk River	PERM	94-09-067
	PROP	94-09-069
Shannon Lake	PERM	94-09-066
Shannon Reservoir	**EMER**	**94-11-068**
Skagit River	PROP	94-09-069
Skamokawa Creek	PROP	94-09-069
Skokomish River	PROP	94-09-069
Spada Lake	EMER	94-09-005
Suiattle River	PROP	94-09-069
Toutle River	PROP	94-09-069
Tucannon River	PERM	94-09-067
Wannacut Lake	**PROP**	**94-11-125**
Washougal River	PROP	94-09-069
general provisions		
lakes	**EMER**	**94-11-068**
halibut		
areas and seasons	EMER	94-10-043
licenses	**PROP**	**94-11-005**
	EMER	**94-11-006**
salmon		
areas and seasons	EMER	94-08-014
	EMER	94-08-049
	EMER	94-10-036
	EMER	94-10-043
	EMER	94-10-068
	EMER	**94-11-075**
	EMER	**94-11-127**
shad		
areas and seasons	EMER	94-10-043
shellfish		
areas and seasons		
abalone	EMER	94-10-043
native clams	EMER	94-07-052
	EMER	94-07-076
	EMER	94-10-043
oysters	EMER	94-07-052
	EMER	94-07-076
	EMER	94-10-043
razor clams	EMER	94-07-003
	EMER	94-08-009
	EMER	94-09-023
	EMER	94-10-038
unlawful acts	EMER	94-10-043
shrimp	**EMER**	**94-11-072**
sturgeon		
areas and seasons	EMER	94-10-043
Vessels		
licenses	**PROP**	**94-11-005**
	EMER	**94-11-006**
Game management units		
boundary descriptions	**PERM**	**94-11-031**
	PERM	**94-11-032**
	PERM	**94-11-033**
	PERM	**94-11-034**
	PERM	**94-11-035**
	PERM	**94-11-036**
	PERM	**94-11-037**
	PERM	**94-11-038**
	PERM	**94-11-039**
	PERM	**94-11-040**
	PERM	**94-11-041**
	PERM	**94-11-042**
	PERM	**94-11-043**
	PERM	**94-11-044**
	PERM	**94-11-045**
Hunting seasons		
deer and bear, 1994-97	**PERM**	**94-11-046**
deer and elk, 1994-95	**PERM**	**94-11-051**
elk, 1994-97	**PERM**	**94-11-048**
	EMER	**94-11-078**
hunting hours and small game seasons, 1994-97	**PERM**	**94-11-047**
special closures and firearm restriction areas	**PERM**	**94-11-049**
special hunting and trapping seasons permits	**PERM**	**94-11-030**
special species, 1994-95	**PERM**	**94-11-050**
Hydraulics projects		
regulations	**PROP**	**94-11-126**
Trapping		
special hunting and trapping seasons permits	**PERM**	**94-11-030**
FISHERIES, DEPARTMENT OF		
(See also **FISH AND WILDLIFE, DEPARTMENT OF**)		
Commercial		
baitfish		
areas and seasons	EMER	94-04-047
bottomfish		
coastal bottomfish catch limits	EMER	94-02-039
	EMER	94-05-003
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
	EMER	94-06-042
sea urchins		
area and seasons	EMER	94-01-109
	EMER	94-01-152
	EMER	94-03-063
	EMER	94-05-055
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
Personal use		
food fish		
rules and definitions	PROP	94-03-105
licenses	PERM	94-01-001
	EMER	94-02-040
salmon		
area closures	EMER	94-01-012
shellfish		
rules and definitions	PROP	94-03-105
Shellfish		
pots, setting requirements	EMER	94-05-002
FOREST PRACTICES APPEALS BOARD		
Appeals	EMER	94-07-062
	PROP	94-07-097
FOREST PRACTICES BOARD		
Enforcement	PERM	94-01-134
Marbled murrelet		
critical wildlife habitats	EMER	94-07-053
Meetings	MISC	94-01-133

Penalties
assessment and enforcement PERM 94-01-134
Spotted owl habitat protection EMER 94-05-046
Wetlands
forested bogs and fens EMER 94-01-124
PROP 94-09-029
EMER 94-09-030

GAMBLING COMMISSION
Amusement games
approval and authorization PERM 94-01-036
Bingo
disposable bingo cards PERM 94-01-034
electronic bingo card daubers PROP 94-10-005
PROP 94-11-094
equipment requirements PERM 94-01-033
sale of bingo cards PROP 94-10-005
Card games
authorized types PROP 94-10-006
house dealers PROP 94-10-006
wager limits PROP 94-10-006
Charitable or nonprofit organizations
qualifications, procedures, and
responsibilities PERM 94-01-035
Firearms as prizes PROP 94-10-005
Meetings MISC 94-01-037
MISC 94-04-099
MISC 94-05-047
MISC 94-07-099
Nonprofit or charitable organizations
qualification, procedures, and
responsibilities PERM 94-01-035
Prohibited activities PROP 94-10-005
Punchboards and pull tabs
retention requirements PERM 94-01-032
Rules coordinator MISC 94-07-100
Rules, housekeeping changes PROP 94-04-024
PROP 94-07-083
PERM 94-07-084
PERM 94-11-095

GENERAL ADMINISTRATION, DEPARTMENT OF
Commodity redistribution **PROP 94-11-007**
Inmate work programs
state purchasing practices PROP 94-10-053
Parking program for facilities off
state capitol grounds PROP 94-09-047
Surplus property disposal **PROP 94-11-007**

GOVERNOR, OFFICE OF THE
Clemency and pardons board
meetings MISC 94-03-090
MISC 94-06-015
MISC 94-10-017
Combined fund drive, state employee
charity membership criteria PERM 94-01-038
Efficiency and accountability commission
meetings MISC 94-04-100
Energy strategy, implementation MISC 94-03-088
Low-income housing tax credit allocations MISC 94-08-089
Multimodal transportation programs and projects
selection committee
funds, distribution PROP 94-05-100
EMER 94-05-101
PERM 94-10-030
PERM 94-11-081
meetings MISC 94-01-182
MISC 94-04-039
operating procedures PROP 94-05-100
EMER 94-05-101
PERM 94-10-030
PERM 94-11-081
project selection process EMER 94-01-069
EMER 94-04-015
supplemental applications PROP 94-10-029
EMER 94-10-031
National and community service,
commission on membership and duties MISC 94-06-009
School-to-work transition, council on
establishment MISC 94-04-070
Watershed planning, implementation,
and restoration for fish and wildlife MISC 94-08-088

GRAYS HARBOR COLLEGE
Meetings MISC 94-02-024

GREEN RIVER COMMUNITY COLLEGE
Adjudicative proceedings PERM 94-04-051
Meetings MISC 94-02-087
Parking and traffic PERM 94-04-051
PERM 94-04-052
Smoking regulations PERM 94-04-054
Tenure PERM 94-04-053

GROWTH PLANNING HEARINGS BOARDS
Meetings MISC 94-01-053
MISC 94-01-067
MISC 94-01-077
Practice and procedure PROP 94-01-097
PROP 94-07-007
PERM 94-07-033
Rules coordinator MISC 94-01-053

HARDWOODS COMMISSION
(See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)

HEALTH CARE AUTHORITY
Basic health plan
benefits EMER 94-06-032
PROP 94-07-075
eligibility EMER 94-06-032
PROP 94-07-075
enrollment EMER 94-06-032
PROP 94-07-075
hearings and grievances EMER 94-06-032
PROP 94-07-075
Group purchasing association caregivers
health plan
eligibility EMER 94-08-028
Public employees benefits board
insurance plans
eligibility EMER 94-08-027
meetings MISC 94-03-007
MISC 94-08-008

HEALTH SERVICES COMMISSION
Competitive oversight and antitrust
immunity PROP 94-06-060
Managed competition and antitrust
immunity PROP 94-06-059
Meetings MISC 94-04-129
MISC 94-07-094
Organization and operation PROP 94-01-141
PERM 94-04-046
Provider selection, termination, and
dispute resolution PROP 94-10-085
Rules coordinator MISC 94-01-070
MISC 94-09-013
Uniform benefits package,
transition to **PROP 94-11-109**

HEALTH, DEPARTMENT OF
Abortion facilities
authority of department to regulate PERM 94-04-083
Adjudicative proceedings
disciplinary boards PERM 94-04-078
secretary programs and professions PERM 94-04-079
Boarding homes

nursing care for residents PERM 94-01-058
standards, revised provisions PROP 94-08-040
Chiropractic disciplinary board
adjudicative proceedings PROP 94-03-053
PERM 94-08-053
cooperation with investigation **PROP 94-11-080**
future care contracts PROP 94-02-016
licenses
renewal form **PROP 94-11-080**
meetings MISC 94-04-110
recordkeeping requirements **PROP 94-11-080**
scope of practice **PROP 94-11-080**
Dental disciplinary board
adjudicative proceedings PROP 94-03-045
meetings MISC 94-04-074
Dental examiners, board of
adjudicative proceedings PROP 94-03-044
PERM 94-08-011
dentist fees PERM 94-02-058
examinations, eligibility
and application PROP 94-06-046
PERM 94-11-088
meetings MISC 94-04-072
Dental hygienists
education requirements PROP 94-01-056
PERM 94-05-053
licenses
fees PERM 94-02-059
reinstatement of expired license PERM 94-04-005
meetings MISC 94-04-073
Health statistics, center for
pregnancy terminations, reporting PERM 94-04-083
Hearings aids, fitters and dispensers
licenses
inactive status PERM 94-08-038
trainees, standards of training and supervision PROP 94-08-037
PERM 94-11-108
HIV
health insurance eligibility PROP 94-01-057
PERM 94-06-048
Home care PROP 94-10-046
Home health agencies
deemed status PROP 94-10-047
licenses PROP 94-10-047
policies and procedures PROP 94-10-047
volunteers PROP 94-10-047
Hospice
deemed status PROP 94-10-045
licenses PROP 94-10-045
policies and procedures PROP 94-10-045
volunteers PROP 94-10-045
Hospitals
budgets and accounting PROP 94-09-026
data collection and reporting PROP 94-09-026
fee schedules PROP 94-09-026
patient discharge reporting PROP 94-09-007
public records PROP 94-09-026
Kidney centers PERM 94-05-052
Laboratories
medical test sites, fees **PROP 94-11-012**
Massage, board of
apprenticeship programs PROP 94-06-045
continuing education PROP 94-01-055
PROP 94-05-080
meetings PROP 94-06-045
licensure
examination PROP 94-05-080
initial application PROP 94-06-045
training PROP 94-06-045
without examination PROP 94-05-080
Medical disciplinary board
adjudicative proceedings PROP 94-07-011
Medical examiners, board of
examinations
reciprocity or waiver PROP 94-08-095
scores PROP 94-08-095
physician assistants
alternate sponsoring or supervising physicians, relationship with PROP 94-08-094
Medical test sites
fees **PROP 94-11-012**
Nursing, board of
advanced registered nurse practitioners
education requirements PROP 94-10-056
PROP 94-11-079
scope of practice PROP 94-10-056
PROP 94-11-079
registered nurses
continuing education PROP 94-10-057
licensure PROP 94-10-057
computer adaptive testing PROP 94-01-132
PERM 94-07-012
Nursing home administrators, board of
fees PROP 94-05-065
PERM 94-09-006
meetings MISC 94-03-054
MISC 94-10-011
Occupational therapy practice board
AIDS education and training PROP 94-10-059
education programs PROP 94-10-059
licenses PROP 94-10-059
On-site sewage systems
requirements PERM 94-09-025
Opticians
contact lenses
fitting and dispensing PROP 94-02-057
PERM 94-06-047
records retention PROP 94-02-057
PROP 94-06-047
fees PROP 94-05-032
PERM 94-08-078
Optometry board
continuing education PERM 94-04-041
sexual misconduct PERM 94-04-041
Osteopathic medicine and surgery, board of
adjudicative proceedings **PROP 94-11-093**
examinations **PROP 94-11-093**
physicians assistants
licensure **PROP 94-11-093**
prescriptions **PROP 94-11-093**
Pharmacy, board of
adjudicative proceedings **PROP 94-11-089**
compounding practices PROP 94-02-079
PERM 94-08-101
continuing education **PROP 94-11-092**
controlled substances
destruction of schedule II substances in nursing homes PERM 94-02-077
list corrections and additions PROP 94-02-089
PROP 94-04-111
PERM 94-07-105
PERM 94-08-098
ephedrine prescription restrictions PROP 94-02-078
PERM 94-08-100
examinations PROP 94-04-113
PERM 94-08-099
fees PERM 94-05-036
good compounding practices PROP 94-02-079
PERM 94-08-101
hospital pharmacy standards **PROP 94-11-090**
licenses
renewal notices PROP 94-08-096
patient medication record systems **PROP 94-11-091**
pharmacy assistants
specialized functions PROP 94-01-088
PROP 94-04-112
PERM 94-08-097

procedural rules	**PROP**	**94-11-089**
reciprocity	PROP	94-04-113
	PERM	94-08-099
recordkeeping requirements	**PROP**	**94-11-091**
wildlife, department of		
approved legend drug use	PERM	94-02-060
Physical therapy, board of		
adjudicative proceedings	PERM	94-05-014
licenses		
applicants	PERM	94-05-014
continuing competency	PERM	94-05-014
endorsement, licensure by	PERM	94-05-014
interim permits	PERM	94-05-014
meetings	MISC	94-02-056
Physician assistants		
alternate sponsoring or supervising		
physicians, relationship with	PROP	94-08-094
Podiatric medical board		
adjudicative proceedings	PROP	94-05-081
	PERM	94-09-008
continuing education	PERM	94-05-051
licensure eligibility	PERM	94-05-051
patient records	PERM	94-05-051
substance abuse monitoring program	PROP	94-08-079
unlicensed persons, authorized acts	PERM	94-05-051
Pools		
construction and operating permits,		
fees	PROP	94-07-121
	PERM	**94-11-056**
Practical nursing, board of		
fees	PROP	94-05-035
	PERM	94-08-102
licensure		
examination	PROP	94-05-033
	PERM	94-08-050
qualifications	PROP	94-05-033
	PERM	94-08-050
student records	PROP	94-05-033
	PERM	94-08-050
Psychology, examining board of		
continuing education	PROP	94-08-039
licensure		
applications	PROP	94-08-039
examination	PROP	94-08-039
	EMER	94-09-024
prerequisites	PROP	94-08-039
Quality improvement program for health		
care facilities and providers	PROP	94-09-042
Radiation protection, division of		
environmental radioactivity		
cleanup standards	PROP	94-09-041
radiation levels	PROP	94-09-041
fees	PROP	94-01-142
	PROP	94-07-107
	PROP	94-07-108
	PERM	**94-11-010**
	PERM	**94-11-011**
radiation protection standards	PROP	94-01-059
	PERM	94-01-073
	PROP	94-01-142
	PROP	94-06-016
	PERM	94-06-017
radioactive air emissions,		
regulations	PERM	94-07-010
Radiologic technology advisory committee		
meetings	MISC	94-04-103
Sewage systems, on-site		
requirements	PERM	94-09-025
Sex offender treatment providers		
certification	PROP	94-09-027
definitions	PROP	94-09-027
education requirements	PROP	94-09-027
fees	PROP	94-09-027
professional conduct		
and standards	PROP	94-09-027
treatment standards	PROP	94-09-027
Transient accommodations	PROP	94-10-058
Uniform Disciplinary Act		
model procedural rules for boards	PERM	94-04-078
secretary programs and professions,		
adjudicative proceedings	PERM	94-04-079
Veterinary medication clerks		
fees	PROP	94-08-076
	EMER	94-08-077
scope of functions	EMER	94-08-051
	PROP	94-08-052
supervision	EMER	94-08-051
	PROP	94-08-052
Vision care practitioners		
Vision Care Consumer Assistance Act,		
implementation	PROP	94-10-026
training and education	EMER	94-08-051
	PROP	94-08-052
Water		
group A public water systems	PROP	94-08-075
group B public water systems	PROP	94-06-008
water works operator certification	PERM	94-04-004

HIGHER EDUCATION COORDINATING BOARD

Award for excellence in		
education program	PROP	94-09-061
Degree Authorization Act		
administration and governance	PROP	94-06-018
Displaced homemaker program	PROP	94-10-001
Meetings	MISC	94-03-049
	MISC	94-09-044
	MISC	94-10-052
Running start program	PROP	94-01-112
	PROP	94-04-093
State work-study program	PROP	94-09-058
Washington scholars program	PROP	94-09-060

HIGHLINE COMMUNITY COLLEGE

Meetings	MISC	94-04-071

HISPANIC AFFAIRS, COMMISSION ON

Meetings	MISC	94-04-127
	MISC	94-08-003
	MISC	94-09-063
	MISC	94-10-016

HORSE RACING COMMISSION

Association officials and employees		
duties	PROP	94-09-003
testing	PROP	94-09-003
Definitions	PROP	94-09-003
Exacta rules	PROP	94-05-076
Licenses		
duration	PERM	94-04-002
Medication testing program	PERM	94-04-002
Practice and procedure	PROP	94-09-003
Quinella rules	PROP	94-05-077
Race results, transmission	PERM	94-04-003
Racing rules	PROP	94-09-003
Trifecta rules	PROP	94-05-075

HUMAN RIGHTS COMMISSION

Disability discrimination	PROP	94-04-087
Meetings	MISC	94-01-119
	MISC	94-01-120
	MISC	94-03-083
	MISC	94-05-087
	MISC	94-06-002
	MISC	94-07-118
	MISC	94-09-037
	MISC	**94-11-052**
Preemployment inquiries	PROP	94-04-087
Pregnancy discrimination	PROP	94-04-087
Sex discrimination	PROP	94-04-087

HYDRAULIC APPEALS BOARD
Rules of procedure EMER 94-07-059
PROP 94-07-096

INDETERMINATE SENTENCE REVIEW BOARD
Rules coordinator MISC 94-02-067

INSURANCE COMMISSIONER, OFFICE OF
Agents, solicitors, and adjusters
continuing education **PROP 94-11-100**
licenses **PROP 94-11-100**
Annuities PROP 94-05-057
Audited financial statements PROP 94-01-192
PERM 94-04-045
Financial statements PROP 94-01-192
PERM 94-04-045
Health care service contractors
custodial care benefits PROP 94-05-056
participating provider contracts PROP 94-01-075
preexisting condition limitations, restrictions PROP 94-04-125
PERM 94-08-081
Health insurance
coordination of benefits **PROP 94-11-122**
custodial care benefits PROP 94-05-056
health plan providers
dispute resolution PROP 94-10-077
selection PROP 94-10-077
termination PROP 94-10-077
off-label drugs PROP 94-05-070
preexisting condition limitations, restrictions PROP 94-04-125
PERM 94-08-081
PROP 94-11-082
reinsurance agreements PROP 94-05-089
PROP 94-08-013
PROP 94-10-024
Health insurance reform short term
coordination of benefits **PROP 94-11-122**
form modification PROP 94-02-065
PROP 94-03-048
PROP 94-03-085
portability PROP 94-02-065
PROP 94-03-048
EMER 94-03-084
PROP 94-03-085
PROP 94-04-126
PROP 94-08-006
PERM 94-08-060
rate limitations PROP 94-02-065
PROP 94-03-048
PROP 94-03-085
renewability PROP 94-02-065
PROP 94-03-048
EMER 94-03-084
PROP 94-03-085
unfair practices PROP 94-02-065
Health maintenance organizations
custodial care benefits PROP 94-05-056
participating provider contracts PROP 94-01-075
preexisting condition limitations, restrictions PROP 94-04-125
PERM 94-08-081
Life insurance
accelerated benefits PROP 94-05-071
reinsurance agreements PROP 94-05-089
PROP 94-08-013
PROP 94-10-024
Long-term care insurance
home health care PROP 94-09-050
PROP 94-11-096
inflation protection PROP 94-09-050
PROP 94-11-096
preproposal comments PROP 94-09-048
standards PROP 94-09-050
PROP 94-11-096
Malpractice insurance
midwifery and birthing centers PERM 94-02-053
Midwifery and birthing centers
malpractice joint underwriting authority PERM 94-02-053
PROP 94-09-049

INTEREST RATES
(See inside front cover)

INVESTMENT BOARD
Meetings MISC 94-04-019

JUDICIAL CONDUCT, COMMISSION ON
Meetings MISC 94-01-050
MISC 94-01-051
MISC 94-11-076

LABOR AND INDUSTRIES, DEPARTMENT OF
Boiler rules, board of
meetings MISC 94-01-015
small electric boilers, exemption from rules EMER 94-04-006
PROP 94-05-072
Crime victims compensation
mental health treatment fees and rules PERM 94-02-015
Electrical board
meetings MISC 94-02-055
Electrical installations
wiring and apparatus PERM 94-01-005
Electricians
journeyman electricians
certificate of competency PERM 94-01-005
Fees PERM 94-01-100
Medical and mental health treatment
fees and rules PERM 94-02-015
Occupational health standards
general PROP 94-07-085
PERM 94-07-086
PROP 94-10-010
PROP 94-11-124
tobacco smoke in offices PERM 94-07-086
Prevailing wages
fees for filing statements PERM 94-01-100
Safety and health standards
agriculture PROP 94-01-186
EMER 94-06-044
PERM 94-06-068
PROP 94-10-007
general PROP 94-10-010
Safety standards
commercial diving operations PROP 94-10-010
construction PROP 94-10-010
PROP 94-11-124
electrical workers **PROP 94-11-124**
firefighters **PROP 94-11-124**
logging operations **PROP 94-11-124**
ski lift area facilities and operations **PROP 94-11-124**
telecommunications PROP 94-10-010
Workers' compensation
classifications PROP 94-07-128
PROP 94-07-129
general PROP 94-01-186
health care providers' reimbursement PERM 94-02-045
PERM 94-03-008
logging or tree thinning, mechanized operations PROP 94-06-055
medical aid rules and fee schedule PROP 94-07-126
rates and rating system PROP 94-07-127
respiratory impairment, evaluation PERM 94-03-073
self-insurance
certification PROP 94-03-006
PERM 94-05-042

employee rights PROP 94-03-006
PERM 94-05-042
surety PROP 94-03-006
PERM 94-05-042

LAKE WASHINGTON TECHNICAL COLLEGE
Meetings MISC 94-01-052
MISC 94-03-016

LEGAL FOUNDATION OF WASHINGTON
Meetings MISC 94-04-008
MISC 94-07-057

LICENSING, DEPARTMENT OF
Cemetery board
fees PERM 94-01-117
Escrow commission
escrow officer, responsibilities PERM 94-04-050
organization and operation PERM 94-04-050
meetings MISC 94-02-018
Hulk haulers
licenses
applications PROP 94-07-037
requirements PROP 94-07-037
Landscape architects
fees PROP 94-01-047
PERM 94-04-044
licenses
examination PROP 94-01-047
PERM 94-04-044
renewal PROP 94-01-047
PERM 94-04-044
Model traffic ordinance PERM 94-01-082
PROP 94-09-002
Motor vehicles
driving under the influence
withholding ownership documents PROP 94-08-057
fleet vehicles
reciprocity and proration PROP 94-02-025
model traffic ordinance PERM 94-01-082
PROP 94-09-002
special fuel, tax exemption
and refunds PROP 94-02-075
PROP 94-02-076
PERM 94-11-029
PERM 94-11-055
title and registration advisory committee MISC 94-01-111
unauthorized vehicles, procedures for
taking custody of PROP 94-04-017
PERM 94-08-025
unlicensed vehicle trip permits PROP 94-07-036
Private security guards
licensing fees PROP 94-09-018
PROP 94-11-026
Real estate appraisers
residential classification PERM 94-01-002
Real estate commission
meetings MISC 94-02-018
Title and registration advisory
committee
meetings MISC 94-06-069
MISC 94-09-053
Vessels
fees PROP 94-03-018
registration and certificate of title PROP 94-03-018

LIQUOR CONTROL BOARD
Agents
limited authority **PROP 94-11-087**
Booths PROP 94-07-125
PERM 94-10-035
Breweries
retail sale of beer on premises PROP 94-02-013
PROP 94-06-021
retailers' brewery license PROP 94-02-013
PROP 94-06-021
Cocktail lounge declassification, Sunday
dining events PROP 94-10-004
Licensees
consumption of alcohol during pregnancy
warning signs PROP 94-10-066
fetal alcohol syndrome or fetal alcohol effect
warning signs PROP 94-05-094
PROP 94-08-029
hours of operation PROP 94-05-096
PERM 94-08-031
liquor possession by person under the
influence prohibited PROP 94-05-093
PERM 94-08-030
private wine shippers' licenses fees PROP 94-07-124
PERM 94-10-034
samples of unpasteurized beer **PROP 94-11-086**
split case handling fee PROP 94-10-067
Private clubs
advertising PROP 94-02-014
PERM 94-06-022
Public records, availability PERM 94-03-060
Purpose **PROP 94-11-085**
Ships chandlers
definition PROP 94-05-095
PERM 94-08-032
purchase and receipt of beer and wine PROP 94-05-095
PERM 94-08-032
sales limits PROP 94-10-003
Tobacco products
sales PROP 94-08-010
PROP 94-08-023
Wineries
retail sale of wine on premises PROP 94-02-013
PROP 94-06-021
retailers' winery license PROP 94-02-013
PROP 94-06-021

LOTTERY COMMISSION
Instant game number 114 - Wildcard
criteria PERM 94-03-019
definitions PERM 94-03-019
ticket validation PERM 94-03-019
Instant game number 115 - Cash Roulette
criteria PERM 94-03-019
definitions PERM 94-03-019
ticket validation PERM 94-03-019
Instant game number 116 - Fortune
criteria PERM 94-03-019
definitions PERM 94-03-019
ticket validation PERM 94-03-019
Instant game number 117 - Cash Crop
criteria PERM 94-03-019
PROP 94-07-116
PERM 94-11-027
definitions PERM 94-03-019
PROP 94-07-116
PERM 94-11-027
ticket validation PERM 94-03-019
PROP 94-07-116
PERM 94-11-027
Instant game number 118 - Aces Wild
criteria PROP 94-03-099
PERM 94-07-029
definitions PROP 94-03-099
PERM 94-07-029
ticket validation PROP 94-03-099
PERM 94-07-029
Instant game number 119 - Big Bucks
criteria PROP 94-03-099
PERM 94-07-029
definitions PROP 94-03-099
PERM 94-07-029

ticket validation PROP 94-03-099
PERM 94-07-029

Instant game number 120 - Lucky Deal
criteria PROP 94-03-099
PERM 94-07-029
definitions PROP 94-03-099
PERM 94-07-029
ticket validation PROP 94-03-099
PERM 94-07-029

Instant game number 121 - Hog Mania
criteria PROP 94-03-099
PERM 94-07-029
definitions PROP 94-03-099
PERM 94-07-029
ticket validation PROP 94-03-099
PERM 94-07-029

Instant game number 122 - High Card
criteria PROP 94-07-116
PERM 94-11-027
definitions PROP 94-07-116
PERM 94-11-027
ticket validation PROP 94-07-116
PERM 94-11-027

Instant game number 123 - Holiday Cash
criteria PROP 94-07-116
PERM 94-11-027
definitions PROP 94-07-116
PERM 94-11-027
ticket validation PROP 94-07-116
PERM 94-11-027

Instant game number 124 - Queen of Hearts
criteria PROP 94-07-116
PERM 94-11-027
definitions PROP 94-07-116
PERM 94-11-027
ticket validation PROP 94-07-116
PERM 94-11-027

Instant game number 125 - Windfall
criteria PROP 94-07-116
PERM 94-11-027
definitions PROP 94-07-116
PERM 94-11-027
ticket validation PROP 94-07-116
PERM 94-11-027

Instant game number 126 - Megamoney II
criteria PROP 94-07-116
PERM 94-11-027
definitions PROP 94-07-116
PERM 94-11-027
ticket validation PROP 94-07-116
PERM 94-11-027

Instant games
criteria PERM 94-03-020
effective date MISC 94-07-028
official end PERM 94-03-020
Lotto
prizes PROP 94-03-099
PERM 94-07-029
retailer settlement PERM 94-03-020
MISC 94-07-028
On-line games
criteria PERM 94-03-020
effective date MISC 94-07-028
Retailers
effective date MISC 94-07-028
license termination PROP 94-07-116
PERM 94-11-027
obligations PERM 94-03-020
PROP 94-07-116
PERM 94-11-027
procedures PERM 94-03-020
retailer settlement PERM 94-03-020

MARINE EMPLOYEES' COMMISSION
Meetings MISC 94-07-002

MARINE OVERSIGHT BOARD
Meetings MISC 94-02-084
MISC 94-09-033

MARINE SAFETY, OFFICE OF
Bunkering standards MISC 94-09-056
Regional marine safety committees
meetings MISC 94-01-110
MISC 94-07-039
Rules coordinator MISC 94-02-021

MARITIME COMMISSION
Meetings MISC 94-01-027

MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF
Agencies and educational institutions
plans, contents PROP 94-01-164
PROP 94-08-110
PERM 94-11-119
responsibilities PROP 94-08-109
PERM 94-11-118
Annual goals for participation PROP 94-01-127
PERM 94-03-068
PERM 94-07-064
Certification
applications PROP 94-08-108
PERM 94-11-114
fees PROP 94-08-108
PERM 94-11-115
Contractors
violations and penalties PROP 94-08-107
PERM 94-11-117
Fees PROP 94-01-090
PROP 94-01-187
EMER 94-01-188
PERM 94-11-113
Subcontractor, definition PROP 94-08-107
PERM 94-11-116

MULTIMODAL TRANSPORTATION PROGRAMS AND PROJECTS SELECTION COMMITTEE
(See **GOVERNOR, OFFICE OF THE**)

NATURAL RESOURCES, DEPARTMENT OF
Burning permits
fees PROP 94-08-093
Forest closures
closed season EMER 94-09-020
Forest fire advisory board
meetings MISC 94-08-012
Forest practices board
(see **FOREST PRACTICES BOARD**)
Natural heritage advisory council
meetings MISC 94-03-070
MISC 94-09-059
Surface Mining Act
mine reclamation PROP 94-09-062
Survey monuments
removal or destruction PROP 94-01-022
PERM 94-06-034

NORTHWEST AIR POLLUTION AUTHORITY
Air contaminant sources
reporting PERM 94-01-108
Fees PERM 94-01-108
Operating permits PERM 94-01-108

OLYMPIC COLLEGE
Meetings MISC 94-01-122
MISC 94-01-123
MISC 94-02-085
MISC 94-07-046

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR
Meetings MISC 94-05-099
MISC 94-06-052
MISC 94-07-069
Rules coordinator MISC 94-02-062
MISC 94-06-006

PARKS AND RECREATION COMMISSION
Alcohol possession or consumption in parks PROP 94-10-069
Aircraft
paragliders, prohibition exemption PERM 94-01-087
Boating safety program
local government programs PROP 94-01-149
PERM 94-04-076
Camping facilities
fees PROP 94-03-097
PROP 94-06-010
PERM 94-08-036
PROP 94-10-048
Clean vessel funding program PROP 94-10-070
Day use
fees PROP 94-03-097
PROP 94-06-010
PERM 94-08-036
EMER 94-09-009
Film permit application, fee PROP 94-03-089
PROP 94-06-020
PERM 94-08-005
Fort Worden
fees PROP 94-01-150
PERM 94-04-075
Meetings MISC 94-01-148
Paragliders
aircraft prohibition, exemption PERM 94-01-087
Senior citizens, off-season pass PROP 94-03-097
PROP 94-06-010
PERM 94-08-036
Tree removal in state parks PROP 94-06-049
PERM 94-10-012

PENINSULA COLLEGE
Meetings MISC 94-01-185
MISC 94-05-098
Rules coordinator MISC 94-04-026

PERSONNEL, DEPARTMENT OF
Career executive program
transition into Washington management service PROP 94-01-125
PROP 94-09-065
Personnel resources board
(see **PERSONNEL RESOURCES BOARD**)
Rules coordinator MISC 94-01-160
MISC 94-06-001
Washington management service
affirmative action PROP 94-06-064
PERM 94-09-012
career executive program, transition from PROP 94-01-125
PROP 94-09-065
establishment PROP 94-01-048
PERM 94-01-126
EMER 94-03-069
PROP 94-11-071
phase in agencies PROP 94-06-064
PERM 94-09-012
PROP 94-09-065
reduction in force PROP 94-09-065
reversion PROP 94-06-064
PERM 94-09-012
review period PROP 94-09-065
salary adjustments PROP 94-06-064
PERM 94-09-012
PROP 94-09-065

PERSONNEL RESOURCES BOARD
Affirmative action PROP 94-04-010
PROP 94-04-086
PERM 94-06-063
Appeals PROP 94-02-034
Demotion PROP 94-02-034
Dismissal PROP 94-02-034
Employee training and development PROP 94-06-065
PROP 94-10-009
Exemptions, civil service law PROP 94-02-030
PERM 94-02-031
Filing of papers PROP 94-02-036
PROP 94-04-084
PERM 94-08-024
Higher education institutions and related boards, civil service law exemptions PERM 94-02-031
Layoff or separation PROP 94-02-034
Operations PERM 94-02-032
PROP 94-02-035
Position allocations and reallocations PROP 94-02-034
Public records, availability PERM 94-02-032
PROP 94-02-035
Reduction in force
register designation EMER 94-04-085
Register designation
certification PROP 94-06-066
PERM 94-10-008
composition and ranking PROP 94-06-066
PERM 94-10-008
reduction in force EMER 94-04-085
Service of process PROP 94-02-036
PROP 94-04-084
PERM 94-08-024
State internship program PERM 94-02-033
PROP 94-02-035
Trial service PROP 94-02-034
Washington management service
Washington general service, movement between PROP 94-04-009
PERM 94-04-011

PIERCE COLLEGE
Meetings MISC 94-02-017

PILOTAGE COMMISSIONERS, BOARD OF
Oil tankers
tug escort requirements PROP 94-04-119
PERM 94-07-079
Pilotage tariff rates
Grays Harbor district PROP 94-01-153
EMER 94-01-154
EMER 94-05-005
PERM 94-05-006
Puget Sound district PROP 94-08-056

POLLUTION CONTROL HEARINGS BOARD
Appeals EMER 94-07-061
PROP 94-07-098

PUBLIC DISCLOSURE COMMISSION
Affiliated entities PROP 94-08-080
Aggregate, definition MISC 94-01-054
Campaign finance reporting forms EMER 94-01-039
PROP 94-01-040
PERM 94-05-011
Collective bargaining organizations and associations, definitions PERM 94-05-010
Contributions
annual report EMER 94-07-001
PROP 94-07-035
PERM 94-11-016
automatically affiliated entities PROP 94-07-142
PERM 94-11-017

INDEX

designation for primary and general elections — PROP 94-03-087; PROP 94-04-121; PROP 94-05-097; PERM 94-07-141
encouraging expenditures to avoid contributions, result — MISC 94-01-054
fair market value, definition — PROP 94-07-088; **PERM 94-11-018**
identification of affiliated entities — EMER 94-07-001; PROP 94-07-035; **PERM 94-11-016**
limitations — PROP 94-07-035; PROP 94-07-088; PROP 94-07-089; PROP 94-07-142; **PERM 94-11-016**; **PERM 94-11-018**
personal use, standard — PROP 94-03-087; PROP 94-04-121; PERM 94-07-141
pledges — PROP 94-05-097; PERM 94-07-141
political committees — PROP 94-03-087; PROP 94-04-121; PROP 94-05-097; PROP 94-07-035; PERM 94-07-141; **PERM 94-11-016**
prohibited contributions — PROP 94-07-035; **PERM 94-11-016**
source of contribution, identification — PROP 94-07-035; PROP 94-07-088; PROP 94-07-089; **PERM 94-11-016**
Enforcement — PERM 94-05-010
Exempt activities
definition and reporting — MISC 94-01-054
limitations — MISC 94-01-054
Lobbyists and lobbying
agency lobbying report — PROP 94-07-035; **PERM 94-11-016**
employer contributions — PROP 94-07-035; **PERM 94-11-016**
Meetings — PERM 94-05-010
Public records, availability — PERM 94-05-010
Volunteer services — PROP 94-07-142; **PERM 94-11-017**

PUBLIC EMPLOYEES BENEFITS BOARD
(See **HEALTH CARE AUTHORITY**)

PUBLIC INSTRUCTION, SUPERINTENDENT OF
Administrator internship program — PROP 94-04-025; PERM 94-07-102
Child nutrition
practice and procedures — PROP 94-01-137; PERM 94-04-097
Funding
block grants, distribution — **PROP 94-11-066**
Elementary and Secondary Education Act compliance — PROP 94-04-094; PERM 94-07-103
local enhancement funding, distribution — **PROP 94-11-066**
Magnet school programs — PROP 94-08-074
Running start program — PROP 94-01-114; PROP 94-01-136; PERM 94-04-095; PERM 94-04-096
Salary allocations
certificated instructional staff — PERM 94-01-190
Student learning improvement grants — PROP 94-04-122
Teacher assistance program — **PROP 94-11-120**

PUBLIC WORKS BOARD
(See **COMMUNITY DEVELOPMENT, DEPARTMENT OF**)

PUGET SOUND AIR POLLUTION CONTROL AGENCY
Chromic acid plating and anodizing — PERM 94-01-083
Coatings — PERM 94-01-083; PROP 94-02-083; PERM 94-05-067
Compliance with regulations — PERM 94-01-083; PROP 94-02-083; PERM 94-05-067
Construction permits
notice and review requirements — PROP 94-06-062; PERM 94-09-035
Control officer
duties and powers — PROP 94-02-083; PERM 94-05-067
Definitions — PROP 94-02-083; PERM 94-05-067; PROP 94-06-061; PERM 94-09-034
Emission standards
compliance — PROP 94-02-083; PERM 94-05-067
Gasoline loading terminals — PERM 94-01-083
Gasoline stations
vapor recovery — PROP 94-02-083; PERM 94-05-067
Meetings — MISC 94-07-068
Outdoor fires
exemptions from emission standards — PROP 94-06-061; PERM 94-09-034
prohibited areas — PROP 94-06-061; PERM 94-09-034
Oxygenated gasoline
oxygen content — PROP 94-08-085; **PERM 94-11-077**
Refuse burning — PERM 94-01-083
Sources
registration — PROP 94-02-083; PERM 94-05-067

PUGET SOUND WATER QUALITY AUTHORITY
Meetings — MISC 94-03-017
Puget Sound water quality management plan — MISC 94-04-128
Rules coordinator — MISC 94-02-019

RENTON TECHNICAL COLLEGE
Meetings — MISC 94-03-015

RETIREMENT SYSTEMS, DEPARTMENT OF
Annual leave
cash payments in lieu of unused leave — PROP 94-07-144
Elected and appointed officials, eligibility and application for retirement service membership — PROP 94-08-087
Employee status, determination — PROP 94-05-012; PERM 94-09-039
Retirement allowance
calculation — PROP 94-07-144; **PERM 94-11-009**
judicial plan members
recomputation following reemployment — PROP 94-07-143; **PERM 94-11-008**
plan II members
recomputation following reemployment — PROP 94-05-013; PERM 94-09-040

REVENUE, DEPARTMENT OF
Business and occupation tax
agricultural products, sales by producers — PROP 94-03-034; PERM 94-07-048

farmers, miscellaneous sales to PROP 94-03-037
PERM 94-07-051
feed, seed, fertilizer, and spray materials for farm use PROP 94-03-035
PERM 94-07-049
heat or steam sales PROP 94-01-155
horticultural services to farmers PROP 94-03-036
PERM 94-07-050
hospitals, medical care facilities, and adult family homes PROP 94-01-158
EMER 94-05-083
PERM 94-11-097
hotels, motels, and boarding houses PROP 94-01-157
PERM 94-05-001
landscape and horticultural services PROP 94-10-013
laundries and dry cleaners PROP 94-01-156
PERM 94-09-016
motor carriers, sales to interstate or foreign commerce carriers PROP 94-07-023
schools and educational institutions PROP 94-03-047
PERM 94-07-047
tax reporting EMER 94-05-085
ticket sellers PROP 94-07-027
tour operators EMER 94-05-086
Cigarette tax
reporting PROP 94-07-026
PERM 94-10-062
Excise tax
real estate excise tax
administration and compliance PERM 94-04-088
tobacco products tax
reporting PROP 94-07-025
Inflation rates PROP 94-08-082
PERM 94-11-098
Property tax
agricultural land valuation PROP 94-01-166
PERM 94-05-062
exemptions PROP 94-01-169
PERM 94-07-008
forest land values PERM 94-02-046
levies PERM 94-07-066
nonprofit homes for aging PROP 94-10-060
nonprofit organizations, associations, and corporations, exemption conditions PROP 94-01-169
PERM 94-07-008
PROP 94-07-123
PROP 94-11-099
personal property ratio, computation PROP 94-01-168
PERM 94-05-064
refunds, rate of interest PROP 94-01-167
PERM 94-05-063
Public utility tax PROP 94-01-159
Sales tax
agricultural products, sales by producers PROP 94-03-034
PERM 94-07-048
farmers, miscellaneous sales to PROP 94-03-037
PERM 94-07-051
feed, seed, fertilizer, and spray materials for farm use PROP 94-03-035
PERM 94-07-049
heat or steam sales PROP 94-01-155
horticultural services to farmers PROP 94-03-036
PERM 94-07-050
hospitals, medical care facilities, and adult family homes PROP 94-01-158
EMER 94-05-084
PERM 94-11-097
hotels, motels, and boarding houses PROP 94-01-157
PERM 94-05-001
landscape and horticultural services PROP 94-10-013
laundries and dry cleaners PROP 94-01-156
PERM 94-09-016
motor carriers, sales to interstate or foreign commerce carriers PROP 94-07-023
resale certificates, use and penalties for misuse EMER 94-05-083
PROP 94-06-004
schools and educational institutions PROP 94-03-047
PERM 94-07-047
tax reporting EMER 94-05-085
ticket sellers PROP 94-07-027
tour operators EMER 94-05-086
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
PROP 94-09-057
PROP 94-10-063
Tobacco products tax
reporting PROP 94-07-025
PERM 94-10-061
Use tax
motor carriers, operation in interstate or foreign commerce PROP 94-07-024

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
Big Bend Community College MISC 94-07-005
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
Deaf, Washington School for the MISC 94-08-063
Deferred compensation, committee for 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
Financial management, office of MISC 94-06-057
Gambling commission MISC 94-07-100
Growth planning hearings boards MISC 94-01-053
Health services commission MISC 94-01-070
MISC 94-09-013
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
MISC 94-06-001
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
Washington state patrol MISC 94-08-047
Whatcom Community College MISC 94-01-044

SEATTLE COMMUNITY COLLEGES
Contested case hearings and administrative disputes PROP 94-05-097A
Meetings MISC 94-01-006
MISC 94-01-085
MISC 94-01-131
MISC 94-03-059
PROP 94-05-097A
MISC 94-06-033
MISC 94-07-101
MISC 94-08-064
MISC 94-08-065
MISC 94-09-014
Rules coordinator MISC 94-01-107

INDEX

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
PROP 94-10-054
registration PERM 94-01-004
charitable trusts
financial reporting PERM 94-01-004
PROP 94-10-054
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
PERM 94-07-018

SHORELINE COMMUNITY COLLEGE
Meetings MISC 94-03-012

SHORELINES HEARINGS BOARD
Appeals EMER 94-07-060
PROP 94-07-095

SKAGIT VALLEY COLLEGE
Grievance procedure PERM 94-01-028
Harassment PERM 94-01-028
Meetings MISC 94-01-128
MISC 94-07-016
Records, availability PERM 94-01-028
Smoking policy PERM 94-01-028

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF
Aid to families with dependent children
entitlements PROP 94-05-069
PERM 94-08-015
income allocation PROP 94-05-019
PERM 94-08-019
income disregard PROP 94-05-054
PERM 94-08-021
mandatory monthly reporting PROP 94-05-017
PERM 94-08-017
net cash income PROP 94-05-016
PERM 94-08-016
replacement of exempt property PROP 94-05-018
PERM 94-08-018
Alcohol and substance abuse, division of
chemical dependency treatment service providers
certification PERM 94-02-002
PROP 94-02-020
PROP 94-07-072
Children and family services, division of day care centers
licenses **PROP 94-11-111**
Deaf and hard of hearing services
telecommunications access service (TAS) PROP 94-01-080
PERM 94-02-042
EMER 94-04-032
PERM 94-04-037
Developmental disabilities, division of
family support services PROP 94-01-062
EMER 94-01-063
EMER 94-01-064
PERM 94-04-092
Disaster relief PROP 94-01-011
Food stamp program
aliens
verification for entitlements **PROP 94-11-064**
income budgeting PROP 94-03-041
PROP 94-06-023
income deductions PROP 94-07-031
information release to child support programs **PROP 94-11-064**
interview process PERM 94-01-066
monthly reporting PROP 94-03-050
PERM 94-06-027
PERM 94-07-080
standards of assistance EMER 94-02-043
Home and community services division
chore personal services budget control PROP 94-07-082
PERM 94-10-025
Income assistance
alien's sponsor's income PROP 94-10-086
consolidated emergency assistance program (CEAP) PROP 94-03-051
PERM 94-06-026
entitlements PROP 94-05-069
PERM 94-08-015
income allocation PROP 94-05-019
PERM 94-08-019
income disregard PROP 94-05-054
PERM 94-08-021
incorrect payments PROP 94-02-052
in-kind income PROP 94-04-042
PERM 94-08-022
net cash income PROP 94-05-016
PERM 94-08-016
newly acquired nonexempt resources and income PROP 94-05-029
PERM 94-08-020
protective payments **PROP 94-11-024**
replacement of exempt property PROP 94-05-018
PERM 94-08-018
rules reorganization PROP 94-07-114
PERM 94-10-065
self-employment resource exemptions PROP 94-03-055
PERM 94-06-024
special payments PROP 94-06-035
PERM 94-09-001
standards of assistance PROP 94-01-118
PERM 94-04-035
PROP 94-06-035
PERM 94-09-001
supplemental security income (SSI) program PROP 94-01-118
PROP 94-01-138
PERM 94-04-033
PERM 94-04-035
transfer of property PROP 94-01-139
PERM 94-04-043
Individual and family grant program
disaster relief PROP 94-01-011
PERM 94-04-036
Juvenile rehabilitation, division of
consolidated juvenile services program PROP 94-08-007
PERM 94-11-065
Medical assistance
children, eligibility EMER 94-08-043
PROP 94-08-044
PROP 94-11-059
EMER 94-11-063
client grievances PROP 94-01-003
PERM 94-04-038
copayments EMER 94-08-045
PROP 94-08-046
PERM 94-11-057
PROP 94-11-058
EMER 94-11-061

drugs
discount agreement PROP 94-01-046
PERM 94-01-094
eligibility
effective date PROP 94-05-026
PERM 94-07-132
exempt resources PERM 94-02-007
eyeglasses and examinations PROP 94-01-081
EMER 94-02-044
PROP 94-04-031
PROP 94-05-044
PROP 94-07-021
PERM 94-07-122
hearing aids PROP 94-02-050
EMER 94-02-051
PROP 94-05-043
PERM 94-07-022
home health services PROP 94-01-147
PERM 94-03-052
income and resources, computation EMER 94-08-041
PROP 94-08-042
PROP 94-11-060
EMER 94-11-062
incorrect payments PROP 94-02-052
PERM 94-05-045
institutionalized client
allocation
of income and resources PERM 94-02-006
PROP 94-05-025
PERM 94-07-130
EMER 94-08-043
PROP 94-08-044
PROP 94-11-059
EMER 94-11-063
trusts EMER 94-05-027
PROP 94-05-028
PERM 94-07-131
Medicare cost sharing EMER 94-08-043
PROP 94-08-044
PROP 94-11-059
EMER 94-11-063
mental health services, managed care
prepaid healthcare plans PROP 94-01-079
PROP 94-01-140
PROP 94-02-003
EMER 94-02-004
EMER 94-02-008
PROP 94-02-009
PERM 94-07-020
occupational therapy PERM 94-01-065
PROP 94-04-022
EMER 94-04-023
PERM 94-07-030
physical therapy PERM 94-01-065
PROP 94-04-022
EMER 94-04-023
PERM 94-07-030
pregnant women EMER 94-08-043
PROP 94-08-044
PROP 94-11-059
EMER 94-11-063
rules reorganization PROP 94-07-114
PERM 94-10-065
speech therapy services PERM 94-01-065
PROP 94-04-022
EMER 94-04-023
PROP 94-07-030
SSI-related income exemptions PERM 94-02-005
EMER 94-08-041
PROP 94-08-042
PROP 94-11-060
EMER 94-11-062
working disabled
hospital premium insurance **EMER 94-11-063**
Mental health division
managed care prepaid healthcare plans PROP 94-02-003
EMER 94-02-004
EMER 94-02-008
PROP 94-02-009
PERM 94-07-020
Nursing homes
accounting and reimbursement
system PROP 94-07-109
Restoration of right to possess
firearms by former involuntarily
committed person EMER 94-03-004
PROP 94-03-005
PERM 94-06-025
Special commitment center
travel policy and expenses PROP 94-07-087
Support enforcement
assessing support PROP 94-07-041
EMER 94-07-042
PERM 94-10-064
collection actions **PROP 94-11-112**
conference board process **PROP 94-11-110**
defenses to liability PROP 94-07-081
PERM 94-10-033
eligibility for services **PROP 94-11-112**
equitable estoppel PROP 94-07-081
PERM 94-10-033
good cause not to cooperate PROP 94-01-042
PERM 94-04-034
responsibilities of office **PROP 94-11-112**
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
MISC 94-05-031
MISC 94-08-061

SPOKANE, COMMUNITY COLLEGES OF
Meetings MISC 94-01-019
MISC 94-10-050
Rules coordinator MISC 94-01-009

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY
Solid fuel burning devices
standards PERM 94-03-027

SUPREME COURT
Bail and mandatory appearance (CrRLJ) MISC 94-08-002
Bar association
collective bargaining for employees (GR 12) MISC 94-01-025
Judicial information system
records, contents (JISCR) MISC 94-07-058
Infractions, monetary penalties (IRLJ 6.2) MISC 94-08-001
Videotaped proceedings (RAP) MISC 94-01-024

TACOMA COMMUNITY COLLEGE
Discrimination PROP 94-03-082
Grievance procedure PROP 94-03-082
Meetings MISC 94-01-129
MISC 94-03-079
MISC 94-04-080
MISC 94-04-081
MISC 94-10-051
Sexual harassment PROP 94-03-082

TAX APPEALS, BOARD OF
Hearings
procedures for requesting formal or informal hearing — PROP 94-03-056; PROP 94-03-057; PERM 94-07-043; PERM 94-07-044
Meetings — MISC 94-01-016

TOXICOLOGIST, STATE
Breath alcohol test program — PROP 94-07-073

TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF
(See also COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)
Community economic revitalization board
meetings — MISC 94-04-109
Hardwoods commission
meetings — MISC 94-03-039; MISC 94-07-017
Rules coordinator — MISC 94-01-183

TRAFFIC SAFETY COMMISSION
Meetings — MISC 94-02-066

TRANSPORTATION COMMISSION
Highway corridor and alignment authority — PROP 94-08-054
Meetings — MISC 94-01-143; MISC 94-04-040; MISC 94-06-041; MISC 94-07-113; MISC 94-10-019

TRANSPORTATION IMPROVEMENT BOARD
Meetings — MISC 94-03-030; MISC 94-08-084; **MISC 94-11-028**

TRANSPORTATION, DEPARTMENT OF
Contractors
prequalification — PROP 94-01-021; PERM 94-05-004
Ferry system
tolls — PROP 94-04-077; PERM 94-07-104
Highway Advertising Control Act
highway fatality markers — PROP 94-09-031
national scenic byway demonstration project — PROP 94-09-031
political campaign signs — PROP 94-09-031
Motor vehicles
overlength exemptions — EMER 94-02-064; PROP 94-03-043; PERM 94-07-055
temporary additional tonnage permits — PROP 94-03-042; PERM 94-07-054

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; MISC 94-05-021; MISC 94-05-022; MISC 94-10-014

USURY RATES
(See inside front cover)

UTILITIES AND TRANSPORTATION COMMISSION
Administrative procedures
alternate dispute resolution — PROP 94-07-140
case management — PROP 94-07-140
Auto transportation companies
applications — PROP 94-07-137; **PERM 94-11-021**
equipment — PROP 94-07-137; **PERM 94-11-021**
operation of vehicles — PROP 94-07-137; **PROP 94-11-020**
tariffs — PROP 94-07-137; **PERM 94-11-021**
Commercial ferries
definitions — PERM 94-03-003
tariffs — PERM 94-03-003
Electric utilities
purchases of electricity — PROP 94-01-175; PERM 94-07-045
Log road classification — PERM 94-03-001
Meetings — MISC 94-02-027
Motor freight carriers
alcohol and controlled substance testing — **PROP 94-11-104**
bills of lading — PERM 94-03-002
classification of carriers — PROP 94-07-135; **PERM 94-11-022**
driver responsibilities — **PROP 94-11-104**
permit rights, transfer — PROP 94-07-135; **PERM 94-11-022**
safety, drivers and equipment — PROP 94-07-135; **PROP 94-11-019**; **PERM 94-11-022**; **PROP 94-11-104**
Motor vehicles
interstate carriers
registration — EMER 94-01-041
limousine charter party carriers
operation — PROP 94-10-071
registration — PROP 94-10-071
log road classification — PERM 94-03-001
North American uniform out-of-service criteria, adoption — **PROP 94-11-102**; **PROP 94-11-103**
passenger charter carriers
operation — PROP 94-10-072
registration — PROP 94-10-072
Organization and operation — PROP 94-07-139; **PERM 94-11-002**
Private carriers
household goods moves, excessive charges — PROP 94-07-134; **PERM 94-11-001**
registration and regulation — PROP 94-07-134; **PERM 94-11-001**
Railroads
annual reports — PROP 94-07-138; **PERM 94-11-003**
hazardous materials transport — PROP 94-07-138; **PERM 94-11-003**
rates, notice — **PROP 94-11-101**
track clearances — PROP 94-07-138; **PERM 94-11-003**
Rules coordinator — MISC 94-02-026
Solid waste collection companies
driver qualifications — **PROP 94-11-102**
equipment safety — **PROP 94-11-102**
hazardous materials transport — **PROP 94-11-102**
insurance requirements — PROP 94-07-136; **PERM 94-11-004**
rate increases, notice — **PROP 94-11-101**
Telecommunication companies
mandatory cost changes — PERM 94-01-146

open network architecture environment	PROP	94-01-191
pay telephone call restriction	PROP	94-05-048
Water companies		
customer deposits, interest	PERM	94-01-095
VETERANS' AFFAIRS, DEPARTMENT OF		
State veterans' homes		
Medicaid funded programs	PROP	94-09-043
non-Medicaid funded programs	PROP	94-09-043
resident income and resources	PERM	94-04-001
VOCATIONAL-TECHNICAL EDUCATION, COUNCIL ON		
Meetings	MISC	94-01-093
	MISC	94-04-082
	MISC	94-07-071
	MISC	**94-11-083**
VOLUNTEER FIREFIGHTERS, BOARD FOR		
Meetings	MISC	94-03-031
	MISC	94-05-020
WALLA WALLA COMMUNITY COLLEGE		
Meetings	MISC	94-04-027
WASHINGTON STATE HISTORICAL SOCIETY		
Meetings	MISC	94-01-018
WASHINGTON STATE LIBRARY		
Continuing education, council on		
membership	**PERM**	**94-11-023**
Library commission		
meetings	MISC	94-06-053
WASHINGTON STATE PATROL		
Commercial vehicles		
rules promulgation	PROP	94-05-023
tire chains or traction devices	EMER	94-02-081
	PROP	94-02-082
	PERM	94-08-069
Hazardous materials		
procedure upon entering state	PERM	94-01-180
Private carriers		
drivers' qualifications	PERM	94-01-178
hours of service of drivers	PERM	94-01-178
private carrier, term changed to commercial motor vehicle	PROP	94-05-023
	PERM	94-08-004
Rules coordinator	MISC	94-08-047
School buses		
lamps, operation	PERM	94-01-179
stop signal arms	PERM	94-01-179
Sunscreen tint film decals	PERM	94-05-024
WASHINGTON STATE UNIVERSITY		
Meetings	MISC	94-01-121
	MISC	94-10-015
WHATCOM COMMUNITY COLLEGE		
Meetings	MISC	94-01-184
Rules coordinator	MISC	94-01-044
WESTERN WASHINGTON UNIVERSITY		
Student records	PROP	94-07-117
WILDLIFE, COMMISSION AND DEPARTMENT (See also FISH AND WILDLIFE, DEPARTMENT OF)		
Fishing		
fishing contests	PERM	94-06-014
game fish seasons and catch limits, 1992-94		
Lake Sammamish	PERM	94-06-013
Lake Washington	PERM	94-06-013
steelhead	EMER	94-02-037
	EMER	94-03-038
game fish seasons and catch limits, 1994-95		
Baker Lake	PROP	94-06-040
Columbia River	EMER	94-04-012
	PERM	94-04-018
	PROP	94-06-038
	EMER	94-08-048
Grand Ronde River	PROP	94-06-039
Lake Roosevelt	PERM	94-06-012
Lake Sammamish	PERM	94-06-013
Lake Washington	PERM	94-06-013
Sauk River	PROP	94-06-039
Shannon Lake	PROP	94-06-040
steelhead	EMER	94-02-037
	EMER	94-03-038
Tucannon River	PROP	94-06-039
northern squawfish sport-reward fishery	PROP	94-06-043
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
	PROP	94-06-036
	PROP	94-06-037
Hunting seasons		
bighorn sheep auction permit, 1994	PERM	94-04-123
deer and bear, 1994-97	PROP	94-04-114
deer and elk permits, 1994-95	PROP	94-05-078
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
special species, 1994-95	PROP	94-05-079
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
	PROP	94-06-036
	PROP	94-06-037
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
	MISC	94-05-015
	MISC	94-09-011

YAKIMA COUNTY CLEAN AIR AUTHORITY
Fees PERM 94-01-084
Outdoor burning PROP 94-07-112

YAKIMA VALLEY COMMUNITY COLLEGE
Meetings MISC 94-01-106

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